

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. No. 1

Your Joint Senate-House Investigative Committee established under S.C.R. No. 65, S.D. 1, H.D. 1, entitled:

“SENATE CONCURRENT RESOLUTION ESTABLISHING A JOINT SENATE-HOUSE INVESTIGATIVE COMMITTEE TO INVESTIGATE THE STATE’S EFFORTS TO COMPLY WITH THE FELIX CONSENT DECREE,”

begs leave to report as follows:

The purpose of the committee was to investigate the State’s efforts to comply with the *Felix* consent decree and submit a report to the Legislature no later than twenty days before the 2002 Regular Session.

Your committee notes that during six months of hearings and intense investigative work, this Committee was troubled by much of what it uncovered about the impact of the *Felix* consent decree. Despite good intentions and improved services to some children with mental disabilities, the decree resulted in a Pandora’s box of unintended consequences. Specifically, your committee notes the following factors:

- (1) The unclear requirements for compliance concurrent with departmental exploitation of the court’s “money is no object” expectations;
- (2) The generally poor oversight and accountability of the two departments responsible for implementing the Felix consent decree and the curtailment of the federal court of oversight by the Legislature; and
- (3) The “superpowers” granted to the superintendent of education and the director of health that allowed them to waive the requirements of the state procurement law and to bypass personnel laws.

However, your committee notes that it faced a number of obstacles that prevented it from obtaining full access to records and key individuals, blocking an in-depth investigation of certain matters. The federal court quashed the subpoenas of key individuals appointed by the court to oversee implementation of the *Felix* consent decree. The DOE and DOH cited federal privacy laws to deny the Committee access to files. Despite the Committee’s respect for privacy protections and assurances that the identities of the students could be redacted or substituted with non-descript numbers, access was continually denied. The Committee emphasizes that the scope of the inquiry was aimed at the service and provider, not at the student. Access to files to determine effectiveness of services will be a central issue should the work of the Committee continue.

Your committee presents its conclusions and recommendations in the attached report. (Report starts on page 871.)

Signed by Senator Colleen Hanabusa and Representative Scott Saiki, Co-Chairs, on behalf of the Committee.

Senators Buen, Kokubun, Matsuura, Sakamoto and Slom.
Committee members on the part of the Senate.

Representatives Ito, Kawakami, B. Oshiro, Leong and Marumoto.
Committee members on the part of the House of Representatives.

Spec. Com. Rep. No. 2

Your Prescription Drugs Working Committee begs leave to report as follows:

PART I. BACKGROUND

Prescription drugs are an increasingly significant component in modern health care, for both therapeutic and preventative purposes. New medications improve health outcomes and quality of life, replace surgery and other invasive treatments, quicken recovery for patients who receive these treatments, and prevent serious and costly hospitalization.

At the same time, prescription drug prices are rising twice as fast as inflation, with annual percentage increases in prescription expenditures surpassing most other aspects of personal health care expenditures in the past decade. As a result, health insurance and Medicaid costs are skyrocketing, for both the State and consumers alike.

Many people, however, have insufficient prescription drug coverage, or have none at all, either because they are uninsured or because their health insurance does not adequately cover prescription drugs.

Among the underinsured population are those segments of our society that need prescription drugs on a regular basis. For example, one in three Medicare recipients, approximately 12 million people nationwide, do not have drug coverage, and uninsured patients are forced to pay exorbitant retail prices for their prescription drugs.

Supplemental coverage provides some assistance with prescription drug costs to two-thirds of Medicare beneficiaries, but that coverage varies widely by income, is often costly, and has an unstable future. The most common supplemental drug plans for Medicare beneficiaries are employer-sponsored retiree plans, directly purchased Medigap policies, and Medicaid.

The problem of insufficient prescription drug coverage is especially acute for the elderly segment of our State's population. Senior citizens consume nearly one-third of all prescription drugs used in this State, and often live on fixed incomes. For senior citizens with insufficient prescription drug coverage, such as those who rely solely on Medicare, the costs of their basic drug needs can be overwhelming.

To compound the problem, Hawaii's elderly population has been growing and is expected to increase dramatically in the near future, with the first baby boomers turning 65 in 2011. If this situation is not addressed, the number of persons with inadequate drug coverage will soon be staggering.

This problem is not limited, however, to Hawaii's elderly population. Many other segments of our community have no prescription drug insurance at all, or have inadequate coverage. Of particular note, persons with disabilities sometimes require consistent prescription drug use, and often have insufficient coverage. Over the past several sessions of the Legislature, numerous bills have been introduced to address this issue, but no long-term solution has been reached. It is in the best interest of both the State and health care consumers to ensure that every resident has sufficient prescription drug coverage.

PART II. PRESCRIPTION DRUGS WORKING COMMITTEE

In response to this pressing problem, the Legislature adopted S.C.R. No. 150, S.D. 1, H.D. 1, which recommended the creation of a Working Committee to discuss legislative changes to provide better drug coverage for Hawaii's residents, specifically Medicare beneficiaries. S.C.R. No. 150 requested the Department of Health to establish the Working Committee to address this issue; however, given that the Legislature has examined this issue several times during recent sessions, all parties agreed that it made more sense to convene a legislative committee, with participation by the Department of Health. This Senate Working Committee was therefore established.

At the same time, the Legislature also adopted H.C.R. No. 129, H.D. 1, S.D. 1, C.D. 1, which requested the Legislative Reference Bureau (LRB) to conduct a study of the feasibility of a state pharmaceutical assistance program. Although these two concurrent resolutions are not cross referenced, the Working Committee is mindful of the work performed by LRB, and has taken their findings into account in preparing this report and attendant legislation.

The Working Committee consisted of representatives from the Attorney General's Office, the Department of Commerce and Consumer Affairs, the Department of Health, the Department of Human Services, the Department of Taxation, the Federal Health Care Financing Administration, Hawaii Medical Services Association (HMSA), Kaiser Permanente, and the American Association of Retired Persons (AARP). In addition, two practicing pharmacists and one practicing physician participated in the Working Committee. The Chair of your Health and Human Services Committee chaired the Working Committee.

The Working Committee met thrice during the interim, on November 13, November 20, and December 19, 2001. Prior to the meetings, each Working Committee member submitted written responses to questions distributed by the Chairman, to help identify the problem and potential solutions.

Following the mandate of S.C.R. No. 150, the Working Committee's goal was to develop a prescription drug access program for eligible Medicare beneficiaries and other underinsured persons in the State. Your Working Committee undertook this task while also searching for ways not to further deplete the financial resources of the State. All members of the Working Committee agreed at the outset that it would be preferable to craft a solution that does not require an appropriation of state funds on an annual basis.

PART III. DEFINING THE PROBLEM AND POTENTIAL SOLUTIONS

The Target Group

An important issue discussed by the Working Committee initially was to attempt to determine what group of patients should be targeted first with any state sponsored prescription drug plan. The groups for which drug coverage is at issue are primarily the elderly (on Medicare and/or a retirement health plan without benefits), persons with disabilities, and those who are working and have medical insurance without an adequate drug plan.

Many people who are not currently employed are covered under the Medicaid or QUEST programs, which include prescription drug coverage. In any state pharmaceutical assistance plan, there will necessarily be some distinction between those who have no coverage at all, and those whose coverage does not meet their needs.

Many of the target group members are Medicare beneficiaries; by definition, persons covered by Medicare must be at least 65 years old or, if under 65, totally and permanently disabled. Because health problems increase with age, those who are covered by Medicare tend to have greater health care needs than the general population. Nearly 7 in 10 Medicare beneficiaries have two or more chronic conditions, and 8 in 10 Medicare beneficiaries utilize prescription drugs on an ongoing basis.

As noted above, many Medicare beneficiaries live on modest incomes and most rely on Social Security benefits as their main source of income. Between 1996 and 2001, average total per capita drug expenses for the Medicare population increased from \$798 to \$1,402, while average out-of-pocket spending increased from \$390 to \$686 per year. Medicare beneficiaries without any supplemental drug coverage tend to have higher annual out-of-pocket drug expenses.

Based on these figures, and the mandate of S.C.R. No. 150, your Working Committee has concluded that the elderly and disabled sectors of our society, who tend to have the greatest need for prescription drugs and who are unlikely to have adequate coverage,

present the most urgent need. Among that segment of the population, however, there is also disparity between those with, and those without, supplemental drug coverage.

What Drugs should be Covered

In addition to deciding what group of consumers most needs the benefits of a pharmaceutical assistance program, your Working Committee also discussed what drugs such a program should cover.

One of the physicians in the Working Committee commented that the autonomy of physicians to determine what drugs are most appropriate for their patients must not be compromised by any state-sponsored drug plan. Your Working Committee agrees.

After much discussion, your Working Committee believes that it may make the most sense to identify certain health conditions that are the costliest and require the most drugs, and to target the program toward those conditions. Preliminarily, cardiovascular disease, hypertension, diabetes, and psychiatric conditions have been identified.

State Based Pharmaceutical Assistance Programs

As of January, 2001, 26 states had authorized some type of pharmaceutical assistance program. Drug assistance programs span a wide range in their benefit design, eligibility requirements, funding mechanisms, and cost controls.

Although each state program differs to some extent from all others, there are five broadly distinct groups of pharmaceutical assistance programs:

1. Direct Benefit Programs

Programs in which the state pays for all or part of the cost of the prescription for the beneficiary. Until 2000, most state pharmaceutical assistance programs were direct beneficiary programs.

2. Insurance Programs

State-sponsored private or public stand alone insurance programs for prescription drugs that require payment of a premium, and often include subsidies for lower income populations.

3. Price Reduction Programs

State limitations on the prices that can be charged to all or certain residents for their prescriptions, but that do not directly pay for the prescription drugs.

4. Buying Pools

State-sponsored programs that offer residents an opportunity to enroll in a purchasing pool or club, and that contract with private entities to negotiate voluntary discounts from pharmacies and/or drug manufacturers that can be passed on to members of the pool.

5. Tax Credit Programs

Programs that provide state income tax credits for certain residents with high prescription drug costs.

Regardless of what type of prescription drug plan may be implemented in the State, your Working Committee identified several aspects that must be further reviewed and clarified. On the side of the State, in addition to determining what group of patients to cover, what drugs to include, and how to set eligibility requirements, there are also issues of the level of the benefit to be provided, deductibles, and catastrophic costs.

From the consumer standpoint, your Working Committee believes that the program must be administratively simple enough to allow ease of enrollment and understanding by the participants.

PART IV. RECOMMENDATIONS OF THE WORKING COMMITTEE

Although your Working Committee did not have sufficient time to establish a complete pharmaceutical assistance program, several steps are recommended in the short term to facilitate a lasting solution to this problem.

Creation of Special Fund

Your Working Committee believes that the State must be willing to use state funds, at some level, in order to implement a state pharmaceutical assistance plan. At the same time, your Working Committee believes that, during this time of decreased state revenues and recession, it will be difficult to obtain annual appropriations to fund any program.

As a solution, your Working Committee proposes legislation to create a special fund, to be used to implement a pharmaceutical assistance program in Hawaii. Your Working Committee proposes to fund this special account with the State's portion of Medicaid prescription drug rebate moneys.

The Medicaid drug rebate program, administered by the federal Health Care Financing Administration (HFCA), saves the states over \$3 billion annually. Under federal enabling legislation, each pharmaceutical manufacturer is contractually obligated to pay each state Medicaid program a quarterly rebate for each covered outpatient drug reimbursed by Medicaid.

Currently, Medicaid rebates received by the State are placed into the general fund. Under legislation proposed by your Working Committee, these rebates would instead be placed into a newly created special fund called the "Medicaid prescription drug rebate special fund."

This special fund, which should continue to grow each quarter, may only be used to implement a pharmaceutical assistance program. According to the Department of Human Services, the State currently has nearly \$5 million in rebates that could be used as start up funding for the special fund.

In addition to creation of the special fund, your Working Committee proposes to mandate that the governor convene a blue ribbon panel to further review this issue and to determine the best type of pharmaceutical assistance program for Hawaii.

Your Working Committee anticipates that the blue ribbon panel formed by the governor will contain leading industry experts, from both the private and public sectors, and that the panel will have the expertise necessary to determine the best use of the special fund.

At the same time, your Working Committee also believes that once a special fund has been created, with a consistent source of revenue, the State will receive many proposals, from both the public and private sectors, for the creation of a pharmaceutical assistance program and for use of the special fund. The State will then be able to choose from among the proposals it receives.

Federal 340B Drug Pricing Program

Your Working Committee also proposes that legislation be enacted to take advantage of the federal 340B drug pricing program, administered by the Office of Pharmacy Affairs within the U.S. Department of Health and Human Services. Created by the U.S. Congress in 1992, this program provides discounts on outpatient drugs to participating safety-net health providers.

Under the 340B pricing program, participating health centers (those that meet certain federally set criteria) are able to offer prescription drugs at steep discounts, due to the fact that they purchase the drugs from the federal government, which purchases them from the manufacturers in bulk. Participating health centers set their own distribution policy.

At present there are 37 approved 340B clinics and health care facilities in Hawaii.

Several states have enacted laws authorizing expanded use of 340B programs to distribute discounted prescription drugs to a wider segment of the State's population. Your Working Committee recommends that Hawaii explore similar legislation.

PART V. CONCLUSION

Access to adequate health care, including prescription medication, is one of the fundamental rights of our citizens. How the State can ensure that all of its residents have adequate prescription drug coverage is a complex issue with no easy solution.

Your Working Committee believes that the State must act carefully and deliberately in crafting any solution to this issue, so as not to jeopardize the independence of doctors in prescribing the most appropriate drugs for their patients' conditions, and so that a sustainable, economically viable plan is emplaced.

Your Working Committee further believes that its work is a first step toward a long-term solution. Creation of a special fund earmarked for a pharmaceutical assistance program will give the State a source of funding for the program, and will lead to proposals for use of those funds.

Moreover, a dialogue has begun that can be continued during the next regular session and beyond, in conjunction with the blue ribbon panel convened by the Governor. With input from all interested parties, your Working Committee believes that these discussions will soon bear fruit.

Signed by Senator David Matsuura, Chair, on behalf of the Committee.

Spec. Com. Rep. No. 3

Your Special Committee on Agricultural Theft, established under S.R. No. 88, S.D. 1, entitled:

REQUESTING AN ASSESSMENT AND REVIEW OF EXISTING AGRICULTURAL THEFT LAWS AND ENFORCEMENT ISSUES THAT HAMPER THE ARREST AND CONVICTION OF PERSONS CAUGHT OR SUSPECTED OF AGRICULTURAL THEFT,

begs leave to report as follows:

Introduction

The Senate of the Twenty-first Legislature, Regular Session of 2001, adopted S.R. No. 88, S.D. 1, in order to address ongoing concerns of the agricultural community across the State. The measure requested that the President of the Senate convene a Legislative

Agricultural Theft Committee (Committee) to assess and review existing agricultural theft laws and enforcement issues that hamper the arrest and conviction of persons caught or suspected of agricultural theft.

Membership

Senate Resolution No. 88, S.D. 1, gave the President of the Senate the authority to limit the membership of the Committee; the Resolution, however, provided that the Chair of the Senate Committee on Agriculture would serve as Chair. The President of the Senate appointed the entire Senate Committee on Agriculture to serve.

Scope of Review

Pursuant to S.R. No. 88, S.D. 1, the Committee's responsibilities were threefold:

- (1) To assess and review existing agricultural theft laws and enforcement issues that hamper the arrest and conviction of persons caught or suspected of agricultural theft;
- (2) To obtain input from specific interest groups of the public and private sectors; and
- (3) To submit a report on its findings, recommendations, and any proposed legislation to the Legislature not later than twenty days prior to the convening of the 2002 Regular Session.

Approach

The Committee embarked on a statewide hearing schedule that began on November 5, 2001, and concluded on November 14, 2001. During this period, the Committee held public forums in Hilo, Kona, Kahului, Lihue, and Honolulu.

At these public forums, the Committee invited representatives from the nine interest groups listed in S.R. No. 88, S.D. 1, as well as the general public to attend. The public forum format included presentations by local representatives of the Hawaii Farm Bureau, the police department, and the prosecutor's office. Each representative was provided with the opportunity to describe their concerns and suggestions on the issue of agricultural theft. Upon the conclusion of the presentations, the general public was provided with the opportunity to testify before the Committee.

Obtaining Input

In addition to the convening of the Committee to assess and review existing agricultural theft laws and enforcement issues, S.R. No. 88, S.D. 1, also required that the Committee obtain input from:

- (1) The Department of the Attorney General;
- (2) The Department of Agriculture;
- (3) Each respective county Police Department;
- (4) Each respective county Prosecutor's Office;
- (5) The Hawaii Farm Bureau Federation;
- (6) The ranching industry;
- (7) The agricultural wholesalers;
- (8) The shipping industry; and
- (9) Farmers throughout the State.

The Committee transmitted copies of its hearing schedule along with invitations to participate to the above listed groups. The Committee also solicited the assistance of the Hawaii Farm Bureau Federation to contact its members on each island to encourage attendance and participation.

Review and Assessment of Current Statutes

Under existing law, there are two separate specific references to agricultural theft. Chapter 145, Part II, Hawaii Revised Statutes, and sections 708-831 and 708-835.5, Hawaii Revised Statutes, in the State's Penal Code.

Chapter 145, Part II, Hawaii Revised Statutes (Act 186, Session Laws of Hawaii 1999)

The laws contained in Part II of Chapter 145, Hawaii Revised Statutes, were enacted in 1999 as Act 186, Session Laws of Hawaii 1999 (Act 186). Act 186's purpose was to:

...[T]o establish a means of identifying the owner of large lots of picked fruits, nuts, or vegetables of any tree, vine, or plant, or large lots of shrimps, prawns, shell fish, fish, seaweed, algae, and other aquaculture products, or large lots of flowers, ornamentals, or

other horticultural products to give law enforcement officers an additional means of identifying the lawful owners of these agricultural commodities and to assist in the prevention of theft of these commodities.

Act 186 attempted to accomplish this purpose by requiring a "paper trail", or the certification of ownership of lots of agricultural commodities weighing in excess of two hundred pounds or having a value equal to or greater than \$100.

Act 186 required that every owner, upon the sale or transportation of lots of over two hundred pounds or with a value of at least \$100, of any agricultural commodity that would be marketed for commercial purposes, complete a certificate describing the commodity and indicating:

- (1) The seller, owner, buyer, or consignee;
- (2) The origin; and
- (3) The destination.

Two copies of the certificate are to accompany the shipment and a copy is to be retained by the owner. A copy of the certificate would have to be presented upon the request of a state or county law enforcement officer or other officer or employee authorized by the Department of Agriculture.

If any person who sells, transports, or possesses after sale or transport, agricultural commodities in lots of over two hundred pounds or with a value of at least \$100, is unable to provide a certificate of ownership or other written proof of ownership that describes the commodity, that person would be considered in violation of the law and subject to a citation and summons. Violators of these requirements could be charged with a misdemeanor, resulting in a fine of up to \$1,000 or imprisoned for up to one year, or both.

Act 186 also authorized law enforcement officers and authorized personnel of the Department of Agriculture to hold the agricultural commodity for not longer than forty-eight hours to investigate and ascertain the ownership of the agricultural commodity. If the lawful owner is determined and located, the agricultural, aquacultural, or horticultural commodity would be released to the lawful owner.

If the agricultural commodity is not released to the lawful owner after being in the custody of the law enforcement officer or the Department of Agriculture, or the lawful owner cannot be determined, the law enables the law enforcement entity or the Department of Agriculture to sell the commodity at fair market value to any retailer, wholesaler, or packer of the commodity. All of the proceeds derived from the sale are to be held for not longer than six months, during which time the lawful owner of the commodity may submit satisfactory proof of ownership and obtain possession of the proceeds. If no lawful owner claims the proceeds within a six-month time period, the proceeds shall be subject to the State's unclaimed property law. The law also allows for the disposal of unsold commodities to a nonprofit charitable organization or destruction at the discretion of the law enforcement entity or the Department of Agriculture.

Discussion

Testimony at each hearing of the Committee indicated general support for the law. However, to date, no citations or summons have been executed pursuant to this law. Due to the law's relatively recent enactment, many parties, including certain prosecutors, were unaware of its existence. The Committee received assurances from all parties to work towards fully effectuating this law's intent.

Sections 708-831 and 708-835.5, Hawaii Revised Statutes

Sections 708-831 and 708-835.5, Hawaii Revised Statutes, are contained in the State's Penal Code and deal with persons whose proven intent was to steal the agricultural commodity or equipment.

Section 708-831(1)(d), Hawaii Revised Statutes, maintains that a person commits the offense of theft in the second degree if the person steals agricultural equipment, supplies, or products valued between \$100 and \$20,000. However, the law also requires that in order to qualify as second degree theft of an agricultural commodity, the item must be stolen from a premises that is fenced, enclosed, or secured in a manner designed to exclude intruders, or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: "Private Property." The law goes on to specify how large the "Private Property" signs must be... containing letters not less than two inches in height...and how the signs should be displayed.

Theft in the second degree is a class C felony, punishable by a fine not to exceed \$10,000, a prison term not to exceed five years, or both. The law also allows the judge to impose, for a first offense, a minimum sentence of a fine of at least \$1,000 or two-fold damages sustained by the victim, whichever is greater.

Section 708-835.5, Hawaii Revised Statutes, specifically pertains to the theft of livestock. Section 708-835.5, Hawaii Revised Statutes, states that a person commits the offense of theft of livestock if the person possesses a live animal of the bovine, equine, swine, or sheep species, or its carcass or meat, while on unlawfully being or remaining on another person's premises which are fenced or enclosed in a manner designed to exclude intruders, or by having in the person's possession such live animal, carcass, or meat in any other location. The penalty for the theft of livestock is also a class C felony and punishable in the same manner as agricultural theft crimes under section 708-831, Hawaii Revised Statutes.

Noticeably absent from the definition of livestock in section 708-835.5, Hawaii Revised Statutes, are goats.

Discussion

Numerous testifiers on all islands raised concerns on the onerous signage and fencing requirements of sections 708-831 and 708-835.5, Hawaii Revised Statutes. There was testimony of poachers who would tear down signs and later claim that no signs were seen when they were caught poaching livestock. Other anecdotes revealed:

- (1) Fences being cut to allow livestock to wander off the property, causing liability claims against the rancher;
- (2) Goats being stolen or slaughtered and not being covered under the existing theft of livestock statute;
- (3) Ranch hands being arrested for using force to detain poachers; and
- (4) Even when farmers have seen persons stealing produce on their property, call police, and the person is later apprehended at another location, the prosecution of the alleged thief is not executed due to the inability to conclusively prove that the stolen produce came from the farmer.

Findings

Upon the conclusion of its hearings, the Committee found the following:

- (1) Agricultural theft is a serious problem, costing millions of dollars in losses to producers each year;
- (2) The remote and rural location of farming operations often makes theft detection and apprehension difficult;
- (3) The county police and prosecutor's office are for the most part, not aware of the severity of the on-going agricultural theft problem statewide;
- (4) With a few exceptions, there appears to be a lack of communication and understanding between agricultural producers, county law enforcement agencies, and prosecuting attorneys which results in situations where thieves are not pursued, investigations are not conducted, and prosecution is not initiated;
- (5) The agricultural industry needs to coordinate efforts with the county law enforcement agencies and prosecuting attorneys to resolve the agricultural theft problem;
- (6) Existing agricultural theft laws need to be periodically re-examined to determine if any adjustments are necessary;
- (7) In addition to the existing agricultural theft laws, there may be other enforcement issues that need to be addressed to enable more aggressive efforts to apprehend and prosecute agricultural thieves;
- (8) Individual police officers, particularly those patrolling farming communities, need to receive specialized training in agricultural theft issues; and
- (9) Communication between the farming community and county police departments and prosecutors needs to take place on an ongoing basis to resolve these issues.

The Committee also found that although police reports have been filed on numerous agricultural theft incidents, in many of those cases, no suspects have been identified. This is a common occurrence since many farms are situated in isolated, rural areas where few witnesses may be available to see any criminal acts. The unfortunate reality in many cases is that if no suspect has been arrested, a police department will have no reason to send a case to the prosecutor's office.

In many instances, county police departments and prosecutor's offices were either not aware of the severity of the agricultural theft problems in their areas or lacked the resources necessary to deter agricultural theft. One exception was in Kona, Hawaii, where the Hawaii Police Department has teamed up with the farming community to establish a Farmwatch program.

Farmwatch

Based on the successful neighborhood watch model of enlisting community members as active participants in crime deterrence, Farmwatch was established in the Kona region as a way of stemming the increasing tide of Kona coffee thefts in the area. Since its inception, the Farmwatch program has seen a steady decline in agriculture-related thefts from a high in 1996 of sixty-five cases to a low of five cases in 1999 in the Kona area. Although such cases have seen recent growth (which has been attributed to the thieves going on the Internet to sell stolen commodities), the Hawaii Police Department and the Kona farming community is actively looking at more solutions to these new problems.

In Kona, the farming community and the police department enjoy a cohesive working relationship in which information is disseminated in a timely manner. The police understand the concerns of the farming community and the farming community understands their role in deterring crime. This partnership has and will assist the Kona community in lowering its agricultural theft.

Recommendations

The Committee recommends that:

- (1) A task force be established by the Department of Agriculture whose purpose will be to develop policies and procedures to assist the agricultural community, police departments, and prosecutor's offices in abating agricultural theft;

- (2) The Department of Agriculture take a leadership role in establishing educational programs for the agricultural community so that the community may be apprised of its legal rights in deterring and apprehending thieves and to assist them in securing their property;
- (3) Law enforcement officers of all state and county branches of service with whom the power of arrest resides should be better educated on the issue of agricultural theft;
- (4) Attention be paid to Chapter 145, Part II, Hawaii Revised Statutes, by the Department of Agriculture as well as law enforcement agencies, and its full implementation should become a top priority;
- (5) Goats be added to the definition of "livestock" in the Penal Code; and
- (6) All agricultural thefts be designated a class B felony.

Conclusion

The Committee believes that these recommendations, if implemented, will deter the further escalation of agriculturally-related criminal activities and hopefully result in the decrease of property-related crime in rural areas.

Signed by Senator Jan Yagi Buen, Chair, on behalf of the Committee.

Senators Chun, Hanabusa, Kawamoto, Kokubun, Matsuura and Hogue.
Committee members on the part of the Senate.

Spec. Com. Rep. No. 4

Your Special Joint Legislative Committee on Long-Term Care Financing, to which was referred S.C.R. No. 23, S.D. 1, H.D. 1, C.D. 1, entitled:

"REQUESTING THE DEVELOPMENT AND IMPLEMENTATION OF A LONG-TERM CARE FINANCING PLAN AND A STATEWIDE LONG-TERM CARE PROVIDED CERTIFICATION PROGRAM",

begs leave to report as follows:

Introduction

The Congressional Budget Office expects the national expenditures for long-term care services for the elderly (people age sixty-five and older) to grow through the year 2040 ("Projections of Expenditures for Long-Term Care Services for the Elderly", March 1999, Congressional Budget Office). The main reason for that growth is that the U.S. population is aging, and elderly people receive the most long-term care services because they are more likely than younger people to have some kind of functional limitation. Many baby boomers will begin to reach age sixty-five in 2011. In addition, more elderly people will reach advanced ages (eighty-five and older) than in the past because of declining mortality rates. These trends will cause the proportion of the population that is elderly, which was just under thirteen per cent in 1995, to rise to twenty per cent in 2040. More importantly, the population over age eighty-five, the segment most likely to require long-term care, will grow over three times its current size by 2040.

In Hawaii, according to a report by the Hawaii Health Information Corporation and the Hawaii Medical Service (HMSA) Foundation ("Health Trends in Hawaii", Fifth Ed., 2001), the State's population growth was greatest among the elderly between 1990 and 1999. The number of residents ages sixty-five to seventy-four increased thirteen per cent (one per cent was the national average), while the number of those ages seventy-five and older increased by sixty-two per cent (twenty-four per cent was the national average). On a county level, all counties experienced significant growth in their elderly populations, with Honolulu experiencing the greatest increase from five per cent in 1970 to fourteen per cent in 1999. Overall since statehood, the proportion of elderly to total population has increased roughly five per cent in 1960 to fourteen per cent in 1999, when the proportion of elderly in Hawaii's population just exceeded that of the U.S. population.

As the baby boom generation ages, these figures are projected to increase causing a host of social and economic demands. Aging brings concomitant chronic health diseases such as cancer, cardiovascular disease, and stroke, all of which necessitate intense daily care in the latter years of life.

People in Hawaii are simply living longer, due in large measure to the State's excellent health care. However, the irony would be if the State could not also care for the elderly who have benefited from the enhanced health care in their younger years. The implication, according to the HMSA report, is that "The increasing proportion of elderly in Hawaii's population signals the need to monitor the ability of health care resources to meet the elderly's greater need for services, including the distribution of those services to the Neighbor Islands." Furthermore, according to the HMSA report, "The proportion of the population deemed 'work age' (19-65) is decreasing relative to the elderly, raising questions about the social burdens this decreasing cohort must bear." These factors pose important questions for health care and public policy.

The whole dynamic of the extended family in Hawaii will radically change to place impossible financial and social hardship on Hawaii families. As people age or become disabled, they need services to help them with activities of daily living. The approach to

helping Hawaii's elderly and disabled should be prompted by compassion and caring, although the problem is inextricably one of economics.

Because increasing numbers of Hawaii's residents will need long-term care services, there is a compelling need to create an affordable method of financing those services. What Hawaii needs is a method of financing that is affordable and suitable for the majority of residents. Current methods of financing long-term care in Hawaii involve predominantly Medicaid, private insurance, and personal assets. Medicaid eligibility is qualified by income limits. Private insurance is not widespread, and most people do not have sufficient personal assets. Contrary to popular belief, Medicare pays for only the initial hospitalization stay (acute care) of a patient for a limited number of days.

Legislative Mandate

Pursuant to Senate Concurrent Resolution No. 23, C.D. 1, the Legislature formed a Special Joint Legislative Committee on Long-Term Care Financing (Joint Committee) composed of Representative Dennis A. Arakaki, Chair; Representative Michael P. Kahikina and Senator David M. Matsuura, Vice-Chairs; Senators Jan Yagi Buen, Russell Kokubun, Colleen Hanabusa, and Bob Hogue, and Representatives Marilyn Lee, Bob Nakasone, and Mindy Jaffe, members. The Joint Committee undertook to:

- (1) Develop and implement a plan for a dedicated source of revenue that will:
 - (a) Assure a comprehensive long-term care infrastructure;
 - (b) Support the long-term care needs of all citizens in the State regardless of their income; and
 - (c) Control the escalating costs of long-term care and the burden on the State; and
- (2) Develop a statewide certification program for long-term care providers.

Approach of the Joint Committee

The Joint Committee, with Representative Arakaki as the designated chair by agreement, held a series of informational briefings with community members interested in long-term care, including representatives of consumers, providers, government agencies, non-profit organizations, and the federal government. Their input and the discussions enabled the Committee to craft meaningful proposed legislation for the 2002 Regular Session. Meetings were held at the State Capitol on October 1, 2001; October 15, 2001; October 24, 2001; November 20, 2001; December 4, 2001; December 18, 2001; January 8, 2002, and January 22, 2002. The January 8 meeting featured First Lady Vicky Cayetano, whose presentation was in support of a long-term care financing system.

The Executive Office on Aging (EOA) assisted the Joint Committee by making available the results of its long-term care actuarial study, financed from the EOA's own funds.

The Auditor also stood ready to assist the Joint Committee with any supplemental studies deemed appropriate by the Co-Chairs of the Joint Committee.

The Joint Committee examined and discussed (1) the report of the Joint Legislative Committee on Long-Term Care, Regular Session of 1999, Misc. Comm. No. 9, pursuant to Act 339, Session Laws of Hawaii 1997; (2) *Financing Long-Term Care: A Report to the Hawaii State Legislature*, Executive Office on Aging, 1991; (3) *Report to the Hawaii State Legislature*, Long-Term Care Financing Advisory Board, 1992; and (4) *Actuarial Report on the Proposed Family Hope Program*, Actuarial Research Corporation, 1992. The Joint Committee took the findings and recommendations of the reports into consideration in its deliberations. The Joint Committee also discussed the Hawaii Family Hope Program, proposed by H.B. No. 31, 1993.

Pursuant to the legislative mandate, the Joint Committee has prepared three Senate and House companion bills for introduction in the 2002 Regular Session:

- (1) Relating to the Hawaii long-term care financing Act;
- (2) Relating to long-term care (single entry point); and
- (3) Relating to Aging (caregiver support).

The substance of these three bills are discussed below.

Caregiver Support

No state has a caregiver certification program, according to the National Conference of State Legislatures. The issue has not generated much research material nationally. In Hawaii, the discussion among the Department of Health (DOH), Department of Human Services (DHS), and provider groups has been somewhat minimal in terms of identifying problems and recommending solutions. In fact, most of the representatives of consumers, providers, government agencies, and nonprofit organizations are not familiar with the issue or the problem.

The Joint Committee found that the Hawaii Revised Statutes currently regulates adult residential care homes, nurses aides, and home health care agencies.

The Joint Committee discussed the establishment of a certification program for caregivers. After much consideration and deliberation, the Joint Committee recommends against certification for the following reasons:

- (1) No existing entity is capable of doing the certification;
- (2) There are no certification standards;
- (3) Certification means more governmental regulation;
- (4) Family caregivers would be discouraged from providing caregiver services to a loved one, if they are required to be certified;
- (5) If the State were to do the certification, the State would be exposed to liability if a patient is injured or has died because of fault of the certified caregiver; and
- (6) The DHS is skeptical that it could afford to hire certified caregivers for Medicaid long-term care recipients.

The Joint Committee determined that the real problem is not certification, but rather the lack of adequate training. Certification is only a means to assure adequate training.

The Joint Committee appointed a Subcommittee on Certification which filed a report to the Joint Committee on November 1, 2001, recommending:

- (1) No certification program for family and friends who care for individuals on a daily basis;
- (2) The State appropriate funds to provide training for caregivers;
- (3) No certification for government programs such as Medicare and Medicaid because adequate regulations are currently in place to address licensing and skills competency for quality assurance;
- (4) No certification program for professional caregivers (private pay) at this time, in reference to insurance companies paying for or being responsible for the certification, because the Joint Committee has no information on insurance company coverage requirements for caregivers; and
- (5) A registry system would escalate the cost of providing caregiver services because of the magnitude of administrative expenses entailed with providing a registry. Because a caregiver registry would be the practical equivalent of ensuring competency, the entity responsible for registration would have to assess the care provider's skills; issue the certificate; monitor for continued quality assurance; maintain an up-to-date data base; and ensure against liability. The fiscal and human resources required to implement and ensure a proper registry system is unfeasible at the state level.

The Joint Committee has prepared a bill for introduction in the 2002 Regular Session to allow the EOA to use available state funds to supplement federal grants to provide support services and training for family caregivers. The EOA receives grant moneys under the National Caregiver Support Program, Public Law 106-501, to provide basic services for family caregivers. These services include information to caregivers about available resources; assistance to caregivers to gain access to the services; individual counseling; organization of support groups; caregiver training to assist caregivers to make decisions and solve problems relating to their caregiver roles; respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and supplemental services to complement the care provided by caregivers. Priority is given to caregivers that care for persons having the greatest social and economic need, particularly low-income individuals, and persons with mental retardation and developmental disabilities.

The Joint Committee encourages Kapiolani Community College (KCC) to provide training courses and support services for professional caregivers, including issuing a certificate of completion or issuing a certification, and maintaining a registry for those professional caregivers who complete the program or attain a certification. The KCC is particularly well suited for this endeavor inasmuch as it offers nursing courses related to long-term care. A certificate of completion or a certification could provide an incentive for professional caregivers to attend KCC, and may lead to economic growth for Hawaii in establishing a new industry. The other state community colleges are encouraged to follow the lead of KCC or initiate their own programs.

Single Entry Point System

The Joint Committee referred to the briefing paper "Single Entry Point System", prepared by the Senate Majority Office in conjunction with the Committee's work. The issue has been discussed in the Legislature since 1995, with the Legislative Reference Bureau's "Long-Term Care: A Single Entry Point for Three Populations", Report No. 8, and the report of the DHS, "Single Entry Point System", 1996. No consensus resulted from these discussions.

The Joint Committee seeks to expediently implement an effective, cohesive, coordinated, and affordable single entry point system, without doing violence to the organizational structure of the DOH and DHS. The Joint Committee has prepared a bill for introduction in the 2002 Session that vests the EOA with responsibility for establishing and administering a single entry point system of long-term care coordination that provides:

- (1) A unified system of multiple entry points;
- (2) Information and referral services;

- (3) Needs assessment at the time of intake;
- (4) Preadmission social and medical screening for institutional care;
- (5) Placement of the individual into the appropriate setting; and
- (6) A tentative comprehensive service plan.

The EOA may contract out for the services to a private, nonprofit entity for \$1 per year. The Joint Committee has been informed that there is a reputable, experienced entity that is willing to be paid \$1 per year to provide the program.

The Joint Committee believes that this approach to creating a single entry point system is the most workable, and should be given an opportunity to succeed where most proposals to date call for planning only. This measure goes beyond planning and actually establishes the system.

Financing

Current methods of financing long-term care involve predominantly Medicaid, private insurance, and personal assets. Medicaid, which is limited to financially qualified persons of low income, pays for institutional care (about eighty per cent of all nursing home residents are dependent on Medicaid) and home- and community-based services. Medicare benefits for long-term care are limited. It has been unofficially estimated that Medicaid represents only about ten per cent of the total number of long-term care eligible persons, and only five per cent of the population has private long-term care insurance. Therefore, approximately eighty-five per cent of the population must depend upon their personal assets to pay for long-term care services. This is the large population that needs an affordable long-term care program.

Hawaii's citizens are faced with an overwhelming financial burden of caring for their elderly and disabled citizens. The elderly and disabled population needing long-term care will continue to grow as the population ages. Nursing home costs often exceed a family's ability to pay, threatening a family's financial self-sufficiency. However, nursing home care is but one component of an array of long-term care services options, including home-based services and community-based facilities.

Since increasing numbers of Hawaii's population will need long-term care services, there is a compelling need to create an affordable and universal method of financing those services. Unlike the past, federal and state moneys cannot be relied upon in the future. What Hawaii needs is another method of financing that is affordable and suitable for the vast majority of residents.

The Joint Committee recommends the enactment of the Hawaii Long-Term Care Financing Act, the bill it has prepared for introduction in the 2002 Regular Session. The main characteristics of the Act are discussed below.

Scope of Benefits

Benefits would be paid for "long-term care services", defined as a broad range of supportive services needed by individuals who are age twenty-five or older with physical or mental impairments and who have lost or never acquired the ability to function independently. Long-term care services include a range of home- and community-based services, including home health services, adult day care, adult residential care homes, extended care adult residential care homes, hospices, personal care, respite care, care at home by a relative of the caregiver, and products and implements used in the care of the individual. The benefit amount would start at \$70 per day up to a period of three hundred sixty-five days. The covered services and the benefit amount were deemed to be actuarially sound for the system to sustain solvency.

Mandatory Premium

A viable and actuarially sound program must have mandatory contributions. A voluntary program would:

- (1) Be impossible to accurately predict the number of participants and the potential amount of benefits to be paid;
- (2) Make the premium too expensive to be affordable because only a small percentage of the population could be depended upon to contribute;
- (3) Not be universal because it would not cover everyone;
- (4) Compete with private insurance, but probably at a higher price than private insurance (the proposal does not compete, but is supplemental to private insurance); and
- (5) Make it difficult for the State to collect.

Payroll Deduction

Because the system is mandatory, the most efficient and universal means of collection is to tie the contributions with payroll deduction. The mechanisms for collection and identification are built into the payroll tax withholding system. Those persons without a payroll, such as the self-employed, would contribute in the same manner as paying their income taxes. The term "premium" is used because it is not a tax, although the manner of collection is similar to a tax withholding or other collection.

The Department of Taxation expressed opposition to designating it as the agency of collection. Therefore, the proposed legislation deletes reference to the Department of Taxation and to a payroll withholding. As the bill moves through the legislative process in 2003, the respective Senate and House committees hearing the measure must designate the appropriate collection entity or create a new entity for this function.

Payment of Benefits

The system would pay long-term care benefits directly to qualified recipients of the long-term care services. The payment is intended as a reimbursement to the recipient rather than compensation to the provider of the service. This allows the recipient to choose whichever long-term care service is deemed appropriate. The concept is not to create a long-term care system, as would occur if payments were made to the providers, but to expand the provision of long-term care services, as would occur if the recipient exercises choice in selecting a long-term care service. According to the Executive Office on Aging, the scarcity of long-term care services is attributable to the lack of a payment stream for those services. It is anticipated that a reimbursement system would stimulate competition in the economic marketplace by enticing more providers to enter the market, and ultimately leading to a new growth industry for Hawaii, resulting in more tax revenue for the State.

Covered Population

There is no definitive age at which a person could be diagnosed with a condition or disease needing long-term care services. However, an age range must be specified for actuarial purposes and to keep the system solvent. Accordingly, under the proposed system, persons who are age twenty-five or older would be eligible to receive benefits. Those younger than eighteen who are disabled are generally eligible for lifetime government programs such as Social Security or Medicaid. Others who are age eighteen to twenty-four generally are healthy (except for the occasional critical motor vehicle accident).

Premium Contribution Amount

The amount of \$10 per month is recommended as affordable. This amount is very inexpensive when compared to private insurance premiums. The public should bear in mind that their contribution will someday be returned to them in the way of benefit payments. Each person's premium will be duly and accurately identified and a running total will be maintained for that person.

Interrelationship with Other Long-Term Care Payments

The proposed system would pay primary to Medicaid and private insurance. A recipient of long-term care services would exhaust benefits under the proposed system before resorting to Medicaid and private insurance. In this manner, the State would be relieved of the Medicaid burden at least for the period of time that the recipient receives benefits under the proposed system. In addition, the recipient who is not yet on Medicaid, would have time to transition into Medicaid if necessary.

The recipient with private insurance could preserve those insurance benefits until a later time in life, particularly advantageous because insurance benefits tend to be limited in duration. Because the proposed system would be the primary payor, people may not need as much long-term care private insurance coverage.

Administration

A plan for the administration of the proposed system will be addressed in the 2003 Regular Session. The administration is viewed as secondary at this time to the passage of the substance of the Hawaii Long-Term Care Financing Act. Furthermore, the administration is predominantly germane to paying of the benefits, which will occur after several years as the system would require enough time to build up reserves to meet anticipated liabilities.

Recommendations

The Joint Committee's recommendations for legislative action are embodied in the three bills drafted by the Joint Committee. The Co-Chairs of the Special Joint Legislative Committee on Long-Term Care Financing, Senator David M. Matsuura and Representatives Dennis A. Arakaki and Michael P. Kahikina, will jointly sponsor the introduction of three bills as identified herein, for the consideration by the 2002 Regular Session.

Signed by Senator David Matsuura and Representatives Dennis Arakaki and Michael Kahikina, Co-Chairs, on behalf of the Committee.

Senators Buen, Kokubun, Hanabusa and Hogue.
Committee members on the part of the Senate.

Representatives Lee, Nakasone and Jaffe.
Committee members on the part of the House of Representatives.

Report of the Joint Senate-House Investigative Committee to
Investigate the State's Compliance With the *Felix* Consent Decree

December 26, 2001

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Chapter 1

Introduction

The *Joint Senate-House Investigative Committee To Investigate the State's Compliance With the Felix Consent Decree* presents its conclusions to the Legislature in this report. The Committee was established under Senate Concurrent Resolution No. 65, S.D.1, H.D.1, pursuant to Chapter 21, Hawaii Revised Statutes (HRS), which authorizes the Committee to subpoena records and the attendance of witnesses, and take testimony of witnesses under oath. The Committee held a series of public hearings from June to November 2001. This report contains information obtained from those hearings, related additional work by committee staff, and the Committee's conclusions.

Senator Colleen Hanabusa and Representative Scott Saiki served as co-chairs of the Committee. They presided over the hearings. In addition to the two co-chairs, ten committee members represented both houses of the Legislature. Members from the Senate were Vice-Chair Russell Kokubun and Senators Jan Yagi Buen, David Matsuura, Norman Sakamoto, and Sam Slom. Members from the House of Representatives were Vice-Chair Blake Oshiro and Representatives Ken Ito, Bertha Kawakami, Bertha Leong, and Barbara Marumoto. James Kawashima of Watanabe, Ing, and Kawashima served as Special Counsel to the committee. Law firm staff and staff from the Office of the Auditor assisted the Committee in collecting and analyzing information.

Impetus for the Investigative Committee

The State's educational system and the state budget have been gripped by the *Felix* consent decree since its inception in October 1994. Both legislators and the general public have become concerned about the unclear requirements set by the federal court and exponentially increasing costs. The parents of regular education students have also expressed concerns about the effect of those expenditures on funds available for regular education. The *Felix* consent decree is the outcome of a 1993 lawsuit filed against the State in U.S. District Court on behalf of seven children, their parents (guardians), and mental health advocates. The lawsuit alleged that qualified handicapped children were not receiving the educational and mental health services they needed and that the State was in violation of two federal laws — the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973.

First enacted by Congress in 1975 as the Education for All Handicapped Children Act, the Individuals with Disabilities Education Act (IDEA) requires states to provide children with disabilities a "free and appropriate education" that emphasizes special education and related services to meet their unique needs. The IDEA applies to students with the following disabling conditions: autism, deaf-blindness, deafness, emotional impairment, hearing loss, learning impairment, mental retardation, orthopedic impairment, other health impairment, speech or language impairment or both, traumatic brain injury, severe multiple impairments, specific learning disabilities, or visual impairment.

Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to children in regular and special education programs that receive federal funding. It stipulates that a qualified person with a disability cannot be excluded from any program receiving federal financial assistance. Section 504 covers a much broader category of students who may have a physical or mental impairment. Physical or mental impairment includes, but is not limited to the following: infectious diseases such as HIV or AIDS, tuberculosis, and Hepatitis B; medical conditions such as juvenile rheumatoid arthritis, chronic asthma, severe allergies, epilepsy, heart disease and cancer; drug addiction; alcohol addiction; attention deficit

disorder or attention deficit with hyperactivity disorder; and mental or psychological disorders such as depression, school phobia, and post-traumatic stress disorder.

The *Felix* lawsuit was patterned after those that had met with success on the mainland with one significant difference. Because Hawaii's school system is the only statewide system in the country, the State is accountable for its most rural and most isolated communities. In essence, this makes the *Felix* consent decree more far-reaching and difficult to comply with.

The federal court granted summary judgment against the State and in favor of the *Felix* plaintiffs on liability. This gave the *Felix* plaintiffs considerable leverage and threatened the State's control over Hawaii's statewide school system. Rather than face a federal takeover or be placed into receivership, the State entered into the consent decree, where it waived all rights to appeal and agreed to fully implement a statewide system of care by June 30, 2000. The State agreed to the consent decree in an attempt to preserve its autonomy and maintain control in the design and implementation of a system of care.

In May 2000, the federal court found the State in contempt for failing to comply with the consent decree and threatened the State with a federal takeover. However, the federal court gave the State a reprieve and set up 56 specific benchmarks for it to meet. For example, all school complexes were to receive "recommendations for compliance" status from the court monitor by October 31, 2001. The federal court ultimately gave the State a final deadline of March 31, 2002, when it must meet all 56 benchmarks or face federal receivership of the educational system.

To meet these benchmarks, the federal court granted the superintendent of education and the director of health extraordinary powers. These so-called "super powers" were issued by the federal court on June 27, 2000, and authorized the two department heads to waive the state procurement laws (Chapters 103D, HRS and 103F), which required that services be purchased by competitive bidding. The federal court's grant of superpowers also permitted department heads to bypass state collective bargaining laws and to pay newly recruited teachers far more than those who were already working for the State. There was even an interpretation of the superpowers that the Board of Education had no role in oversight. The federal court expects all benchmarks to be met without consideration of cost.

Even prior to the granting of extraordinary powers, the Department of Health (DOH) and Department of Education (DOE) had demanded large amounts of funding for *Felix*, claiming that they were needed to meet the requirements of the *Felix* consent decree. Since FY1994-95, expenditures have increased from \$181,071,352 to \$301,863,705 in FY1999-00, and the number of children in the *Felix* class has grown from an estimated 2,894 to 11,842 in FY1999-00.

The Legislature grew increasingly concerned with the rising *Felix* costs. It requested the State Auditor to review expenditures and factors related to the increasing cost. The State Auditor issued an assessment in 1998 (*Assessment of the State's Efforts Related to the Felix Consent Decree*, Report No. 98-20) and a consultant's follow-up report in 2001 (*Follow-Up Review of the State's Efforts to Comply with the Felix Consent Decree*). The DOH and DOE disputed the findings in both reports.

The 1998 Auditor's report found that the State's failure to ensure that the *Felix* consent decree requirements were clear, made the goal of compliance a moving target. Additionally, the State did not clearly and accurately identify funding related to the consent decree. Furthermore, the State's efforts to comply with the *Felix* consent decree were characterized by a lack of leadership, resulting in inefficient delivery of educationally related mental health services.

In response to these findings, the Legislature took steps to establish better accounting of the monies that it appropriated for the *Felix* consent decree. Starting in 1999, the Legislature created a new budget program designation, EDN 150, Comprehensive School Support Services, which it thought would correct unclear and inaccurate identification of funding related to the consent decree. In the same year, Act 91, Session Laws of Hawaii (SLH) 1999, required the DOE to submit a detailed report to both 2000 and 2001 legislative sessions on EDN 150 allocations and expenditures for special education, the decree, and comprehensive student support services. Act 91 also required the DOE and DOH to develop procedures to transfer the delivery of mental health services from the DOH to the DOE.

Despite legislative efforts to clarify the reporting of *Felix*-related expenditures, problems remained. In the Auditor's 2001 follow-up report, consultants from the University of Pennsylvania found that *Felix*-related costs and services continued to be inconsistently reported. The DOE continued to combine *Felix*-related administrative and service costs with other special education costs. The DOH combined costs for compliance with costs for the delivery of services and combined costs for new and experimental services such as Multisystemic Therapy with costs for traditional mental health services. The consultants concluded that it was impossible to determine the cost of core and essential services versus the cost of new, experimental, and non-essential services.

Both the DOE and DOH would blame the Legislature for not giving them enough money whenever the State received a setback in federal court. The DOE and DOH felt that the more money put into *Felix* the greater their chances of achieving compliance. The Legislature suspected the departments were not making the best use of the funding they had received. "The *Felix* consent decree had become a blank check or black hole," became the common legislative perception. However, the federal court repeatedly threatened federal takeover and the Legislature was told not to question, but simply to find more funds for *Felix*. And while the Legislature did provide such funding, questions have surfaced as to whether there is a surplus of the emergency funds, emphasizing whether the requests were truly exigent in nature.

This conflict led to the creation of the Joint Senate-House Investigative Committee. The Legislature noted that it had relied on the State Auditor to monitor the expenditure of state funds for the *Felix* consent decree on its behalf. However, parties involved in the decree did not cooperate and refused access to certain key information. The Legislature concluded that an investigative setting was the only way it could get its questions answered.

Focus of the Investigative Committee

Senate Concurrent Resolution No. 65, S.D. 1, H.D. 1 called for the Committee's investigation to include:

- A review of the recommendations and implementation of the findings of the 1998 and 2001 *Felix* consent decree reports issued by the Office of the Auditor.
- An assessment of changes that resulted from Act 91, SLH 1999 – the act that shifted fiscal and decision-making authority and accountability from a primarily off campus, medically-based service delivery system to a primarily education-based service delivery system focused on providing services in classroom environments.
- A consideration of how best to transition from a special education service delivery system based on compliance to a more permanent one that is cost-effective, efficient, based on measures and outcomes, and compliant with IDEA and Section 504.

- An examination of federal and other sources of funding for special education in the public school system of Hawaii.

The Committee reviewed the above issues, but its short time frame forced it to focus on three areas. These areas were the possible misidentification of *Felix* class members, questionable *Felix*-related expenditures, and potential conflicts of interest by individuals and entities involved with the consent decree. As will be discussed later, the Committee was unable to properly investigate the misidentification issue in large part because committee staff was denied access to client files. The Department of the Attorney General cited several federal laws, including the Family Educational Rights and Privacy Act or FERPA, to prevent access. Nevertheless, the Committee uncovered much information related to questionable *Felix*-related expenditures and potential conflicts of interest.

Rules of the Investigative Committee

The Committee adopted rules of procedure in accordance with Chapter 21, HRS and SCR 65, S.D. 1, H.D.1. In summary, the proceedings were conducted in a formal setting. Subpoenas were served and witnesses were given ten days' notice to appear. Unlike other hearings of the Legislature, only those subpoenaed or invited by the Committee testified. Members of the public were not allowed to testify.

Witnesses were questioned under oath. They were allowed to bring an attorney, and a court reporter recorded the proceedings. The Clerk of the House of Representatives served as the official repository of the committee's records. The proceedings were open to the public, unless it was necessary for the committee to meet in executive session to confer with counsel. Olelo, the community access station, telecast most of the hearings live; some hearings were shown on a delayed basis. The written transcripts of the proceedings were placed on the Internet.

Appendix A lists the dates of the hearings, the witnesses, and the subject of their testimony.

Obstacles

The Committee was faced with a number of obstacles that prevented it from obtaining full access to records and key individuals, blocking an in-depth investigation of certain matters. The federal court quashed the subpoenas of Court Monitor Ivor Groves; the administrator of the Felix Monitoring Project, Juanita Iwamoto; and Judith Schrag, who was a member of the Technical Assistance Panel, a court-mandated entity.

The DOE and DOH cited federal laws, such as the Family Education Rights and Privacy Act (FERPA) to deny the Committee's access to files. Private providers of mental health services also denied access to files for allegedly the same reason. However, it is important to note the Committee recognizes the need for privacy protections. It provided several assurances that the identities of the students could be redacted or substituted with non-descript numbers. The scope of the inquiry was aimed at the service and provider, not at the student. Despite its attempts to make accommodations, access was continually denied.

Without this access, committee staff were hampered in their efforts to tie allegations of questionable billings to the services ordered for each student. Nor could staff verify whether the State was being accurately billed for services for specific clients at specific times. Moreover, the DOE and DOH

responded to requests on *Felix* expenditures by saying that several months would be required to produce some of the required information.

Many people were reluctant to publicly share information on specific incidences of abuse and waste for fear of possible retaliation. The Committee received reports of threats to witnesses and potential testifiers. The Committee gratefully acknowledges those who came forward with their concerns despite this climate of fear.

Despite obstructions, the Committee was able to review some matters in detail. Conclusions and recommendations related to these issues are presented in the following chapter.

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Chapter 2

Conclusions

During six months of hearings and intense investigative work, this Committee was troubled by much of what it uncovered about the impact of the *Felix* consent decree. The decree has been a double-edged sword. Despite good intentions and improved services to some children with mental disabilities, the decree has also unleashed a Pandora's box of unintended consequences. The unclear requirements for compliance, the extraordinary powers granted by the federal court to certain administrators without any apparent oversight, and the court's curtailment of the Legislature's access to information have exacerbated troubled governmental programs already mired in fiscal mismanagement.

The Committee heard testimony about apparent conflicts of interest, profiteering, and wasteful spending. Such practices erode public confidence in government and erode the morale of those public servants committed to doing a good job. The Committee believes that it is important to bring these practices to light—to understand how and why they occurred and to prevent them in the future.

The Committee has concluded that the implementation of the *Felix* consent decree has been problematic due to several factors. They are:

1. The unclear requirements for compliance concurrent with departmental exploitation of the court's "money is no object" expectations.
2. The generally poor oversight and accountability of the two departments responsible for implementing the *Felix* consent decree and the curtailment by the federal court of oversight by the Legislature.
3. The "superpowers" granted to the superintendent of education and the director of health that allowed them to waive the requirements of the state procurement law and to bypass personnel laws.

We discuss below these three aspects and the environment of waste and profiteering that they fostered.

Problems Stemming from Undefined, Unclear, and Costly *Felix* "Compliance" Requirements

Federal laws have never clearly defined criteria for compliance, leaving the State at the mercy of the federal court. The *Felix* consent decree, issued in October 1994, mandated that the State design and implement a system of care for the *Felix* class by June 30, 2000. The State was also required to maintain specific levels of service and spending. However, a precise definition of compliance was never formally established.

Although it might appear that there are specific benchmarks and objective standards for whether schools are in compliance, many of the requirements were introduced at various times since the decree was issued, and many of the standards are arbitrary. Over the years, this has created a "moving target" that makes it difficult to plan sensibly for accomplishing compliance. The Court Monitor sometimes made unexplained changes in the benchmarks that left the State even more uncertain about its targets.

The State and other parties to the 1993 lawsuit had no clear definitions and measures when the consent decree was issued. Currently, an unproven and untested protocol is used to assess compliance. Compliance measures include “written” and “oral” components, but are without clear explanations of how requirements for the “written” service testing portion are to be met or what would constitute “passing” activity levels or satisfactory performance in the oral presentations made to the court monitor and the plaintiffs’ attorneys. The lack of clarity relating to compliance could extend the life of the decree indefinitely.

Compliance measures appear arbitrary and unscientific

The primary measure used to determine whether or not services have been adequate, i.e., whether the State is in compliance, is called “service testing.” Court Monitor Ivor Groves and his business partner, Ray Foster, under their company Human Systems and Outcomes, Inc., designed the measure. Service testing consists of a qualitative measure (similar to a case study) that was developed during the initial stages of the consent decree. The tool had not been previously used, and in fact, had to be refined and structured with significant input from DOE administrators. Copyrighted in 1998 by Human Systems and Outcomes, Inc., the service testing instrument is comprised of two protocols: the *School-Based Services Review* for those with less intensive needs and the *Coordinated Services Review*, which is used to measure results and performance for those *Felix* class members with more intensive needs or complex life situations.

The *School-Based Services Review* is defined as a “Case-Based Protocol of School-Based Services Provided for Students with Special Needs.” The review measures short-term results for children with special needs and those who provide services to these children. These results are intended for use by student services teams to improve “front-line practices.” The protocol asks the reviewer to first assess the case on the basis of level of functioning on a scale of 1 to 10, with “1” as needing constant supervision and “10” as superior functioning. The reviewer’s scores are based on status and service examinations, which include school attendance and learning progress. This information is then presented in report outline form under such headings as “Characteristics of the Student and Family,” “School-Based Services Involvement,” and “Suggestions for Improvement.”

The *Coordinated Services Review* is a more detailed review. It uses a “spot-checking method” for “appraising the current status of persons receiving combinations of public services (e.g., special education, behavioral health, child protection/foster care, juvenile justice, vocational rehabilitation services).” This instrument also looks at short-term results for children with special needs and those providing services to them. This particular protocol states that it is used for “monitoring *Felix* class members and tracking improvements in local interagency practices.” The *Coordinated Services Review* uses narratives, rather than outlines, to tell the story of the child’s background and his family situation. Narrative headings include family situation, school situation, involvement with other child-serving agencies, and other special factors or circumstances. Also, an appraisal is made of system performance covering such areas as “What’s Working” and “Practical Steps to Overcome Problems.”

Each school complex (a high school and its feeder schools) must pass with an 85 percent score on both the *School-Based Services Review* and the *Coordinated Services Review*. The basis for this 85 percent “passing” score appears arbitrary. A former DOE official testified that at the start of the compliance reviews the passing score was 70 percent, but too many schools were easily meeting that goal, so the bar was raised. Evidently, many schools did not pass once the higher standard was implemented.

After these two protocols were established, Court Monitor Groves, using his administrative office, Felix Monitoring Project Inc., and his private business partner, Ray Foster, trained and hired a number of independent contractors to collect baseline data for service testing. These service testers then reviewed cases supposedly randomly selected by staff of the Felix Monitoring Project, Inc.

Random samples are a prerequisite for statistical inferences. Although the samples are reportedly randomly selected, the results may not be representative of the larger population. On average, the sample sizes for service testing have been 20 students or less. Statistically, these sample sizes would be too small to permit a valid conclusion on compliance, as sampling bias might influence the results. Also, a disproportionate number of autism cases were included in the samples. This overrepresentation may be an indication that sample selection was not random but biased toward such cases. The committee could not verify the validity of the sample selection because the subpoenas quashed by the federal court prohibited access to case files by committee staff.

Given the numerical target of an 85 percent passing score and the use of a random sample, the general public might be led to believe that the results are somehow "scientific." However, even Court Monitor Dr. Groves and his partner, Dr. Foster, acknowledge that the service testing protocols were not developed with psychometric properties, that is, the protocols were not tested for reliability and validity as standardized testing measures should be. Furthermore, they stress that the protocol supports a "professional appraisal" of child status and service system performance at a given point in time and the instrument should not be used without proper training and supervision.

Meaning of compliance differs

Dr. Douglas Houck, DOE's Director of Program Support and Development, testified to the Committee that, in his estimation, the State, overall, was in compliance. Dr. Houck, in a memo dated July 20, 2001, to the superintendent, stated the following:

The fifteen (15) complexes tested during the 2001 calendar year achieved an overall score of 87% on school-based services and 85% on Coordinated Services. This indicates that the State has now achieved overall substantial compliance with the principles and standards established by the Consent Decree. The Monitor previously established the 85% score as his criteria for meeting substantial compliance. We also need to keep in mind that the Consent Decree speaks only in general terms regarding State wide compliance. It does not address the matter of achieving compliance on a complex-by-complex basis.¹

When this was brought to the attention of the plaintiffs' attorneys during a federal court hearing in August 2001, they vehemently argued that compliance was supposed to be by individual complex, regardless of whether the State, as a whole, had essentially met the requirements of the consent decree.

School complexes are unclear about compliance

School complexes are unclear about how to "pass" compliance testing. The DOE has issued two main guidelines, but they are inadequate. The first is a one-page document labeled: "Achieving Compliance with Service Testing: Eleven Essential Elements." The document primarily reminds schools to keep accurate and up-to-date files and records to ensure efficient processing of paperwork and provision of services. The second, more detailed document, the product of a collaboration with DOH, is the "Procedural Manual for Service Testing Reviews." It provides a planning guide to prepare for the different steps involved in a compliance presentation review.

In addition, DOE and DOH staff offer basic training on the service testing protocol. Preparation for service testing and compliance presentations is informal and voluntary. For compliance presentations, DOE staff is available to meet with schools and provide informal advice during practice sessions. Even with the training and the internal guidelines, schools reported that they were unsure about how to pass compliance.

Furthermore, the DOE has spent \$2.3 million on targeted technical assistance for those schools facing the most difficulty in passing compliance. However, even today, with compliance appearing more likely, the extent of assistance provided by this program is not demonstrated and is speculative.

Compliance is a moving target

The entire issue of compliance has been a problem from the beginning of the consent decree. The monitor's standards for compliance have changed constantly with the addition of new initiatives, such as reading assessments, which appear to go beyond the requirements of the decree, according to DOE officials who served as point persons for *Felix*.

Currently, Court Monitor Groves distinguishes three levels of compliance. He awards *Partial compliance* when a school complex is able to reach a passing score (85 percent) on only one of the two service testing protocols. He awards *Provisional compliance* when a school complex has passing scores on both protocols, but has yet to schedule a compliance presentation to him and the plaintiff attorneys. *Full compliance* is awarded when the monitor makes a recommendation to the federal court that the complex has demonstrated its compliance with the Individuals with Disabilities Education Act and the consent decree. As of November 1, 2001, 20 of 41 school complexes are in full compliance, eight complexes are in provisional compliance, three are in partial compliance, and the remaining 10 are not in compliance.

The DOE and DOH exploit the "money is no object" expectations

The federal court has made it clear that compliance is necessary without regard to cost. This, together with the unclear requirements of the consent decree, made it inevitable that the costs of compliance would escalate. The DOE's expenditures for *Felix* grew from \$77.5 million in 1994 to \$179.8 million in 2001, an increase of 132 percent. The DOH's general fund expenditures for *Felix* grew from \$48 million in 1995 to \$148.2 million in 2001, an increase of 209 percent. Since 1994, the State has spent almost **\$1.5 billion** on *Felix* related programs. Even so, these numbers are understated. They do not include federal funds expended by DOH and expenditures by other agencies, such as the costs for attorneys' fees by the Department of the Attorney General and *Felix* costs for the Department of Human Services.

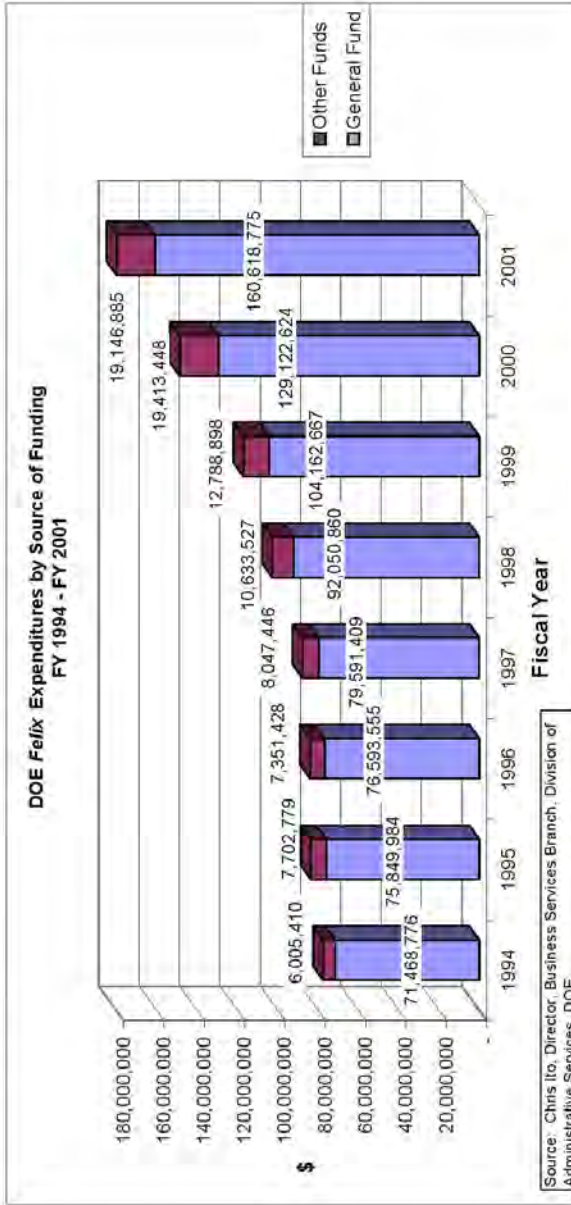
The Committee finds most disturbing the fact that no one knows how much *Felix* is costing the State. Neither the DOE nor DOH has held itself accountable for using public monies in a responsible and prudent manner. They are unable to accurately identify the costs of *Felix*.

Exhibits 2.1 and 2.2 show the information provided by the DOE and DOH on *Felix* expenditures, respectively.

In FY2000-01, DOE and DOH reported total *Felix* costs of \$328 million. The DOH provided only general fund information of \$148.2 million while the DOE reported expenditures of \$179.8 million from all sources of funding. The DOH claimed that information on non-general fund *Felix* expenditures was not readily available. In addition to the missing non-general fund information from DOH, the DOE may not have included all *Felix*-related costs since it claims that it could not accurately separate *Felix* costs from non-*Felix* special education costs.

Exhibit 2.1 Estimated DOE Felix Expenditures by Source of Funding for FY1993-94 to FY2000-01

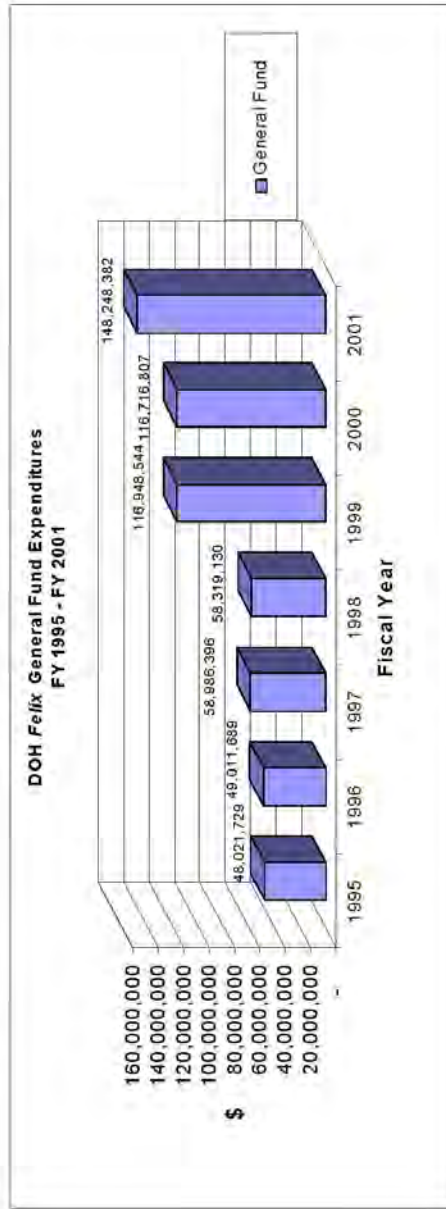
	1994	1995	1996	1997	1998	1999	2000	2001	TOTAL
General Fund	71,468,776	75,849,984	76,593,555	79,591,409	92,050,860	104,162,667	129,122,624	160,618,775	789,458,650
Other Funds	6,005,410	7,702,779	7,351,428	8,047,446	10,633,527	12,788,898	19,413,448	19,146,885	91,089,821
Total Felix expenditures	77,474,186	83,552,763	83,944,983	87,638,855	102,684,387	116,951,565	148,536,072	179,765,660	880,548,471
Percent increase from prior year		7.85%	0.47%	4.40%	17.17%	13.85%	27.01%	21.02%	
Percent increase since 1994		7.85%	8.35%	13.12%	32.54%	50.96%	91.72%	132.03%	



Source: Chris Ito, Director, Business Services Branch, Division of Administrative Services, DOE

Exhibit 2.2 Estimated DOH Feijx General Fund Expenditures from FY1994-95 to FY2000-01

Prog ID	Title	1995	1996	1997	1998	1999	2000	2001	TOTAL
HTH 460	Child and Adolescent Mental Health	29,554,797	34,585,260	45,237,143	44,652,576	102,930,932	99,580,600	123,273,302	479,814,610
HTH 495	Behavioral Health Services Administration	1,897,930	2,092,265	3,340,572	3,322,937	3,623,221	4,855,089	5,504,898	23,436,872
HTH 530	Children with Special Health Needs Services	4,766,542	2,849,514	2,571,203	3,227,941	3,194,614	5,122,741	6,978,269	28,710,824
HTH 550	Maternal and Child Health Services	10,935,203	8,365,271	6,746,929	6,030,276	6,098,159	6,070,170	11,403,746	55,679,754
HTH 501	Developmental Disabilities	1,067,257	1,085,379	1,090,549	1,085,400	1,101,618	1,088,207	1,088,207	7,610,617
Total Feijx general fund expenditures		48,021,729	58,986,396	58,316,130	58,316,130	116,948,544	116,716,807	148,248,382	596,252,677
Percent increase from prior year		2.06%	20.35%	-1.13%	-1.13%	100.53%	-0.20%	27.02%	
Percent increase from 1994		2.06%	22.83%	21.44%	21.44%	143.53%	143.05%	208.71%	



Source: Valerie Aho, Chief, Administrative Services Office, DOH

Poor cost data reflect poor fiscal management at the DOE

The DOE has long been characterized by a management structure with poor fiscal accountability, leaving the department unable to accurately assess its needs. Divisions and programs within the DOE do not communicate with each other. For example, budget and accounting functions do not share information and budget requests are not based on expenditure data. DOE continually miscalculates its budget requests, which has led to unnecessary spending and abundant leftover funds. Yet, the DOE has repeatedly requested emergency appropriations from the Legislature. In turn, the Legislature questions whether appropriations based on inaccurate numbers are really warranted.

Legislators have long been frustrated with the DOE's inability to provide adequate information. In testimony, DOE staff continually deferred questions to others or provided inconclusive information. The information was not responsive to the committee's requests.

It is not only the Legislature that is frustrated, the current and former chairs of the Board of Education testified to the Committee that they too had not received adequate answers from the DOE on fiscal matters. Given DOE's fiscal practices, neither the Legislature nor the Board of Education can determine whether public monies have been spent wisely.

The DOE has inept fiscal management

The DOE's internal auditor reported on the difficulty of compiling simple *Felix*-related financial information when he conducted his fiscal review of the *Felix* Response Plan or FRP. The plan consists of 12 items identified by the department as necessary for meeting the requirements of the decree. The audit was initiated by former Deputy Superintendent Pat Hamamoto to determine whether the funds appropriated for the *Felix* Response Plan were being spent appropriately. This was the first ever internal audit of *Felix* expenditures.

The internal auditor spent the majority of his time simply attempting to compile data into an understandable financial format. He identified 38 separate problems that needed correction, such as improper purchases of equipment and misspent funds. The majority of these problems were due to poor communications within the department, lack of effective fiscal management tools and reports, and a lack of general fiscal oversight. Full circle communication was not evident, as individuals in the field were often not given sufficient opportunity to provide input as to budgetary needs for implementing *Felix* programs, neither did program managers clearly communicate budget objectives to those in the field.

The internal auditor found financial data to be seriously fragmented among units such as budget, personnel, accounting, programs, districts, and schools. Program managers did not readily have the information they needed to manage operations. There was no specific official or unit in the department that analyzed *Felix* Response Plan funds in a budget-to-actual expenditure comparison, to determine variances, obtain explanations, or evaluate performance. The internal auditor recommended that the DOE improve its budget communication process; develop a comprehensive *Felix* financial report that extracts and compiles data from programs, budget, personnel, payroll, accounting, districts and schools in an understandable format; and perform complete, on-going financial analysis and audits of *Felix* Response Plan transactions.

The DOE purchased laptop computers for vacant positions

One blatant example of wasted funds is the DOE's unnecessary purchase of equipment for vacant positions. The DOE had requested funding for laptops for *Felix* student services coordinators and special education teachers. The laptops allegedly would give these staff "additional flexibility." However, the

DOE purchased laptop computers for *all* student services coordinator and special education teacher positions, even vacant positions.

A total of 140 laptops were purchased for vacant positions at a cost of \$294,000. A number of special education positions will remain vacant due to ordinary staff turnover and to the department's inability to fill all positions. The excess laptop computers are either sitting idle or used for purposes other than compliance with the *Felix* consent decree—the purpose the DOE gave the Legislature when it sought the funding.

The DOE uses budget program EDN 150 to obscure *Felix* and special education costs

To obtain a handle on *Felix* costs, the Legislature created a separate budget program designation, EDN 150, Comprehensive School Support Services. However, the new program designation provides false comfort for the Legislature because the DOE still manages to obscure *Felix*-related costs. Even after the creation of EDN 150, *Felix* costs have still been found in other budget program designations. For example, for FY2000-01, the DOE reported to committee staff that over \$100,000 for *Felix*-related expenditures are in EDN 200, which is the program designation for instructional support.

The DOE argues that a special education teacher may be responsible for both *Felix* and non-*Felix* students and calculating a percentage of time spent with the *Felix* child would be nearly impossible. It argues similarly that both *Felix* and non-*Felix* students and related school personnel may use supplies and equipment.

Currently, EDN 150 consists of *Felix* costs, special education costs for non-*Felix* students, and costs related to the education department's school reform effort, Comprehensive Student Support System or CSSS. Combining these three categories under EDN 150 makes it very difficult to separate out *Felix* costs.

The DOE has unspent funds yet asks for more

Due to the dysfunctional management structure and poor fiscal management, the DOE's budget requests are often inaccurate and overestimated. The department is itself unable to reach a consensus on its official numbers.

The committee staff found discrepancies in the amounts of surplus funds, carry over funds, and lapsed funds. The amount of carry over funds reported by the DOE's budget office differed significantly from the information provided by the DOE accounting office. The DOE accounting director, Chris Ito, attributed the surplus differences to reconciling adjustments and timing issues, while the head of DOE's planning, budget, and resource development, Laurel Johnston, stated that there had been internal "quibbling" regarding the accuracy of the numbers. She suggested utilizing the numbers obtained from the accounting office as the "official" numbers.

Each year since the inception of the *Felix* consent decree, the DOE has requested additional funding from the Legislature to comply with the decree. In the 2001 legislative session, the department requested an emergency appropriation for FY2000-01 of \$41.3 million. This amount appears to be arbitrary because the DOE later reduced the request to \$33.4 million and then reduced it again to \$27.9 million.

The Legislature grew more concerned and skeptical at the end of FY2000-01 when the DOE had \$62.5 million in surplus funds of which \$17.4 million were from EDN 150, which includes *Felix* costs. The DOE retained and carried over \$48.2 million from FY2000-01, the same fiscal year that it requested an emergency appropriation for \$27.9 million. In addition to the amount it retained, the DOE lapsed or returned \$14.3 million to the State.

The Committee believes that the DOE may also be inappropriately increasing the amounts of authorized carry over funds by transferring surplus funds from one budget program category to another. Section 37-41, HRS states that, unless otherwise provided by Section 37-41.5 or any other law, every appropriation remaining unexpended and unencumbered at the close of any fiscal year shall lapse and be returned to the general fund. Section 37-41.5 authorizes the department to carry over funds remaining in budget program identification numbers EDN 100 and EDN 150 to the next fiscal year; however, the department has also transferred surplus funds of \$14.3 million from several other program budget identification numbers to EDN 100. By placing surplus funds into EDN 100, the regular education program budget, DOE retains funds that must lapse and become available for other state needs.

In response to legislative inquiries, DOE officials claimed that the large surplus resulted from salary savings from vacant positions. However, the committee's staff found that only 56 percent of the surplus was tied to personal services, while the remaining 44 percent was tied to other current expenses such as supplies, equipment, motor vehicles, and contracted personal services.

DOE misuses excess federal impact aid

The Committee is also concerned that the DOE has mismanaged millions of federal impact aid dollars. The State receives annual reimbursement from the federal government in the form of impact aid funds for federally connected students. The parents of these students are either active duty military or civilians working or living on federal property. The Legislature appropriates impact aid at a specific dollar amount to the department. The impact aid receipts for any given year can vary widely from the appropriation based on such factors as the success of Hawaii's congressional delegation, the actual numbers of federally connected students, and back payments.

Although the number of active duty dependents has been declining and the number of civilian dependents has remained relatively stable since FY1993-94, the amount of federal impact aid received by the State over that period increased from \$23,994,289 in FY1993-94 to \$37,953,371 in FY2000-01. At the same time, the appropriation amount remained at \$19 million until FY1999-00.

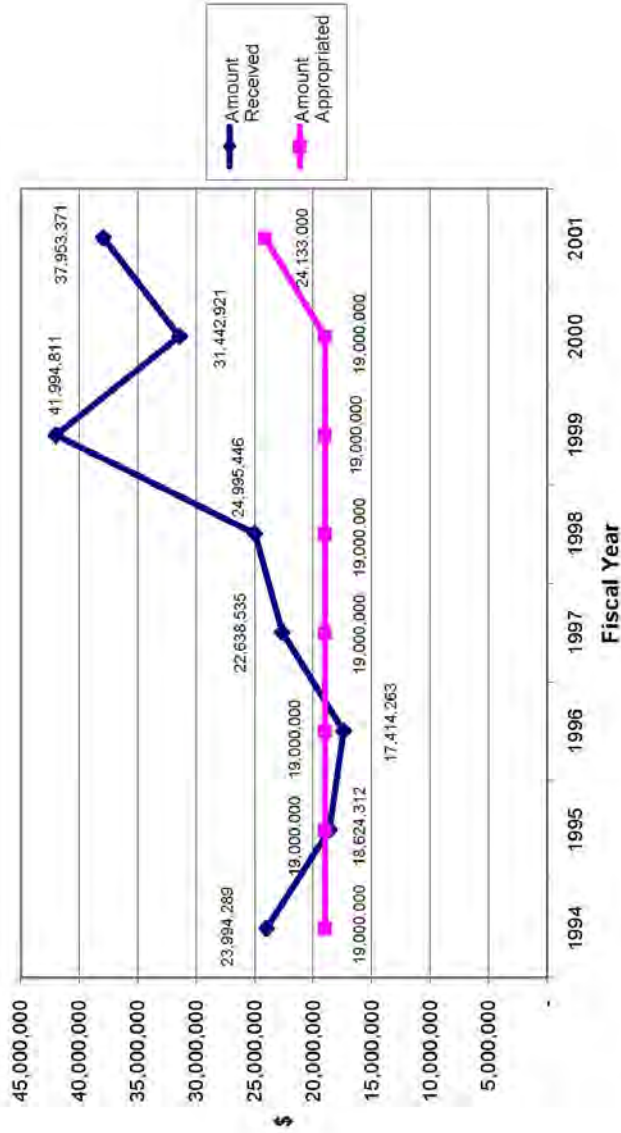
In view of the higher federal reimbursements, the Legislature raised the impact aid appropriation to \$24,133,000 in FY2000-01 and to \$25,978,520 in FY2001-02. Despite this higher appropriation, the department has been able to retain a total of \$26,263,292 (\$12,442,921 in FY1999-00 and \$13,820,371 in FY2000-01) in surplus impact aid funds. Exhibit 2.3 displays the history of impact aid appropriations and reimbursements from FY1993-94 to FY2000-01.

Prior to July 1, 2000, any federal impact aid reimbursements in excess of the Legislature's appropriation were lapsed and deposited into the general fund to be available to all other state programs. The 2000 Legislature through Act 234, authorized the DOE to retain the excess funds and spend them at its discretion, albeit within certain parameters as discussed below. Prior to Act 234, the DOE lapsed \$37,623,081 between FY1993-94 and FY1998-99.

DOE has misused Act 234

The Legislature set out certain parameters in Act 234, SLH 2000 that the DOE has ignored. On June 6, 2000, the governor gave the DOE approval to spend over \$12 million in excess impact aid. The law requires the DOE to allocate the excess funds among all program identification numbers, by an amount proportionate to the total general fund appropriation made by the Legislature. However, during a committee hearing, the DOE budget and planning head conceded that the DOE allotted all surplus impact aid received in FY1999-00 into only one budget program identification number – EDN 100. By doing so, the DOE inappropriately allocated *Felix* funding within a non-*Felix* program identification number, confusing the amounts available for *Felix* programs.

Exhibit 2.3 Amount of Federal Impact Aid Received and Amount Appropriated to the DOE, FY1993-94 to FY2000-01



Source: Linda Unten, Budget Specialist, Planning, Budget and Resource Development Office, Office of the Superintendent, DOE

More importantly, EDN 100 comprises approximately 78 percent of the total, overall DOE appropriation, and EDN 150 comprises about 15 percent. But, the *Felix*-related items to be funded by the \$12 million in excess impact aid totaled 30 percent. The DOE, in essence, doubled the EDN 150 share of excess impact aid, a flaunting of the proportionality requirement of Act 234.

Furthermore, Act 234 also prohibits the DOE from using excess impact aid to create new programs or expand existing ones. Yet, the DOE used \$2.3 million in surplus federal impact aid for “School Based Technical Services Assistance – *Felix*,” a targeted technical assistance program. This resulted in a highly controversial targeted technical assistance contract with Pacific Resources for Education and Learning (PREL) and subcontractor Na Laukoa.

This was a new program that was not eligible for federal impact aid. The concept emerged in May 2000 from discussions between Court Monitor Groves and the former superintendent. Moreover, targeted technical assistance was originally to be funded with emergency general funds requested in the 2001 legislative session.

Act 234 has given the DOE full discretion over surplus federal impact aid, eliminating the checks and balances embedded within the State’s budgeting process. The larger the difference between the level appropriated and the level received, the greater the risk of mismanagement and lack of accountability. The excess funds create a budgetary cushion for the department. Its use could have negative consequences for the Legislature, such as new programs that the Legislature did not authorize but would have little choice but to continue.

The Committee strongly believes that Act 234, SLH 2000 should be reevaluated.

Problems Stemming From Inadequate Oversight and Accountability

Many of the problems that the Committee uncovered could have been prevented had meaningful oversight been maintained over the DOE and DOH. Oversight and monitoring helps to ensure that officials are responsible and accountable for their actions. The Committee believes that access to better information leads to better oversight and accountability. We found numerous instances of questionable practices, mismanagement, waste and potential fraud that could have been prevented had information about them been made public. Unfortunately, this Committee’s work has been obstructed by the federal court and interpretation of federal laws that have curtailed access to the information we need.

In addition, the DOE and DOH cited federal laws, such as the Family Education Rights and Privacy Act (FERPA) for denying access to files. Private providers of mental health services also denied legislative staff access to files for allegedly the same reason. These obstructionist tactics prevented Committee staff from verifying allegations of questionable billings and from verifying whether services the State was billed for had actually been provided to specific clients at specific times. Also, the DOE and DOH told the Committee that it would take several months before they could produce the required information on *Felix* expenditures.

Court curtails legislative oversight

The Committee faced a number of obstacles that prevented it from obtaining full access to records and key individuals, thereby blocking an in-depth investigation of certain matters. The federal court quashed the subpoenas for Court Monitor Groves; for the administrator of the Felix Monitoring Project, Juanita

Iwamoto; and for Judith Schrag, a former member of the Technical Assistance Panel, a court-mandated entity.

The Committee issued subpoenas for Court Monitor Groves and Juanita Iwamoto, an official and employee of the Felix Monitoring Project, to provide testimony on July 13, 2001. The Committee needed information from them on many issues, including:

- The numerous changes made to the testing method used to assess compliance,
- Their use of the Hawaii testing instrument in states other than Hawaii,
- The switch from a private provider model to a school based model for mental health services,
- The compensation and benefits package paid to Court Monitor Groves and Ms. Iwamoto,
- The expenses of the Felix Monitoring Project, and
- Their use of business associates to conduct all expense paid seminars and training sessions in Hawaii.

The plaintiffs' attorneys filed a motion to block the Committee's subpoenas for information. Although the Committee's subpoenas were Hawaii State subpoenas, the plaintiffs' attorneys filed their motion in federal court before the same federal judge who had appointed Court Monitor Groves, and who had approved the salaries and expenses incurred by Dr. Groves, Ms. Iwamoto, and the Felix Monitoring Project.

Court Monitor Groves and Ms. Iwamoto, through their own attorney, also joined in the request to block the disclosure of information and asked the federal judge to quash the subpoenas. They asserted that they were entitled to the same immunity that applied to the federal court and cited authority indicating that their actions could not be discovered "however erroneous the act may have been, and however injurious its consequences may have proved to plaintiff."

Judge Ezra, who had created and has filled the *Felix* Monitor position, and who has presided over the *Felix v. Cayetano* litigation, also presided over the motion to block the disclosure of information. He agreed with the position taken by his appointee and the plaintiffs and quashed the subpoenas issued by the Committee. In making his ruling, Judge Ezra stated that he would find in contempt the Committee and the State Auditor if they made any additional requests for information from those whom he had appointed. Judge Ezra also indicated any appeal of his ruling would be unsuccessful because the Committee was not a party to the *Felix* litigation.

The Committee continues to believe that testimony from Court Monitor Groves and other members of the Felix Monitoring Project is essential for examining the impact of the decree and its costs. Although Judge Ezra blocked the Committee's access to information from his appointees, the Committee has persevered and received sworn testimony from other witnesses that question the scientific validity of the testing methodology used by the court appointed monitor. Witnesses also criticized the court monitor's administration of the testing instrument. In addition, the Committee received sworn testimony that the testing instrument developed in Hawaii is being used by Court Monitor Groves in other states.

Approximately two months after the federal court quashed the subpoenas for Court Monitor Groves and Juanita Iwamoto, the Committee issued a subpoena to Judith Schrag. Dr. Schrag was a former member of the *Felix* Technical Assistance Panel. She was also a consultant to the DOE as well as to Court Monitor Groves. In a separate case involving DOE officials, Dr. Schrag had testified about her work with the DOE and the requirements set by Court Monitor Groves. The Committee needed information from Dr. Schrag on such matters as her role as a consultant to the DOE, her relationship with private companies that had contracts with the DOE, her compensation and benefits, and her collaborations with Court Monitor Groves and others. Shortly after she received the subpoena, Dr. Schrag requested a change in the date and time of her appearance before the Committee. The Committee agreed.

Prior to the scheduled appearance of Dr. Schrag, the attorney for Court Monitor Groves and Ms. Iwamoto filed a motion in federal court to quash the subpoena served on Dr. Schrag. Judge Ezra again quashed the subpoena thereby denying the Committee the opportunity to question Dr. Schrag.

Judge Ezra ruled that Dr. Schrag had quasi judicial immunity because she was an advisor who reported to Court Monitor Groves, Judge Ezra's appointee. The judge did not consider Dr. Schrag's work as a consultant for the DOE and her prior deposition testimony in a separate lawsuit brought by a DOE official. Even though the Committee had agreed to accommodate Dr. Schrag by rescheduling the date and time of her appearance, Judge Ezra accused the Committee of harassing her. Without any supporting evidence in the record before him, Judge Ezra reportedly compared the Committee's investigation to the McCarthy hearings on communist activity in the 1950s. Although the federal court has repeatedly threatened to take over the State's school system if the Legislature did not fund *Felix*-related requests, it has effectively denied access to information on how that appropriated money is being used.

The Committee has authorized taking court action to reverse Judge Ezra's rulings. The Committee seeks to have him disqualified based on his conflict of interest in ruling on his own appointees and in making statements intended to bolster his own credibility and that of his appointees. His public comments have raised questions about his impartiality.

Upon learning of the Committee's intent to challenge his rulings and his impartiality, Judge Ezra called an immediate public status conference in open court. The Committee's lead counsel could not be in attendance, but Judge Ezra ordered the Committee's co-counsel to be in attendance at the status conference. This contradicted his earlier position that the Committee was not a party and any appeal of his rulings would therefore be unsuccessful. At the status conference, Judge Ezra refused to permit the reading of a letter from the Committee's lead counsel who could not attend and disallowed the letter from becoming a part of the record of the proceeding. The letter questioned the propriety of the Judge's actions and indicated that the Committee would request his disqualification.

Judge Ezra's actions were all highly unusual. He scheduled his own status conference. He ordered the attendance of the Committee's co-counsel by a telephone call that the judge placed himself when the Committee was not a party. He refused to permit lead counsel's letter to become part of the record. These actions, together with the judge's highly critical and unsupported comments about the Committee, create the appearance that the judge, instead of remaining a detached and neutral adjudicator, has, perhaps unwittingly, become an interested participant, attempting to protect his appointees and himself.

The Committee, after consulting with counsel, intends to move ahead with legal action to reverse Judge Ezra's actions and disqualify him. Unless the Committee can obtain testimony from Court Monitor Groves, Juanita Iwamoto, and Judith Schrag, it will have many unanswered questions about their roles, those they hired, their compensation and expenditures, and the overall effectiveness of their efforts. The

committee's work is incomplete unless it learns more about the benchmarks and how they came about. It needs information on the numerous consultants who were brought to Hawaii to assist in the development of a system of care and other topics on which only the federally-appointed officials can shed light.

The committee still desires to speak with Lenore Behar, another former member of the Technical Assistance Panel. Dr. Behar is under indictment on 46 counts in North Carolina for allegedly misusing foster care and Medicaid monies. She had a large role in designing Hawaii's system of care that is patterned after her philosophy of a comprehensive continuum of care.

The Board of Education exercises minimal oversight over Felix spending

The Committee found that the Board of Education also has not received a clear accounting of *Felix*-related costs. The former board chair, Mitsugi Nakashima, and the current board chair, Herbert Watanabe, testified to the Committee about the shrinking role of the board. They described the board's responsibilities as primarily establishing policies and hiring the superintendent who manages the system.

With respect to the budget process, the board reviews and approves the operating and capital improvement project budgets that DOE staff prepares. These are submitted to the governor through the Department of Budget and Finance, to become part of the executive budget requests. Once the appropriations act is signed, the board's role is limited to approving the department's distribution of the governor's budget restrictions.

The board does not receive expenditure information automatically or regularly from the DOE. Additionally, according to the board chairs, the board sometimes receives information that is not useful because of insufficient detail. For example, the board raised questions and did not receive adequate answers about two *Felix*-related contracts. Unresponsive replies to board requests appear typical—when the DOE does not respond to board questions, the chairs stated their only recourse was to maintain a list of IOUs and to remind the superintendent of them.

The board's minimal role has been further diminished by the federal court's granting of "superpowers" to the superintendent. The "superpowers" exempted the superintendent from state procurement and civil service laws. In fact, the Department of the Attorney General emphasized to the board that while it should be kept informed of *Felix* matters, it should not interfere with compliance efforts.

The DOE bypasses the board on numerous *Felix*-related matters. For example, the board had no opportunity to review two controversial contracts: a \$100 million special education teacher recruitment and leasing contract and a \$2.3 million contract for targeted technical assistance (both discussed in later sections of the report). In addition, although the board normally reviews items related to federal funds, it was not given that opportunity when excess federal impact aid was used instead of general funds for a targeted technical assistance contract.

Surprisingly, the board also did not have any role in the request for emergency appropriations. When the budget administrator was asked why that would be, the only answer was that it would require an emergency meeting, but the DOE had no idea if the board had any resistance toward scheduling one. This only further demonstrates that the DOE does not consider the BOE to have any meaningful role in *Felix* matters.

The Board of Education recently took a more assertive role in *Felix* matters

The board chairs revealed to the Committee that over the past year and a half, they have responded to growing concerns from DOE staff about potential problems related to *Felix*. For example, the board

instructed the former superintendent to resign from his membership on the Board of Directors of Pacific Resources for Education and Learning (PREL), a federally funded agency that provides assistance to school systems in the Pacific Region.

In August 2000, without board approval, former superintendent LeMahieu awarded PREL a \$2.3 million contract to assist the DOE in achieving compliance with the *Felix* consent decree. Embedded in that contract was a subcontract to Na Laukoa that DOE staff had opposed because of the contractor's lack of qualifications. When questions arose about a conflict of interest, the former superintendent argued that his membership on PREL's board did not pose a conflict of interest. However, upon review of the information submitted and the \$2.3 million PREL contract, the board asked the former superintendent to resign from his position on PREL's board of directors, which he did.

The Committee believes that the Board of Education should be more knowledgeable and involved in the review of *Felix* matters. The board should demand that DOE develop a more accurate and efficient way to explain its budget and expenditure information. Most importantly, regardless of any superpowers granted by the federal court, the board should require the department to justify its spending decisions on *Felix*-related items just as it should for all other expenditures of the department. As will be seen throughout this report, the department's lack of controls in the *Felix* system of care has allowed accountability for spending and effectiveness of services to fall by the wayside. The Board of Education should lead corrective actions.

The DOH has used confidentiality to limit legislative oversight

The Committee found the DOH to be uncooperative in providing committee staff access to client files and related documentation. The DOH cited its deputy attorney general's interpretation of FERPA, which made the investigation of specific alleged improprieties, waste, or lack of oversight difficult. The DOH first limited its concerns on the confidentiality issue to the revelation of client names. The committee's staff reassured DOH that it was not interested in client names—just in some method of matching billing records, which contained client registration numbers. However, once questions of potential fraud arose and committee staff requested billing records, the DOH also denied access to client numbers. This made it impossible for the Committee to carry out its oversight role and verify allegations of abuse.

Internal monitoring at the DOH is deficient

In FY1999-00, the DOH Child and Adolescent Mental Health Division had 91 contracts worth approximately \$92.4 million. Most of the contracts are for direct services to children. The DOH has in-house and contracted staff that are supposed to assist the division in monitoring mental health services under the *Felix* consent decree and to ensure that they are cost-efficient.

Despite having established monitoring processes and a certain degree of oversight, the division has not adequately monitored the effectiveness or cost-efficiency of the services it funds. Instead, the division and the department have ignored telltale signs of abuse that foster a culture of profiteering at the State's expense.

The DOH administration exercises minimal oversight over the division's contracts and operations. In fact, Valerie Ako, chief of the department's Administrative Services Office, told the Committee that as of July 2001, her office is no longer involved in the division's contract administration. Instead, the division acts on its own. It bypasses the Administrative Services Office and works directly with the Department of the Attorney General in processing contracts. It has its own staff that outnumber staff in Ms. Ako's office. Yet the division has failed to prevent abuse and waste on the part of its contractors. The committee found that some private provider agencies have made excessive profits by retaining a large

portion of payments they receive from the State for overhead or administrative costs. The division excused these disadvantageous contracts with the rationale that it had little choice, with the threat of federal takeover. The division also argues that it was focused on building system capacity with a network of providers.

The division's contract monitoring focuses on procedural compliance and not on whether services ordered in the student's Individual Education Program (IEP) were actually authorized, delivered, and in conformance with clinical standards. The division relies heavily on computerized verification to validate billings and expends little effort in analyzing anomalies in those billings. Therefore, the division has failed to identify incidences of false billing.

Flex and respite services are not monitored

The DOH pays for flex services or services other than those under contract. They include payments for such things as medication, mental health services not defined in the Clinical Standards Manual, and recreational activities. Respite services provide a paid caregiver for parents so that they can have a reprieve from the stress that often accompanies caring for a seriously mentally ill or disabled child. Payments for both flex and respite services are tracked manually and entered in summary form into the division's computer system.

Because flex and respite services are highly discretionary, they are highly subject to abuse. For example, the Committee heard complaints of boyfriends and relatives receiving payments and of payments for horseback riding lessons. Despite these pitfalls, the division chief recently rescinded her oversight over the use of these funds and delegated it to the branch chiefs.

The delegation of responsibility and the manual—rather than computerized—tracking of flex and respite service payments has resulted in even less effective controls and accountability over these payments. For example, as long as four months after the end of the fiscal year, the division was still unable to provide any reports on flex and respite expenditures for FY2000-01. The division has not monitored these expenditures to determine whether patterns of waste, abuse, or fraud have occurred. The DOH's lack of controls over these expenditures and the seeming lack of common-sense justification for such services are of concern to the Committee.

Problems Stemming from Court-Granted Extraordinary Powers

In June 2000, the U. S. District Court granted the superintendent of education and the director of health extraordinary powers to make changes needed to achieve compliance. Under these powers, the two department heads could waive requirements of the procurement law and bypass personnel laws for creating and hiring *Felix*-related positions.

The former superintendent of education appears to have abused superpowers

The former superintendent used the court-granted "superpowers" to enter into a contract with an unqualified provider. These powers allowed him to circumvent the seeking of competitive bids and the approval of the Board of Education and the attorney general.

The federal court has been concerned with those school complexes that have had the most difficulty in passing service testing. This concern resulted in court-approved benchmarks requiring the DOE to identify the 14 complexes with the greatest needs, and to contract with private agencies to coordinate, direct, and provide targeted technical assistance to these complexes. Targeted technical assistance

involves working with the schools in each identified complex to develop a Service Design Plan that would enable the DOE to deliver those services that would help schools meet the requirements of the *Felix* consent decree.

Serious ethical concerns arose when the former superintendent personally selected the company of a friend, Kaniu Kinimaka-Stocksdale, for a contract even though DOE staff objected that her company, Na Laukoa, was not qualified. Ms. Kinimaka-Stocksdale does not have any educational or professional background in mental health. She was previously employed as a hula dancer and operated a modeling and talent agency. She admitted to an intimate relationship with the former superintendent.

The former superintendent and Ms. Kinimaka-Stocksdale deny that the contract was awarded because of their personal relationship, but the former superintendent took a number of steps to ensure that the contract would be granted to Na Laukoa. He altered the funding for the contract from state general funds to excess federal impact aid funds, which are not subject to legislative review. Also, because staff expressed serious concerns with Na Laukoa's qualifications, he created an umbrella contract with Pacific Resources for Learning in Education (PREL). PREL is a nonprofit organization that holds a federal contract with the U.S. Department of Education and grants awards primarily through a competitive process. The contract with PREL stipulated that Na Laukoa be subcontracted for the targeted technical assistance function and specified that Na Laukoa would receive \$688,000 of the over \$2.3 million contract. The DOE apparently circumvented a competitive search for other possible competitors by designating Na Laukoa as the subcontractor in the PREL contract.

DOE staff objected to the contract

The former director of the DOE's Student Support Services Branch, Robert Golden, found a presentation conducted by Na Laukoa to be unsatisfactory. The presentation was made two months prior to the PREL contract. Mr. Golden had been directed to attend the presentation by the former superintendent with no explanation as to its purpose. There were no other presenters. Mr. Golden expressed his disapproval to the former superintendent both verbally and in writing. Mr. Golden felt that Na Laukoa had no understanding of school-based services locally or awareness of nationally recognized models on school-based mental health. Failing to persuade the former superintendent, Mr. Golden took his concerns to the Court Monitor, who did nothing.

Additionally, Na Laukoa required considerable "catch up" to fully grasp the DOE's school reform initiative, Comprehensive Student Support System (CSSS). The head of the DOE's Special Education Section, Debra Farmer, stated in her testimony that she spent a significant amount of time training Na Laukoa staff on such basic topics as state and federal special education regulations and service testing – topics in which any qualified agency providing school-based services should already have had expertise.

Health department staff received complaints that some of the therapeutic aides employed by Na Laukoa were abrasive and unprofessional with both DOH and DOE personnel. Furthermore, DOH questioned Na Laukoa's ability to administer a statewide contract.

The more important questions are whether Na Laukoa's services were necessary or worthwhile. The commonly held opinion is that the value of this targeted technical assistance is highly questionable. The technical assistance coordinators, hired by PREL, worked with each complex to help them complete and implement its Service Design Plan, a document required by the court for compliance. When questioned about exactly what type of assistance Na Laukoa provided, the owner of Na Laukoa could not provide an adequate or coherent explanation.

Because of the former superintendent's abuse of his extraordinary powers, the DOE issued a costly contract for Na Laukoa to perform a function that may not have been necessary. The DOE could have sought other more cost-efficient alternatives, including the use of existing staff in the DOE's Special Education Section. The \$2.3 million was a wasteful endeavor that reduced funds that could have been used for direct services to children.

Superpowers used for a questionable \$100 million contract recommended by a federal court-appointed official

The DOE used the superpowers again to enter into a controversial contract with a mainland firm to recruit special education teachers. The DOE awarded the contract without competitive bidding and without any review by the Department of the Attorney General.

The federal court has an ongoing concern with the shortage of certified or fully qualified special education teachers and other professionals. On August 3, 2000, Court Monitor Groves set a benchmark for the DOE stating that "national recruitment firm(s) will be retained to recruit qualified professional manpower for difficult-to-serve areas of Hawaii as soon as possible and no later than August 15, 2000." A specific benchmark required that the percentage of licensed and/or trained special education teachers in the classroom would not fall below 85 percent of the total special education teacher positions by September 2000.

According to the former Assistant Superintendent of Administrative Services, Paula Yoshioka, the DOE felt extremely pressured because it had only two weeks to retain a mainland recruitment firm. Since DOE staff had little experience with contracted mainland recruiting for special education teachers, the deputy superintendent at the time contacted Court Monitor Groves for advice. He suggested Columbus Educational Services upon the referral of Judith Schrag, another Technical Assistance Panel member. This Committee finds Dr. Schrag's referral questionable since Columbus had very little experience with hiring special education teachers.

Ms. Yoshioka testified that she contacted Columbus Educational Services and requested submission of a proposal. After reviewing several drafts of the proposal, and apparently without much negotiation, a three-year contract for \$100 million, to be paid through state general funds, was signed. The Columbus contract has been in effect since September 1, 2000 and was exempt from the public bidding process pursuant to the federal court's grant of "super powers" to the superintendent.

Under the contract, Columbus is required to conduct an "extensive search" for candidates who are qualified, licensed, and certified in special education, which includes masters-level counselors (41 FTEs) and special education teachers (332 FTEs). The work is to focus on referring candidates to serve Hawaii's rural areas such as Molokai, Lanai, Kau, and Kohala. Those hired become employees of Columbus for up to three years, subject to the availability of DOE funding. Therefore, special education teachers coming to Hawaii are not state employees, but are merely leased to the department. This arrangement caused much controversy among DOE teachers who discovered that teachers hired by Columbus could be paid upwards of \$102,000, which includes salary, benefits, and incentives, plus a one-time relocation bonus of \$10,000. In fact, by the end of the contract period in August 2003, a special education teacher leased by the State from Columbus would cost the State \$335,250 over three fiscal years.

The State covers virtually all contract costs

The State covered virtually all costs for the Columbus contract. In addition to paying the teachers' salaries and Columbus' profit, the State pays for Columbus' candidate recruitment travel costs, including:

1) Mainland travel (within the continental U.S.) at \$1,430 per trip; 2) Mainland to Hawaii travel at \$4,505 per trip; and 3) Hawaii inter-island travel at \$845 per trip. The projected travel costs include roundtrip airfare, lodging, meals, auto rental, parking, and taxis. Over a three-year period, Columbus projected that the cost for recruitment travel would be approximately \$2.1 million.

The State also paid for staff support services so that Columbus could set up an office in Honolulu. The start-up included five Columbus employees who would accompany candidates on interviews, facilitate relocation, and support their final decision-making process. The projected total for these staff support services costs are approximately \$3.3 million.

The contract also allows Columbus to retain all of the equipment and furniture it purchases. Normally, such items become the property of the State. Committee staff attempted to determine how much the State has paid Columbus for furniture and equipment. However, the DOE reported that it did not have this information, but that Columbus reportedly purchased furniture at local auctions and that some of the furniture includes personal items of the Honolulu office head.

Columbus Educational Services clearly benefits from the contract since it does not have any liability. Even if Columbus failed to hire a single teacher or if a teacher terminated his or her contract prematurely, Columbus would not have breached its contract with the State.

Contract amount fluctuates dramatically

During one of the investigative hearings, an allegation was made that the Columbus contract started out as high as \$120 million and then was reduced to \$100 million, which became the initial contract amount. Since then, the contract has been amended twice and the total contract amount has fluctuated widely as shown in Exhibit 2.4. It varied from \$100 million to \$40 million to \$63 million.

**Exhibit 2.4
Columbus Educational Services Contract Amounts, FY1999-00 to FY2003-04**

FISCAL YEAR	ORIGINAL CONTRACT (September 1, 2000)	1 st AMENDMENT (January 28, 2001)	2 nd AMENDMENT (September 1, 2001)
FY2000-01	\$16,401,025	\$7,201,983	\$4,812,732
FY2001-02	\$41,537,419	\$16,341,604	\$25,248,135
FY2002-03	\$42,172,496	\$16,538,047	\$28,546,588
FY2003-04 (for July and August only)	Not applicable	Not applicable	\$4,739,317
	\$100,110,940	\$40,081,634	\$63,346,772
TOTAL			

Ms. Yoshioka testified that the reasons for the amendments were (1) the lack of accurate, updated DOE information on special education teacher vacancies and (2) a decision to focus on hard-to-fill areas. Therefore, the contract amount was reduced to \$40 million on January 28, 2001 to reflect the adjusted amount. The number of recruits needed decreased to 15 masters' level school counselors and 123 special education teachers. The Committee questions whether the true reason might have been Columbus' inability to hire enough teachers to meet the terms of the original contract.

Another amendment to the Columbus contract was executed on September 1, 2001, which increased the contract amount by \$23 million to \$63.3 million. By June 30, 2002, Columbus is to provide qualified

referrals for 14 high-risk counselors and 241 special education teachers for a total of 255 positions. All of these employees will be terminated on August 31, 2003.

The Committee was surprised to find the DOE increasing its contract with Columbus by \$23 million, given its past problems with Columbus. The DOE staff reported that they have been unable to obtain detailed information from Columbus on the actual cost of leasing a special education teacher from Columbus and administrative costs and profit. Columbus reportedly told the DOE that the approximately \$100,000 paid to Columbus for each teacher per year, could be broken down as follows:

- 1/3 base salary (\$33,000 to \$42,000);
- 1/3 employee benefits and taxes (medical, dental, life insurance, disability insurance, pension (401K), payroll taxes; and
- 1/3 additional allowances or incentives (temporary living expenses, travel, housing, technical support, sign-on and retention bonuses).

The DOE staff currently responsible for the administration of the Columbus contract claims that Columbus does not make any profit from the approximately \$100,000 it charges per teacher. However, Ms. Yoshioka's testimony confirmed that Columbus could indeed retain any remaining balance after salary, benefits, and incentives are paid to the teacher. She also agreed with a Committee member's suggestion that out of a potential balance of close to \$47,000 after salary and benefits are paid, Columbus would profit on whatever remained. Committee staff estimated that Columbus' profit could be as high as \$20,000 per teacher per year. And despite this enormous amount of profit that Columbus could reap, there was nothing to require Columbus to document the breakdown of payment for any meaningful oversight.

Committee staff reviewed correspondence provided by DOE staff and noted its repeated and futile attempts to obtain accurate cost information from Columbus. Some of the correspondence clearly indicated frustration with Columbus and a desire to seek alternatives to the contract. Therefore, the Committee questions why the DOE would increase Columbus' contract amount without adequate cost information.

The DOE created questionable Felix positions

The DOE has also created a number of *Felix*-related positions. This Committee has yet to receive the information it requested from DOE on position descriptions and justifications for these positions. At first glance, responsibilities for these positions are unclear and compensation appears to be arbitrary. For example, the superintendent's office has three new *Felix* "assistant" positions. One supervisor is supposed to oversee the other two staff, but one subordinate is paid the same salary as the supervisor and the other subordinate is at a much higher rate than the supervisor. The DOE should be focusing its staffing efforts on school-level positions, not on the state and district levels.

The *Felix* Consent Decree Had Unfortunate Consequences: Conflicts of Interest and Self-Serving Practices

From the court monitoring personnel through the plaintiffs' attorneys down to the former superintendent of education and staffs at the DOE and DOH, instances of apparent conflicts of interest and self-serving

profiteering are easily found. We believe that this climate of profiteering is a byproduct of the federal court's protection of court appointed personnel, the superpowers given to the heads of the DOE and DOH, the curtailment of the Legislature's investigative powers, and lackadaisical monitoring, particularly by the DOH. Those who profit while violating state ethics law appear to suffer no consequences.

The plaintiffs' attorneys fees have increased ever since the consent decree was issued in 1994. Many providers who received contracts appear to have had an unfair advantage. One issue that was raised throughout the investigative hearings was the conflicts of interest that allegedly exist between some DOH employees and some of the private provider agencies.

Court monitor was self-serving

In the prior section, the Committee discussed the service-testing instrument used to measure compliance with the *Felix* decree. Court Monitor Groves and his business partner, Ray Foster, designed the instrument shortly after the decree was issued. Although they apparently did not charge the State for use of the instrument, the State basically paid for its development because anything the Court Monitor worked on related to *Felix* could be charged to the State. Committee witnesses testified that modified versions of the protocol developed in Hawaii have been used in other states, possibly for a fee. Furthermore, Dr. Foster was paid for providing service testing training. For FY2000-01 alone, the budget for service testing costs was \$412,000, with \$50,000 for Dr. Foster to provide training.

The extent to which either the Court Monitor or his business partner might have benefited from the service testing instrument could not be determined. Committee staff were denied copies of federally-required tax documents that should be readily provided upon request.

One committee witness claimed that DOE staff worked on some of the components of the protocol, but were not credited for their efforts. Furthermore, DOE staff was not informed that Court Monitor Groves and Dr. Foster were planning to copyright the document for marketing and distribution in other states. Interim superintendent Hamamoto testified that she did not know that the service testing instrument was owned by Court Monitor Groves and his partner—yet, she was the designated primary *Felix* compliance official when she was deputy superintendent.

The State has paid over \$1.5 million to plaintiffs' attorneys

The consent decree requires the State of Hawaii to pay fees and costs to attorneys representing the *Felix* plaintiffs. The State has paid over \$1.5 million in fees and costs so far. As part of its investigation, the Committee subpoenaed all documents relating to legal services and costs of private attorneys involved in the *Felix* consent decree. In reviewing the information, we found fees charged by the plaintiffs' attorneys have increased.

In 1994, after the decree was filed, the State paid \$347,638 in attorneys' fees and costs to four law firms for the work they did from 1991 to 1994. They were: (1) Alston Hunt Floyd & Ing; (2) Eric Seitz, Esq.; (3) Protection & Advocacy/Schember-Lang, Esq. and (4) Disabled Legal Rights Project/Cooper, Esq. The decree allows the attorneys to recover:

- Reasonable attorneys fees and expenses, and
- Fees and expenses of expert witnesses.

Fees continue to increase

The State is paying increasing fees to plaintiffs' attorneys, even though the decree is largely silent on their role once the decree was filed. The only specific reference in the original decree required the plaintiffs to review and approve an Implementation Plan. As seen in Exhibit 2.5 below, in the six years since the decree was issued, attorneys' fees have generally increased, from \$93,822 in 1995, the year after the decree was issued, to \$271,841 in 2000.

Based on the information that was provided, from 1991 to approximately April 2001 the State paid \$1,559,535 in attorneys' fees and costs to plaintiffs' attorneys.

The plaintiffs' attorneys' role is not clearly defined

The deputy attorney general representing the State in the *Felix* lawsuit conceded that legal activity by plaintiffs, instead of decreasing, has increased over the years. He testified that Court Monitor Groves

Exhibit 2.5
Fees Paid to Felix Plaintiffs' Attorneys, 1991 to 2001*

YEAR	AMOUNT
Prior to 1995	\$373,949
1995	\$93,822
1996	\$153,159
1997	\$148,205
1998	\$204,539
1999	\$200,782
2000	\$271,841
2001**	\$113,238
TOTAL:	\$1,559,535

* Excludes fees paid for individual claims.

** In addition, plaintiffs' attorneys have submitted \$102,927 in requests for payment for services rendered through approximately August 2001. These requests are apparently pending with the Department of the Attorney General.

proposed that the plaintiffs' attorneys increase their involvement in the process, which began two or three years after the decree had been issued. On more than one occasion, even the federal court has expressed concerns about the over-participation by plaintiffs' attorneys in consent decree activities and the amount of attorneys' fees being charged to the State.

Plaintiffs' attorneys appear to be overly involved in a number of compliance activities. For example, they appear to have taken an active role in reviewing whether or not individual school complexes are in compliance with the terms of the decree. They attend school complex compliance presentations, sit alongside the court monitor and appear to provide input as to whether a school complex has achieved compliance. Even the interim superintendent has affirmed to the committee that the plaintiffs' attorneys' over-involvement affected morale in the schools and affected the compliance efforts. The Committee has been unable to determine why the plaintiffs' attorneys have assumed this role since it was prohibited from questioning Court Monitor Groves about this as well as other types of issues.

Attorneys' fees lack careful scrutiny

Plaintiffs' attorneys submit their invoices to the Department of the Attorney General for review and payment. Once the parties agree on the amount of fees owed, they submit a stipulation for payment for

the court's approval. Upon approval by the court, the attorney general directs the DOE to remit a check to the respective attorneys. Exhibit 2.6 shows the attorneys' fees that have been paid to individual law firms from 1991 to approximately mid 2001. (The exhibit excludes recent payment requests of \$102,927 that appear to be pending with the Department of the Attorney General.)

Generally, a review of the reasonableness of attorney's fees is based on the following guidelines: (1) time and labor required, difficulty of the questions involved and requisite skill required; (2) customary charges for similar services; (3) the amount in controversy and the benefits resulting to the client from the services; (4) certainty of the compensation; and (5) whether the acceptance of the particular case will preclude the lawyer's appearance for others or the loss of other employment. Courts note that the legal profession is a branch of the administration of justice and not a mere money-getting trade.

Exhibit 2.6 Fees Paid to Law Firms, 1991 to 2001

YEAR	ATTORNEY	AMOUNT
Prior to 1995	Alston Hunt	\$263,524
	Eric Seitz	\$59,505
	Susan Cooper	\$19,475
	Suzanne Young	\$31,445
	Total	\$373,949
1995	Alston Hunt	\$58,369
	Eric Seitz	\$23,197
	Susan Cooper	\$4,950
	Suzanne Young	\$7,306
	Total	\$93,822
1996	Alston Hunt	\$95,758
	Eric Seitz	\$46,759
	Susan Cooper	\$1,350
	Suzanne Young	\$9,292
	Total	\$153,159
1997	Alston Hunt	\$91,005
	Eric Seitz	\$53,507
	Susan Cooper	\$1,050
	Suzanne Young	\$2,643
	Total	\$148,205
1998	Alston Hunt	\$125,852
	Eric Seitz	\$77,237
	Susan Cooper	\$1,450
	Total	\$204,539
1999	Alston Hunt	\$138,721
	Eric Seitz	\$60,499
	Susan Cooper	\$1,562
	Total	\$200,782
2000	Alston Hunt	\$214,470
	Eric Seitz	\$54,949
	Susan Cooper	\$2,422
	Total	\$271,841
2001*	Alston Hunt (through April 30)	\$72,591
	Eric Seitz (through July 9)	\$39,762
	Susan Cooper (through March 31)	\$885
	Total	\$113,238

* partial amount

The Committee found that the Department of the Attorney General paid in full almost all of the fees requested by the plaintiffs' attorneys. The office appears not to have scrutinized the billings in any meaningful way. When the Committee questioned the deputy attorney general about the appropriateness of certain time entries, he indicated that, to some extent, the attorney general's department was trying to accommodate the plaintiffs by gathering "the consent or the support of the Plaintiffs and not have a very adversarial situation where we would have to not only confront them on the attorney's fees issues but also on the compliance issues."

The Committee questions whether the attorney general's department followed any guidelines or standards in determining whether the fees and costs requested were reasonable. For example, the Committee found billings for:

- Charge of 0.4 hours to "work on political issues";
- Attendance at three different meetings on educational plans for individual *Felix* students on the Big Island, including payment of airfare and travel expenses to attend the meetings;
- Partial attendance at MST (presumably Multisystemic Therapy) training;
- Monitoring *Felix*-related legislative bills and speaking with legislators during the 2001 session by Alston Hunt;
- Multiple vague references in Alston Hunt legal invoices to conversations with various individuals such as "Kauai mom," "Konawaena mom," or "Big Island grandmother";
- Airfare and related travel expenses for a plaintiff's attorney on a neighbor island to fly to Honolulu to attend compliance presentations, meetings, and court hearings despite the fact that the attorney moved from Honolulu after the consent decree; and
- Airfare and related travel expenses for plaintiffs' attorneys to travel to the neighbor islands to attend school complex compliance presentations.
- Alston Hunt staff to prepare for and attend a legislative investigative committee hearing on July 13, 2001;
- A plaintiff attorney's attendance at a legislative investigative committee hearing on August 20, 2001;
- Quashing the Committee's subpoenas of the court monitor and Juanita Iwamoto, executive director of the Felix Monitoring Project, Inc., including multiple communications with the monitor and Iwamoto regarding the subpoenas;
- Meeting with the Court regarding "legislative activity" on June 15, 2001;
- Costs of various meals for lunch/dinner meetings with plaintiffs' attorney, court monitor or others, totaling approximately \$400;

- Conversations and meetings with members of the investigative committee;
- Time to pull articles re: "Legislative attacks on *Felix*".

Disparity in billing rates and amounts

The plaintiffs' attorneys charge different fees. It is unclear why the Alston Hunt law firm billed twice as much in legal fees and costs as Mr. Seitz's law firm, when presumably Mr. Seitz is also representing *Felix* plaintiffs and rendering services that he deems necessary to adequately represent his clients. In addition, the lead Alston attorney's present billing rate is \$250/hour compared to Mr. Seitz's \$200/hour rate. Mr. Seitz's rate has remained the same since the inception of the case, while the Alston attorneys' rates have steadily increased since 1994.

Total legal fees and costs are not known

The State also pays attorneys' fees in addition to those paid in the *Felix* litigation. These claims are outside the *Felix* consent decree but relate to special education. Parents often file individual claims on behalf of their children for violations of the IDEA or Section 504. Individuals who prevail at an administrative hearing are entitled to attorneys' fees. The Committee was not able to obtain information from the attorney general's department about the amount of attorneys' fees and amount the State paid for individual claims. They have been described as a "formidable amount." Sometimes the attorneys' fees exceed the cost of the services that the plaintiffs are requesting.

The DOH staff have many apparent conflicts of interest

The Committee found numerous instances where DOH staff appear to have conflicts of interest. Often, DOH staff responsible for preparing proposals ended up receiving a contract for the services ordered under the proposals. Personal relationships were often involved in service programs. We give some examples below.

Personal relationships were involved in the implementation of MST

In a later section, we discuss the MST, a home-based experimental program. The program coordinator was John Donkervoet, the husband of Tina Donkervoet, the chief of the DOH Child and Adolescent Mental Health Division. Although Dr. Donkervoet did not report directly to his wife, his supervisor, head of clinical services, Mary Brogan, reported directly to Ms. Donkervoet.

Both Dr. and Ms. Donkervoet acknowledged the Committee's concerns over an appearance of a conflict of interest. In fact, Ms. Donkervoet had asked the State Ethics Commission to determine whether there were any ethical considerations. Dr. Donkervoet said the issue of conflict of interest was one of the reasons why he resigned from his MST coordinator position in October 2001. This was, however, more than one and a half years after he had been appointed and just before he was scheduled to testify to the Committee.

Furthermore, in the mid-1990s, John Donkervoet had worked with the developer of MST, Scott Henggeler, at the Medical University of South Carolina. Both Dr. Donkervoet and Dr. Henggeler stood to gain from the implementation of MST. Dr. Henggeler charges a licensing fee for the use of MST and also charges for consultation and training. Committee staff could not get information on the amount of the licensing fee, but found that in FY2000-01 the DOH spent \$522,000 on MST Clinical Consultation and Training.

Former DOH employees may have violated ethics laws

Two former employees of the DOH Child and Adolescent Mental Health Division are owners of Hoahana Institute, a for-profit provider agency that obtained a contract with the division to provide outpatient and intensive support services to *Felix* children. Linda Hufano, Hoahana vice president, was formerly head of the DOH Child and Adolescent Mental Health Division's Children's Mental Health Services Team. Her husband, Dr. Richard Kravetz, Hoahana Institute's president, was still employed as head of the division's Diamond Head Adolescent Day Treatment Program when he began providing services for the division under the Hoahana contract. The contract became effective on July 1, 1997—only nine months after Dr. Hufano had left the division and two weeks before Dr. Kravetz's resignation.

Doctors Hufano and Kravetz appear to have violated several sections of the State Ethics Code. Section 84-18(c), HRS prohibits a former state employee from receiving compensation to represent a business on matters in which he participated or on matters involving official action by the particular agency with which he had served for a period of *12 months* after his termination. Section 84-14(d), HRS prohibits a state employee from being compensated to assist or represent a business on a matter in which he has or will participate and on a matter before his own agency. Both sections are intended to prevent a third party from obtaining an inside track or unfair advantage with a state agency through either a current or former employee.

The nature of Dr. Hufano's duties at Hoahana Institute during her 12-month "cooling off period" appear to violate the second part of Section 84-18(c). She established Hoahana Institute along with some others a month before she left the DOH. Dr. Hufano ended her position with the Child and Adolescent Mental Health Division on September 30, 1996. However, she assisted in preparing Hoahana Institute's contract proposal during the early part of 1997 and signed the proposal on March 12, 1997. By addressing a fax to Dr. Hufano regarding Hoahana's submission of its best and final offer on May 13, 1997, the division recognized her as the agency's contact person on matters involving official action by the division. The division also addressed a fax to Dr. Hufano regarding Hoahana's award notice on May 22, 1997.

The nature of Dr. Kravetz's duties at Hoahana Institute appear to violate the second part of Section 84-18(c), as well as Section 84-14(d). He resigned from the Child and Adolescent Mental Health Division on July 15, 1997. However, he signed Hoahana's contract on July 17, 1997—just two days after his date of termination. Possibly a more serious ethics violation is the fact that Dr. Kravetz also assisted in preparing Hoahana Institute's contract proposal while still employed at the division.

The DOH Child and Adolescent Mental Health Division is remiss about ethical considerations

The DOH's Child and Adolescent Mental Health Division appeared to disregard the State Ethics Code. According to a July 10, 1997 memo from former division chief Rich Munger, employees could work with private provider agencies as long as their involvement did not constitute a conflict of interest. However, the example used to describe a conflict of interest was that of an employee authorizing services that he would also provide. The division failed to warn against potential conflicts of interest that may arise when it directly contracts with a former or current division employee's private business.

Furthermore, the division has no measures to ensure that private provider agencies abide by the State Ethics Code. The division does not adequately review private provider agencies' responses to proposals. For example, if it had carefully reviewed Hoahana Institute's proposal, the division would have discovered that Dr. Kravetz was still employed at the division. This should have raised a red flag during the review process.

Also, although private providers are required to sign a Standards of Conduct Declaration, which covers the State Ethics Code, the division does not verify whether statements are accurate. The division's actions are reactive, and it investigates potential violations only when brought to its attention by an outside party.

In a belated response to the allegations against Doctors Hufano and Kravetz, the Child and Adolescent Mental Health Division contacted both the Department of the Attorney General and the State Ethics Commission. At one point, the division considered ending its contract with the Hoahana Institute, but, instead, chose to wait for close to three years for a response from the State Ethics Commission. In the meantime, the division extended Hoahana's contract even though, in November 1997, it had sent a memo to the Department of the Attorney General stating that the contract should be terminated immediately.

The *Felix* Consent Decree Has Fostered an Environment of Waste and Profiteering

In an environment where money is no object, questionable practices are often not scrutinized carefully. Violations have occurred without sanctions or other consequences. Both the DOE and DOH were profligate with public monies. The departments sometimes spent wastefully and imprudently.

The DOH allows providers to overcharge for services

The Committee has found numerous instances where private provider agencies have overcharged the State for services. Inadequate controls impair the DOH's ability to ensure that children actually receive the services the State is paying for. The DOH Child and Adolescent Mental Health Division has only recently become concerned about this.

We note some examples of apparent overcharges below.

- A private provider billed the State for more hours worked by some employees than the number of hours it was paying them for according to the provider's payroll register.
- A therapist was paid for 1765.8 hours worked during August 1999 amounting to \$59,987.69. The billing included 7 hours of individual therapy, 5 hours of group therapy, 9 hours of therapeutic aide services, and 106 hours of Biopsychosocial Rehabilitation (BPSR) for a total of **127 hours for one day**. BPSR billings may combine services by more than one clinician under one clinician's name, however, the lead clinician under whose name the billing is made is expected to be substantially involved. The DOH is still using and paying the therapist for services.
- A therapist billed for services for two sequential hours of billing—the first hour on the Big Island and the second hour on Oahu.
- Some providers appear to bill for individual services when they actually serviced clients in groups. This is not appropriate except for services designated and priced as group sessions.
- Committee staff also identified patterns of multiple billings being submitted for the same client on the same day.

- Often providers offer services that do not adhere to the DOH's clinical standards. For example, services limited to 12 weeks except in exceptional cases are routinely exceeded. One private provider agency provided services to 77 clinical clients (72 percent) for periods exceeding 12 weeks, 18 (17 percent) for at least a year. The State pays for these services at \$70 per hour and annual billings for a single client can exceed \$30,000.

Providers profit from excessive markups for therapeutic aide services

The DOH Child and Adolescent Mental Health Division has a standard rate schedule attached to its request for proposals for mental health services. Private provider agencies bidding on these proposals must stay within the standard rate schedule. For example, the State reimburses private provider agencies a maximum of \$29 an hour for therapeutic aide services. This arrangement may encourage some private provider agencies to "underpay" its employees and contractors so that it can keep a larger amount in profit. We found markups of up to 250 percent for some services.

Therapeutic aides are used quite extensively to provide mental health services and may have only a high school diploma. According to the division's clinical standards manual, a therapeutic aide must have two years of work with children and/or adolescents. They must also be trained by someone trained or certified through the *Felix* Staff/Service Development Institute. Whether these standards ensure effective services is not known.

The Committee found that some private provider agencies have excessive markups. A private provider testified to the Committee that therapeutic aides are paid between \$11 to \$20 per hour. The records available to the Committee indicate an actual range of \$10 to \$17 per hour, with an average hourly pay of around \$13.

One provider's bill during FY2000-01 for therapeutic aides totaled 18,835 hours and \$749,885. Assuming that the employees were paid between \$13 and \$15.50 an hour, the payroll for 18,835 hours would be between \$245,000 and \$292,000, leaving the employer with a markup of between \$458,000 and \$505,000 or 157 percent to 200 percent. This differential is far greater than can be explained by the cost of employee benefits, training and supervision, and a reasonable profit.

A private provider maximized its profit by billing 3,425 hours and \$240,000 for one therapeutic aide for FY2000-01, or up to \$805 per client per day. If the aide were paid at the reported top rate of \$20 an hour, the payroll cost to the employing private provider agency would be \$68,500, leaving the provider with \$171,500 to cover costs and profit, a markup of almost 250 percent.

Another private provider charged the State \$70 an hour for up to 11.5 hours a day for intensive in-home services by a therapeutic aide. Intensive in-home services are supposed to pair a mental health professional with a paraprofessional to provide therapeutic and systematic support to a client and family. However, the Committee found providers frequently billing this service under the credentials of therapeutic aides who are not necessarily mental health professionals. The division has confirmed that, in at least one instance, a therapeutic aide worked alone without a mental health professional.

The DOH Child and Adolescent Mental Health Division is unconcerned about potential fraud

Conceptually, the Child and Adolescent Mental Health's billing system is simple and effective. Mental health services are specified by a group of professionals and are documented in a child's Individual Education Program (IEP). A care coordinator or an equivalent person at a school identifies a suitable private provider agency and issues a service authorization. The service authorization data is entered into the division's computer system.

The private provider agency assigns a clinician who is an employee or independent contractor. As services are provided, the clinician submits the billing to the contracted provider, who in turn submits the billing data in electronic form to the division. The electronic billing data is automatically checked by the computer to ensure that the billing data corresponds with the service authorization. A rejected bill is returned to the provider for resolution. According to division personnel, the most frequent problems that occur with automatic verification of billings are data mismatches, such as misspellings or inputting errors.

The Child and Adolescent Mental Health Division relies extensively on the automated check for ensuring that billings are accurate. Since the division has not assigned any fiscal staff to identify cases of false billings, abuse and possibly fraud have resulted. Additionally, audits conducted by the division are not designed to discover billing abuse, but merely focus on documentation and adherence to clinical standards. Division personnel directly involved with service authorizations informed the Committee in testimony and informally that providers have found ways to “beat the system” that can only be detected by critically analyzing billing data and targeting questionable patterns.

For example, committee staff identified service providers whose billing patterns appear potentially abusive. Some of these problems date back at least two years and some of these same clinicians are known chronic abusers. These clinicians have been brought to the attention of superiors but no action has been taken.

Computer problems continue

In the *Study on the Privatization of the Child and Adolescent Mental Health Program (Report No. 99-12)*, the Auditor found several problems with the Department of Health’s Child and Adolescent Mental Health Management Information System or CAMHMIS. At the time, the division had not adequately planned for the inclusion of private providers in the system. Without additional training or support from the division, private providers had submitted the following types of data errors: invalid service authorization codes, total service units billed in excess of units authorized, unauthorized service codes, and services provided prior to their authorization. The division acknowledged at the time of the study that it had problems with its management information system.

According to Child and Adolescent Mental Health staff, all of these problems have been resolved. However, during the course of the hearings, the Committee heard the same concerns regarding invalid codes, improper billings, and excess units or hours billed. For example, the computer system does not have a proper coding for day treatment services. Therefore, all day treatment hours are billed under one service provider’s name, resulting in an unusually high number of hours. Although those large numbers of hours may well include a number of different service providers, verifying their accuracy is difficult. Another problem is presented by billings for group therapy that may actually be providers billing for more than one client during the same period of time. Of significant concern is circumstantial evidence that progress notes to document and substantiate billings may have been falsified or merely produced with any service being provided. This is especially disconcerting since it not only undermines the prognosis and development, if any, of the student, but also questions the accuracy of DOH’s billing protocol.

The DOH has largely taken a reactive stance to these concerns and the Deputy Director of Behavioral Health constantly reiterated during her testimony to the Committee she would initiate an investigation if the Committee pointed out specific incidences of abuse. The DOH is missing the point – it needs to take preventive action.

MST was a costly, wasteful experiment

The DOH has wasted state funds on an expensive, experimental form of treatment called Multisystemic Therapy or MST. During the 2000 legislative session, the department requested \$1.2 million for MST as part of its emergency appropriation request. The DOH had issued a Request for Proposal in October 1999 for MST Services and awarded contracts in January 2000 with the knowledge that it did not have adequate funding for MST's implementation.

Furthermore, the consultants who worked on the *Felix* follow-up study for the Office of the Auditor found that using MST for the *Felix* class was questionable. MST had never been used with the same category of special education or mental health needs as *Felix* class children. MST was viewed as an experimental service that had not been used by other school districts and should not have been considered an "essential" service.

Concern with the DOH's questionable use of MST for the *Felix* class was confirmed by Len Bickman who was the lead researcher for the Fort Bragg Study in North Carolina that concluded that treatment outcomes for children with mental health needs were no different from the control group in the study. Reviewing a videotape of John Donkervoet's testimony to the Committee, Dr. Bickman stated that the research citing the effectiveness of MST to treat mental health problems of non-delinquent children and adolescents is weak to non-existent. Moreover, the only research that studied this type of children was conducted by Scott Henggeler, the founder of MST, and not an independent party – subjecting the studies to a potential bias toward favorable outcomes.

The budget for MST in FY1999-00 was \$1.25 million and \$2.5 million for FY2000-01. The Child and Adolescent Mental Health Division, which is responsible for MST, estimated during the 2001 legislative session that it would have a shortfall of \$1.9 million for MST and would need \$4.3 million. In one year, based on actual expenditures, the cost of MST increased by approximately \$4.8 million—from \$744,733 in FY1999-00 to \$5,519,837 in FY2000-01. Approximately \$1.4 million or one-fourth of this increase in cost was due to the addition of a second component of the MST initiative called the MST Continuum research project. The project was terminated well before completion and without any perceivable benefit to the children and families who participated.

MST was mandated by the consent decree despite its experimental nature

The Committee questioned DOH administrators about the circumstances that led to the federal court mandating MST as a part of the consent decree. To the Committee's knowledge, other types of treatment are not specifically named in the decree. In its *Stipulation Regarding the Plans for Strengthening and Improving the System of Care* dated July 21, 2000, the federal court required the inclusion of MST and described it as a necessary component of the development of a system of care in Hawaii. A specific court benchmark required that at least 56 youth be receiving services by July 2001.

It was clear that Court Monitor Groves was familiar with the research project. The DOH notified him in April 2001 that the MST Continuum was failing. In the court monitor's second quarterly report for 2001, he noted that the department could not reach the benchmark and that he had no additional recommendations for how to improve the enrollment process for the MST Continuum study. He then simply replaced MST with a vague benchmark stating that both the departments of health and education must address the continued expansion and development of evidence-based interventions.

While the Committee recognizes the apparent improvement of the potential MST students, in that the number being sent to the mainland for treatment are at an all-time low, it in no way deflects the basic question as to why an experimental program was a benchmark.

MST was a failure

After a little over a year, the MST Continuum study was shut down for lack of participants. The DOH had promised families who had agreed to participate in the research project that they would receive MST Continuum services for two years. However, since the study was terminated abruptly, the DOH reneged on its agreement.

Families were informed of the termination of the study in a hasty manner. The DOH told parents that the transition would occur over the next few weeks to several months with care taken to ensure that youths and families would experience no gap in services. An MST team member testified to the Committee that she was given only two and a half days to transition the families she was working with and inform them that they would no longer be able to contact her for assistance.

Families who participated in the MST Continuum were supposed to be transitioned into alternative treatments. How this disruption in service impacted the youth and the families is not known.

The MST Continuum study has closed, but the DOH plans to continue home-based MST services. But home-based MST is also plagued with problems. A Therapist Adherence Measure or TAM was used to assess whether therapists were adhering to the MST treatment model by taking six factors into consideration. Three of the six factors were supposed to be positively correlated with positive outcomes for families who received home-based MST treatment.

The TAM scores of the therapists have not improved over the past year. The DOH acknowledged the negative scores and noted that the MST therapists are doing worse this year than last year on specific factors, including lack of adherence to the MST model.

The DOH attributed the decline in performance by MST therapists to high staff turnover and the lack of qualified candidates for MST therapist positions. Given the concerns with properly implementing the MST model and the health department's inability to determine cost-effectiveness, the Legislature should proceed cautiously before approving more spending for MST.

A DOH employee has a private business on the grounds of a private provider

Dr. David Drews, chief of the Diamond Head Family Guidance Center², appears to have a conflict of interest. Dr. Drews was involved in a business relationship with a state-contracted private provider agency, Loveland Academy. Dr. Drews' relationship with Loveland Academy appears to be a conflict of interest because he oversaw authorization of services and payments to private provider agencies including Loveland Academy. Although he was not directly involved on a daily basis with service authorizations, he had the authority to override decisions made by subordinate staff, including care coordinators.

Since July 1, 1999, Loveland Academy has been under contract with the DOH Child and Adolescent Mental Health Division for assessment and diagnostic, outpatient, and intensive support and day treatment services to *Felix* class children between the ages of 3 to 20. Many of Loveland's clients are within the caseload of the Diamond Head Family Guidance Center. When testifying to the Committee, Dr. Drews acknowledged that, on occasion, he has reviewed Loveland's billings and has been contacted directly by Loveland's staff regarding billing concerns.

Dr. Drews also established Central Pacific University, a distance education institution located on Loveland's campus. Dr. Drews established the university on August 17, 1999, one month after Loveland

opened its doors. The university stemmed from Dr. Drews' previous association with Honolulu University, another distance education institution. Both Central Pacific University and Honolulu University lack accreditation from an agency recognized by the U.S. Secretary of Education. In addition to lacking accreditation, they charge tuition on a degree basis rather than on a per-semester or per-credit basis. For \$3,000, a student can receive a bachelor's degree, for \$3,500, a master's degree, and for \$4,000, a doctorate.

Central Pacific University and Loveland have a formal relationship. According to an October 1, 1999 Memorandum of Agreement, Dr. Drews renovated several classrooms in exchange for use of classroom space at Loveland. Until October 2001, Central Pacific University prominently displayed its banner on one of Loveland's buildings. The university advertises itself as having an innovative practicum program at Loveland for its psychology students, and Dr. Duker claimed to be a member of the university's advisory board.

Dr. Drews appears to have violated the DOH Child and Adolescent Mental Health Division's policy and procedure manual relating to outside employment and relevant business interests. The manual states that employees are prohibited from engaging in any practice, outside employment, or relevant business interest that creates a conflict of interest or the appearance of a conflict of interest. Although Dr. Drews disclosed his interest in Central Pacific University in September 1999, he listed only the university's office address located on Kapiolani Boulevard and omitted Central Pacific University's campus address, which is located on the grounds of Loveland Academy. Therefore, on paper, the connection between Loveland and Central Pacific University is hard to discern.

Allegations of preferential treatment for Loveland have been raised

Family guidance centers refer clients and authorize treatment services. Dr. Drews apparently gave Loveland Academy preferential treatment. During the first three months of Loveland's contract, Dr. Drews was allegedly at odds with the Leeward and Central Oahu Family Guidance Center chiefs regarding the appropriate level of Biopsychosocial Rehabilitation (BPSR) service authorizations that Loveland was to receive. Both Loveland and Dr. Drews insisted that BPSR Level III services, at a rate of \$40 an hour, was necessary to treat children with Autism Spectrum Disorders and Pervasive Developmental Disorders (PDD). However, the other chiefs believed that BPSR Level II services, at a much lower rate of \$15 an hour, was equally appropriate. The division's clinical services director and contracts management supervisor agreed, stating in a letter that the division had advised Loveland both prior to the contract signing and at a Clinical Standards training workshop that BPSR Level II was designed specifically for the autistic population.

This dispute was finally resolved in October 1999, when the family guidance centers agreed to (1) authorize BPSR Level III when making initial referrals for autistic and PDD children and (2) to review each case after six weeks to determine if BPSR Level II was appropriate. The Committee, however, has not yet determined if any of Loveland's cases were actually reduced to BPSR Level II.

Apparently, the Committee's concerns have caused Dr. Drews to rethink his relationship with Loveland. As a direct result of the Committee's inquiries, Dr. Drews formally terminated his business relationship with Loveland Academy in a memo dated October 15, 2001.

Recommendations

1. The Committee should continue its work during the 2002 legislative session in order to address the matters it could not complete in the interim as well as to prepare for the post decree continuum of care. The Legislature will need to address such issues as:
 - the transfer of a significant portion of the *Felix* population to school-based services;
 - gap groups that may result;
 - the continued participation and support of communities and whether best practices serve as the basis for service delivery.

The Committee should continue to build on the contributions and efforts of all those individuals who have brought the system of care to the point of compliance.

2. The Legislature should closely scrutinize the extraordinary or “super powers” granted by the federal court.
3. The amount of federal impact aid that exceeds the authorized appropriation in the general appropriations act or the supplemental appropriations act should be subject to legislative oversight. The appropriation of anticipated impact aid should be raised to be closer to actual receipts.
4. The DOE should improve its fiscal management by:
 - Developing a means of reconciling budget and expenditure information.
 - Developing functional reports, such as an analysis of budgeted to actual expenditures.

These reports should be routinely shared with the Board of Education, the governor, and the Legislature.

5. The DOE should provide a further breakdown of EDN 150 by separating *Felix* costs from overall special education and CSSS costs.
6. The Board of Education should require the DOE to strengthen its accountability for compliance with the *Felix* consent decree. The board should routinely share any accountability reports with the Legislature and the governor.
7. The DOH should ensure that it has proper and adequate oversight over *Felix*-related contract and expenditures by establishing a formal review system for all private provider agencies contracted by its Child and Adolescent Mental Health Division.
8. The Child and Adolescent Mental Health Division should abide by its policy and procedure manual and take appropriate actions to guard against conflicts of interest.
9. The Child and Adolescent Mental Health Division should take additional steps to ensure that provider agencies are not in violation of the State law, including but not limited to the State Ethics Code and procurement law. Such steps should include:

- a. Reviewing an agency's proposal for possible ethical violations.
 - b. Addressing any concerns arising from the proposal (i.e. requiring the agency to provide a written explanation of how it would ensure the State that an employee's position will not present an ethical conflict).
10. The Department of the Attorney General should review all of the concerns raised in the report such as private provider contracts, billings and fees, and alleged conflicts of interest.

Notes

¹ Memorandum to Paul LeMahieu, Ph.D., Superintendent of Education from Douglas Houck, Ed.D., Director of Program Support and Development, Subject: Profile of Overall System Performance on *Felix* Service Testing, July 20, 2001.

² According to staff at the Child and Adolescent Mental Health Division, there is no official date when the Diamond Head Family Guidance Center "merged" with the Kalihi-Palama Family Guidance center to form the Honolulu Family Guidance Center. Staff indicate that the change occurred some time in early 2000. The "merger" occurred so the Department of Health could have the same point of reference as the Department of Education's Honolulu District.

Chapter 3

Much Work Remains

The work of the Joint Investigative Committee is not complete. Issues remain despite the overarching conclusions we have reached, as described in the previous chapter. Some issues were on our menu of issues when we started, others emerged as our work proceeded. Some issues are specific, others are broad. They cross departments, budget programs, and branches of government. Above all, on behalf of the entire Legislature, the Committee needs to continue to insist on accountability for an effective and cost-efficient system of care for *Felix* children. In this chapter we discuss the unfinished business and argue for continued scrutiny by the Committee.

Preparation for the Day the Consent Decree Is Lifted

The day will come that the *Felix* consent decree is lifted. The federal court will have deemed the State in full compliance, the transitional 18-month period of stepped-down federal oversight will have been satisfactorily completed, and the system of care will be fully the State's. The Legislature's interest in that system of care is that it be one that delivers effective services to the right children in the right way at the right cost—and that the system be of the State's own design. With what the Investigative Committee has concluded, however, the Legislature will have no assurance that the State is prepared for that day.

There must be an immediate stop to the egregious actions of those who have taken advantage of the State at the same time measures are initiated for longer-term correction. State officials who are aware of misdeeds should be held to account just as perpetrators should be punished. Those who threaten retaliation against those who come forth with the truth should be held to account as well. Everyone should be encouraged to use the state and federal whistleblower and false claim laws. These laws protect those who assist in investigation, prosecution, and conviction, and award to the truth tellers up to 25 percent of any money recovered.

State agencies should be preparing already for the post-*Felix* system of care. They need to identify what aspects of the consent decree were dysfunctional and how they would design a system of the State's own choosing. The Legislature should demand a plan and compare any budget or program requests against that plan. Even more basically, the Legislature may have to examine whether a roadblock to an effective system of care is the governance of education. In light of the minimal role that the Committee found that the Board of Education has played, perhaps this is also the time to examine whether accountability for results can be assigned in some other way.

The Legislature needs to rethink the authority it has given away over the years. In addition to the points raised in chapter 2 regarding impact aid and the EDN 150 program budget, the Legislature needs to toughen its approach to budgeting. Budget requests should be scrutinized and agencies made to justify all their personnel positions, even the positions they already have. The days of expecting automatic legislative approval of budget demands, in the name of the consent decree and its benchmarks, should be over. Instead, the Legislature should demand answers to questions about effectiveness of services and efficiency of spending. Any roadblocks to the Legislature's ability to secure such information should be removed, including the enactment of legislation to clarify that the State Auditor is in fact Hawaii's designated audit authority where educational and health issues are concerned.

Misidentification of Felix Students

The Legislature still needs to be sure that the right children are served. The Legislature has received reports over the years that students have been placed into the *Felix* class under vague definitions of mental disability and correspondingly vague services. Sometimes, we have been told, children have been *Felix*-certified or have had services ordered in IEPs at the insistence of parents, with school personnel acceding despite their professional misgivings. Information on desired outcomes has been elusive. We could not determine whether IEPs provide for appropriate exiting of students from the *Felix* class and whether any students are ever in fact properly decertified or just age out of the class. The Committee and the Legislature need access and time to confer with experts who are independent of the federal court and the executive departments.

Federal Funds

The Investigative Committee needs to continue to bring attention to the federal funding issues it learned about during the past six months.

Federal funds in the Department of Human Services

The Investigative Committee focused on the two primary departments in the *Felix* system of care. That it did not focus on a third, albeit less involved department, is a function of the time that was available to the Committee. The Department of Human Services is part of the picture in at least two ways: (1) in placing *Felix* children in foster homes and (2) in paying for mental health services through Medicaid. In both these areas, federal funds are involved. The Committee needs to explore further whether any action or inaction by the DHS viz. federal funds in those programs puts the State at risk.

The Committee comes to this conclusion as the result of the recent conviction of a member of the *Felix* Technical Assistance Panel. Dr. Lenore Behar pled guilty in North Carolina to a federal charge of obstruction of justice in misusing federal foster care moneys. She had been indicted on 46 charges that included allegations of misuse of Medicaid moneys as well. She had a large role in designing Hawaii's system of care both as a member of the TAP and as the State's expert witness at the inception of the *Felix* case. She agreed to pay \$274,000 in restitution. She could be sentenced to as much as 10 years in prison, a fine of up to \$250,000, and three years of probation, but the plea agreement indicates that she will likely be sentenced to six to 12 months in prison or house arrest.

IDEA moneys

The federal government, by various accounts, indicated when IDEA was enacted that the new mandate on the states would be federally supported up to 40 percent of the additional cost. In fact, however, the level of federal support is closer to 12 percent. IDEA is will be before Congress for reenactment in 2002. States are becoming increasingly restive over what they consider to be a virtual unfunded mandate and it behooves Hawaii to maintain an active legislative presence on this issue.

Moreover, although the majority of federal impact aid money is unrestricted, a portion does derive from IDEA. The Investigative Committee did not receive complete answers as to the use of these funds and whether any restrictions accompany them.

Open Issues with the Federal Court

The Investigative Committee's subpoenas for the testimony of the court monitor, his executive assistant, and a member of the Technical Assistance Panel remain open issues. The Committee's decision to challenge the quashing of at least one subpoena and to seek the disqualification of the federal district judge continues to make its way through the legal process. The Committee is committed to maintaining its momentum to restore the dignity of the Legislature that was damaged by insult and abuse from the federal district bench.

Open Issues with Compliance

The Committee continues to receive information, oftentimes daily, from individuals finally emboldened to tell us or our Committee staff about what is really going on or has gone on with *Felix* compliance efforts. Even as we submit this report, we realize that our information is incomplete; data is still trickling in, documents are being transmitted, pieces of the picture are still being assembled. The conclusions of this report may change as the additional information is gathered.

We need to monitor the progress being made with the school complexes yet to come into compliance. These are the last few, but they are admittedly perhaps the most difficult ones—partly by geography, partly by demographics. We need to be sure that the definition of compliance will be consistent, despite what we have learned in the past six months.

We need to monitor ISPED—Interactive Special Education—the DOE computer system that will replace three unlinked systems and reduce the massive paperwork requirements in special education. The Committee did not have sufficient time to examine why the system is so far behind schedule and has cost more than planned, whether the system truly will work for its users, and whether the system will enable the Legislature and anyone else to obtain the necessary reports that managers need. The Committee would like to be sure that the benefits that it has gained from the Department of Health computer system will not be lost as the DOE takes jurisdiction over most of the students formerly served and tracked by DOH.

We need to monitor the Columbus Educational Services contract—not just in terms of the amounts of money involved, but for its longer term consequences for the State's public servants. The effect of having so many leased personnel in the schools requires careful watching.

Comments on Responses

The Investigative Committee solicited comments to our preliminary draft of this report from all who testified, were subpoenaed, were the subjects of the committee's hearings, or were interested parties. They were given 14 days to respond. They were requested to limit their comments to three pages, single spaced. They were informed their comments would be attached to this report. If they wished to submit more material than that, they could do so, but only a three-page, single spaced executive summary would be attached to the report and the remainder of the material would be placed with the Committee's official repository (the Clerk of the House of Representatives). By the deadline of 4:30 p.m. Tuesday, December 18, 2001, the Committee received eight responses. They are Attachments 1 through 8.

The Investigative Committee notes the following:

1. Before the Committee could subpoena former superintendent Dr. Paul LeMahieu, he resigned. So the Committee subpoenaed the interim, now permanent, superintendent. After his resignation, Dr. LeMahieu was given the option to testify before the Committee and not be subpoenaed. The Committee believed that giving him the opportunity to decide was the more humane thing to do. However, had he appeared before the Committee, he would have had to testify under oath and answer all questions put to him by Committee counsel and Committee members. This was explained to him. He chose not to appear. Instead, he asked to "meet" with the co-chairs. And he submitted a comment and a supplement to this report. Both of his actions avoided confronting the Committee and the requirement that he tell the truth under examination. The Committee believes his submittals should be viewed in light of the above facts.
2. There is a striking contrast between the responses of the superintendent of education and the director of health. The superintendent acknowledges the DOE's need to make major improvements, takes responsibility, and describes several corrective initiatives. The director of health, on the other hand, disputes most of the Committee's conclusions and offers "facts" that were already considered and discounted by the Committee. The director of health recommends that the Investigative Committee not be continued by the Legislature while the superintendent promises corrective actions as recommended by the Committee.
3. There are contradictions among the responses of Dr. LeMahieu, PREL, and Na Laukoa regarding the technical assistance contract with PREL and subcontract with Na Laukoa. Dr. LeMahieu states that it was Dr. Douglas Houck, and not himself, who was the individual most responsible for representing DOE in "defining the initiative and coordinating it once the effort got underway." Dr. LeMahieu asserts that others were involved in decision making regarding the contract, that he introduced Na Laukoa to PREL as "the firm that had developed the initiative," and that PREL was not required to subcontract with Na Laukoa. PREL states that the State asked for PREL's assistance and PREL "accepted the contract in good faith." The contract indeed required PREL to subcontract with Na Laukoa. Na Laukoa states that it was recruited by the (former) superintendent for the contract.

Final Conclusion

For all the pending issues that remain and because of the knowledge we have gained since June 2001, this Committee believes it needs to continue beyond its scheduled expiration date of the convening of the 2002 Regular Session.

**Appendix A
Brief Synopsis of Hearings**

Date of Hearing	Name and Title of Testifier	Subject of Testimony
June 19, 2001	No witnesses.	The Committee met to adopt rules for the conduct of the investigation and to discuss organizational and procedural matters for future hearings including securing attendance of witnesses by subpoena.
July 13, 2001	<ul style="list-style-type: none"> • Ivor Groves, <i>Felix</i> Court Monitor • Juanita Iwamoto, Executive Director, Felix Monitoring Project 	Subpoena quashed by federal court.
	Marion Higa, State Auditor	Discussed findings of her office's prior <i>Felix</i> reports and obstacles her staff encountered during the course of their work.
August 20, 2001	Douglas Houck, retired Director of Program Support and Development, Department of Education	Compliance issues and efforts related to the consent decree.
	<ul style="list-style-type: none"> • Bruce Anderson, Director of Health • Paul LeMahieu, former Superintendent 	Presented documents to the Committee pursuant to subpoena.
September 17, 2001	<ul style="list-style-type: none"> • Robert Golden, retired Director of the Student Support Services Branch, Department of Education • Debra Farmer, Administrator, Special Education Section, Department of Education 	Targeted technical assistance and the Department of Education's contract with Na Laukoa.
	Russell Suzuki, Deputy Attorney General	Plaintiff attorney fees.

October 3, 2001	Judith Schrag, <i>Felix</i> Technical Assistance Panel member	Rescheduled
	Margaret Pereira, mental health worker for various private provider agencies	Questionable billing practices and Multisystemic Therapy or MST Continuum projects.
	<ul style="list-style-type: none"> • Kenneth Gardiner, Mental Health Supervisor, Department of Health • Michael Stewart, Care Coordinator, Department of Health 	Questionable billing practices and potential conflicts of interest by private providers contracting with the State.
October 5, 2001	Karen Ehrhorn, Chief Financial Officer of Pacific Resources for Education and Learning (PREL)	PREL's subcontract with Na Laukoa.
October 6, 2001	Danford Sakai, former Hawaii District Superintendent	PREL's subcontract with Na Laukoa.
	Albert Yoshii, former Personnel Director, and now <i>Felix</i> DOE Contract Compliance Director	Columbus Educational Services and PREL/Na Laukoa contracts.
October 12, 2001	Richard Kravetz, President of Alakai Na Keiki	Alakai Na Keiki's billing practices.
	Ronald Higashi, Executive Director of the Susannah Wesley Community Center	Produced and authenticated documents requested by subpoena.
	Don Burger, Program Director, PREL	PREL's subcontract with Na Laukoa.
October 13, 2001	<ul style="list-style-type: none"> • Patricia Jean Dukes, President, Loveland Academy • Margaret Koven, Clinical Director, Loveland Academy 	Allegations of questionable billing practices at Loveland Academy.
	David Drews, Branch Chief, Honolulu Family Guidance Center	Alleged conflict of interest of his duties as a state employee, his establishment and presidency of Central Pacific University, and his alleged business relationship with Loveland Academy.

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October 17, 2001	Judith Schrag	Rescheduled
	<ul style="list-style-type: none"> • Dennis McLaughlin, President, CARE • Tina McLaughlin, Vice-President, CARE 	Billing practices at CARE.
	<ul style="list-style-type: none"> • Sharon Nobriga, Co-Executive Director, Hawaii Families as Allies • Vicky Followell, Co-Executive Director, Hawaii Families as Allies 	Purpose of Hawaii Families as Allies and its involvement with the <i>Felix</i> consent decree.
	Kate Pahinui, former Director of Hawaii Ohana Project	Project's involvement with the Court Monitor and his associates as well as the service testing instrument.
October 20, 2001	Kenneth Omura, point person for <i>Felix</i> in the Department of Education	Compliance issues and service testing.
	Kaniu Kinimaka-Stocksdale, owner of Na Laukoa	Subcontract with PREL to provide targeted technical assistance to the Department of Education. Her relationship with former Superintendent LeMahieu
October 27, 2001	John Donkervoet, former MST Coordinator, Department of Health	Concerns with MST and particularly the MST Continuum research project; responded to Ms. Pereira's allegations.
	Edwin Koyama, Internal Auditor, Department of Education	Internal audit he conducted on the <i>Felix</i> Response Plan earlier this year.
October 31, 2001	<ul style="list-style-type: none"> • Mitsugi Nakashima, former Chair, Board of Education • Herbert Watanabe, Chair, Board of Education 	Board's involvement with the <i>Felix</i> consent decree. Specific emphasis was placed on the Na Laukoa subcontract with PREL and the Columbus Educational Services contract.
	Paula Yoshioka, former Assistant Superintendent, Division of Administrative Services	Columbus Educational Services contract.
November 2, 2001	Judy Schrag	Subpoena quashed by federal court.
	Mary Brogan, former Clinical Director, Child and Adolescent Mental Health Division, Department of Health	Division's contract monitoring, questionable billings, and service testing.

November 3, 2001	Chris Ito, Director, Business Services Branch, Department of Education	Department of Education's expenditures for the <i>Felix</i> consent decree.
	Valerie Ako, Chief, Administrative Services Office, Department of Health	Contract monitoring and budgeting for the consent decree.
	Christina Donkervoet, Chief, Child and Adolescent Mental Health Division	Contract monitoring, questionable billings, and MST.
November 7, 2001	<ul style="list-style-type: none"> • Bruce Anderson, Director of Health • Anita Swanson, Deputy Director, Behavioral Health Administration 	Departmental efforts to comply with the <i>Felix</i> consent decree.
November 9, 2001	Laurel Johnston, Assistant Superintendent, Planning, Budget, and Resource Development	Department of Education's budgeting practices and accountability over <i>Felix</i> -related funds.
November 10, 2001	Patricia Hamamoto, Interim Superintendent	Department of Education's efforts to comply with the <i>Felix</i> consent decree.
November 16, 2001	Marion Higa, State Auditor	General overview of the Committee's conclusions and discussed obstacles her staff and the Committee faced while attempting to gather information.

**TORKILDSON, KATZ, FONSECA, JAFFE,
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ATTORNEYS AT LAW, A LAW CORPORATION
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PERRY W. CONFALONE
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December 18, 2001

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STATE OF HAWAII

By Hand Delivery

Joint Investigative Committee Staff
Office of the Auditor
465 South King Street, Room 500
Honolulu, HI 96813

Re: Preliminary Draft Report of the Joint Senate-House Investigative Committee to
Investigate the State's Compliance with the Felix Consent Decree

Dear Sir:

Pursuant to the correspondence from Co-Chairs Hanabusa and Sakai we hereby transmit our comments with respect to the preliminary draft of the Joint Committee Report.

We will withdraw these comments for publication in the event that the Joint Committee deletes from the final draft the references to Dr. Hufano and Dr. Kravetz with respect to alleged ethical violations consistent with the confidentiality requirements of Haw. Rev. Stat. Chapters 84 and 92F.

Please call if you have any questions.

Yours truly,

TORKILDSON, KATZ, FONSECA
JAFFE, MOORE & HETHERINGTON
Attorneys at Law, A Law Corporation



Perry W. Confalone

PWC/cyn
Enclosure

cc: Dr. Linda Hufano
Dr. Richard Kravetz

52744/0003/517598.V1

TORKILDSON, KATZ, FONSECA, JAFFE,
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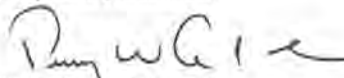
Re: Comments of Dr. Kravetz and Dr. Hufano on Preliminary Draft Report

Dear Sir:

Dr. Richard Kravetz and Dr. Linda Hufano are obliged to respond to the Joint Committee's assertions that they may have violated ethics laws in obtaining a contract to deliver mental health services for children in 1997.

Beginning in 1998 the State Ethics Commission thoroughly investigated the alleged ethics violations referenced in the Joint Committee Report. Dr. Hufano and Dr. Kravetz fully cooperated with the Ethics Commission. The Commission investigation included interviews with DOH officials. In August 2000, Drs. Hufano and Kravetz received confidential letters from the Ethics Commission informing them that the case was closed and thanking them for their cooperation. The Commission determined not to issue an ethics violation charge. Because a charge did not issue, the investigation was required to be confidential by statute and was not a matter of public record. Since the Joint Commission published these assertions, the public should know that the Ethics Commission concluded the following: 1) There was no evidence indicating an intent to circumvent ethics requirements in the contracting process. Indeed Drs. Hufano and Kravetz submitted their resumes detailing their employment histories with the State as part of the contracting process; 2) There was no evidence indicating that Drs. Kravetz or Hufano used their state employment to benefit Hoahana; and 3) There was no evidence that Hoahana received preferential treatment.

Respectfully submitted,



Perry W. Confalone, Esq.
Counsel for Dr. Richard Kravetz and
Dr. Linda Hufano

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Child and Adolescent Resources for Education, Inc.

CARE-HAWAII

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December 17, 2001

Senator Colleen Hanabusa, Co-Chair
Representative Scott K. Saiki, Co-Chair
Joint Investigative Committee Staff
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

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STATE OF HAWAII

Dear Senator Hanabusa and Representative Saiki:

Thank you for allowing me this opportunity to comment on the preliminary draft of the Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance With the *Felix* Consent Decree.

As the Report notes, costs for compliance with the Felix Consent Decree have increased, however, it should be noted that overall costs per student have significantly dropped. Currently, Hawaii is serving the number of students under this decree that could be expected to be served for the population size.

Although provider agencies are singled out by the auditor as profiting from the Decree, these agencies have been a positive force, along with DOE and DOH efforts, in bringing the majority of DOE Complexes into compliance with the Decree.

Page 5 of the Report notes that the delivery system was previously primarily off campus, and medically-based. For the past four years, all provider agencies have provided well over 90% of services on-campus and in the student's homes and community settings. Additionally, treatment plans and services delivered focused on assisting the student to benefit from educational opportunities and were not based on medical need as the criteria for treatment.

The Report comments in several places on the Committee being denied access to student treatment records based on confidentiality issues. Even though the auditor sought to insure privacy by having the student's name removed from the record, records almost always contain other identifying information, such that the student could be easily

identified. Confidentiality laws and professional ethics prohibit the release of records if any such information can be used to identify the student without the legal parent/guardian's consent. Thus, not releasing records is merely complying with the law, not obstructing inquiry.

The Report comments on the DOH and DOE fostering a culture of profiteering at the State's expense through inadequate monitoring of services. Yet agencies typically experience several audits a year, including audits for fiscal, clinical, and personnel practices. The Report comments on excessive administrative costs, yet agencies are held to high standards of performance both in the delivery of clinical services with intense supervision and training requirements, and extremely thorough credentialing processes to ensure that the State is able to collect funds from the Med-Quest program. These efforts all inflate administrative costs. Also, the Report does not define what "excessive" profit is and how the determination of "excessive" was made. The agencies that I am aware of are all expressing concern for their financial survival. Additionally, individual providers that I know are not living grand lifestyles, and are just generally getting by from month to month. Thus, it is disturbing to be branded as participating in a "culture of excessive profit".

On page 31, the Report notes that boyfriends and relatives receive payments for services and that payments for horseback riding lessons have been provided. Good practice suggests that if a relative, who would be otherwise employed, could be employed to assist a student, that often such an individual will help the student achieve the most success. In terms of horseback riding lessons, the choice of that technique is again driven by the IEP team, and there is significant literature that addresses the effectiveness of that technique, along with others, to assist students in developing focus, concentration, the ability to follow directions, and, in some cases, the ability to begin to relate to another living organism.

On page 48, the Report describes a therapist billing for 127 hours in one day. This situation has been previously explained to the Legislative Investigative Committee so it is a bit surprising to see it resurfacing in the Report. The 106 hours of Biopsychosocial Rehabilitation (BPSR) represent multiple students receiving services in a group format. CAMHD mandated that billing be done under the name of a lead, or supervising therapist, even though other M.A. and doctoral level therapists were involved in the provision of care for the students on a particular day in the program. Given this scenario, the case cited in the Report likely represents 8-10 hours of work for that day on the provider's part. The provider would have been paid for those hours worked, and the other participating providers paid for their portion of the work.

On Page 49 the Report notes that providers offer services that do not adhere to the DOH's clinical standards, and that services may exceed recommended DOH limits. It should be noted that DOH's limits are not firmly linked to evidence based practices but were set to provide guidelines for review of services. In any case, all services are recommended by the IEP team, and approved by the DOH because the services are believed to have merit in assisting the student to benefit from educational services. Additionally, for some

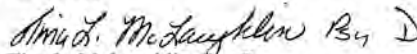
diagnostic categories, such as autism, it is the national norm that services run in the range of \$30,000 per year. However, when these services are provided early and in a timely manner to the student, it is unlikely that the student will continue to require services anywhere close to that level after a 3-4 year time period. Many students receiving that level of service at an early stage go on to be fully integrated into regular education classroom settings and become productive members of society in adulthood. Without such services, the picture for these students usually includes prolonged services that are not highly effective during childhood and adolescence, and possible institutionalization or ongoing care in adulthood.

Also, on page 49, the Report makes assumptions regarding the mark-up on billing for therapeutic aide services. What the Report does not capture is the fact that therapeutic aides are paid not only for direct hours of service to students, but for time spent in training, supervision, documentation and other such activities. The Report does not note that agencies typically carry health insurance for these part-time employees, and that recruitment and retention efforts for this level of employee are considerable. Most of these employees are pursuing their own education and terminate service after a few months, necessitating the recruitment and training of a new employee. It is not uncommon to have to recruit, orient, fully train and supervise 3-4 employees during a given year to provide service for one child. These activities can rapidly vaporize any remaining "mark-up". Thus, the assumptions made in the Report about the markup are erroneous. It is also interesting that the Report makes no mention of services such as psychiatry and psychology on which provider agencies typically lose money – yet these services for many agencies make up the majority of services offered.

On page 51 the Report states that audits conducted by CAMHD merely focus on documentation and adherence to clinical standards. Our experience is that each of our audits by CAMHD was linked to the billing record. In addition, CAMHD regularly surveys student families, providing them a Report of all services for which the state is paying for the family's student. Thus, this mechanism serves as a check of the accuracy of provider billings. In addition, agencies maintain their own mechanisms for detecting fraud and abuse and frequently self-report findings and return funds the agency determines were not appropriately billed.

Hopefully these comments provide the Committee with more information to round out some of the statements in the Report. As an agency providing services to students we strive to provide effective and accountable services, meeting accreditation, credentialing and audit standards. It is important to us that our work be presented fairly and accurately, and that global statements that may not represent the whole picture not be used to mischaracterize our work.

Sincerely,


Tina L. McLaughlin, Psy.D.
Chief Executive Officer

Attachment 3

December 18, 2001

Joint Investigative Committee Staff
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawai'i 96813

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OFFICE OF THE AUDITOR
STATE OF HAWAII

To Whom It May Concern:

Aloha, my name is Kaniu Kinimaka-Stocksdale, principal owner of Kaniu I, LLC dba Nā Laukoa, a private for profit company. Our company was created in September 1997 to provide behavioral and mental health services to the children and families of the Big Island. Mahalo to the Senate-House Committee for this opportunity to respond to the Joint Senate-House Investigative Committee report.

As stated in the cover letter dated December 4, the three pages of my response will be a part of the final Joint Senate-House Investigative report.

The committee report questions Nā Laukoa's qualifications to perform the Nā Kāko'o Technical Assistance project. For the record, only a few of Nā Laukoa's employees and professional staff were involved in this particular project. The names, resumes' and credentials of the professionals who were involved are shown in the report submitted to the committee by PREL. To the best of my recollection, all of the professional employees or subcontractors who worked for Nā Laukoa, or who were subcontracted by PREL, were approved by DOE representatives prior to their employment.

As clarification, I would like to point out that Nā Laukoa was recruited by the Superintendent for this contract. Further, the more complete story is that the task was to be so different from what had gone on before, that nobody had a complete grasp of the qualifications that would be necessary for the success of this project. As a result of the unique professional qualifications of our professional employees, Nā Laukoa did an excellent job in performing this contract.

The report cites my lack of a "formal education" as further criticism of Nā Laukoa's involvement. This criticism misses the point. It was not my job to provide direct services to the children in the complexes that had been selected. Further, it was not my job to interact directly with the complexes. It was my job to hire or subcontract professionals who not only had the necessary professional credentials but who also had the ability to work within the system at each of the complexes.

Nā Laukoa

101 Holomua Street Hilo, Hawai'i 96720
Telephone (808) 961-0081 Fax (808) 969-9936

The report raised an ethical concern about a personal relationship entering into a professional decision. It is true that the professional relationship had changed over time into a personal one. This change occurred after the contract was awarded. The focus on this incident has clouded the important issue of whether or not Nā Laukoa helped the identified complexes make important changes in their systems; which we accomplished, as evidenced by the informal and formal data submitted by PREL.

It should be recognized that Nā Kāko`o Technical Assistance project was awarded to Nā Laukoa based on what the professionals employed by Nā Laukoa had to offer in connection with facilitating systemic changes within the school complexes. It was a DOE team decision that Nā Laukoa be awarded the contract. It is my firm believe that there was no other agency that had the access to the professional expertise which we enjoyed, and which would have been willing to go to the extent we did to assist the identified schools and the DOH Family Guidance Centers.

The lead coordinator for Nā Kāko`o Technical Assistance project was Dr. Kimo Alameda. Upon his resignation to join the Department of Health as Transitional Specialist for CAMHD, Ms. Carol Plummer held the position as lead coordinator until the contract terminated October 31, 2001. Dr. Alameda, as lead coordinator, set up the guidelines, rules, policies and directives for the project. Dr. Alameda was uniquely qualified since he was a health professional and also had worked as a counselor in the DOE school system. PREL became a partner to enhance and strengthen the project after questions were raised concerning Nā Laukoa's ability to handle the necessary fiscal and data collecting aspects of the program. The ground work was to be directed and coordinated by Dr. Alameda, and Carol Plummer. The primary work had to be done at the schools and the DOH Family Guidance Centers. Dr. Alameda and Carol Plummer helped build the communication bridge between the two departments so that collaboration was the rule rather than the exception. It was crucial that, although having experiences in both DOE and DOH systems, Dr. Alameda and Ms. Plummer were not employed by either system. This made it possible for them to challenge the status quo by providing honest and direct feedback without fearing job loss or the "good old boy" network. This is the key if systems, such as DOE and DOH, are serious about making genuine and lasting change.

The report cites Debra Framer's concerns. If you review the resumes of the professionals hired to do the work, you will find that many of them had already extensive experience in the Department of Education (e.g.; special education, teacher, principal, vice principal, school counselor, resource teacher). A detailed list submitted to the committee by Dr. Don Burger of PREL shows exactly what was provided by Debra Farmer. In a conversation with the present Superintendent, Debra Farmer's training was described more as an orientation rather than training.

The report concludes by asking whether the contract was necessary and whether the funds could have been put to better use providing services to our school children. Services to children come in different forms. The services referred to by the committee are "direct service" such as those a teacher or counselor would provide. Other types of

services are called "indirect services", such as those a school consultant would provide. Both types of service are crucial elements in the overall servicing of children. A functional system can't have one without the other. The purpose of Nā Kāko`o contract was to provide "indirect consultation services", with the goal of helping those fifteen identified complexes help themselves; which in turn would help the children receive the services they deserve in those complexes.

Attachment 4

A Response to the *Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance with the Felix Consent Decree*
Prepared by Paul LeMahieu

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I write to respond to the Committee's preliminary draft report, *Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance with the Felix Consent Decree*, dated December 4, 2001. I want to express my appreciation to the Committee for this opportunity. I hope that nothing contained herein gives offense, either in its particulars or in the manner expressed. However, there are points at which challenge is issued. Please know that the sole purpose in doing so is to assist the Committee in making fair and well informed judgments, leading to appropriate conclusions and actions that will help this state successfully address its problems.

This response is organized into three sections: *General Observations*, *Targeted Technical Assistance Project*, and *Summary and Challenges to the Committee*.

General Observations

The tone throughout the report ascribes sinister intentions on the part of agencies and individuals that are most improbable and, more important, fly in the face of volumes of contrary evidence. For example, much is made of purported efforts to use federal funds to avoid legislative oversight in spending for Felix related costs. Federal funds, specifically Impact Aid monies were used to defray Felix related costs -- for technical assistance and a number of other costs as well. The reason for doing so was quite simple and far less sinister than suggested in the report: the DoE made every effort to reallocate funds so as to minimize impact on local tax revenues.

Evidence overwhelmingly suggests that the malevolent interpretation offered in the report is unreasonable. DoE staff met with the Finance Committee of the House and the Ways and Means Committee (WAM) of the Senate on Jan. 4, 2001 to discuss the Felix costs and a likely emergency funding request. Follow-ups for similar purposes were held on Jan 8 with WAM, and with Senator Hanabusa and staff on Jan 28. These meetings led to summits (including leadership of education and money committees and the President or Speaker as appropriate along with staffs) with the House on Feb 5 and the Senate on Feb 8. Legislators' concerns about the budget were vigorously voiced, and at these meetings it was determined that the Department would do everything in its power to minimize the emergency request: including measures to minimize costs, updating projected budget figures, reallocating resources (including federal funds), so as to minimize costs to local taxpayers. There were many legislators at these summits, including Sens. Hanabusa and Sakamoto as well as Reps. Saiki and Ito of this Committee amongst others.

The use of these moneys to support Felix compliance was approved by the Board of Education, and the use of federal funds was explicit from that point forward in documentation provided to the Education and Budgetary Committees of both houses. These efforts proved successful as the need for the emergency request was reduced by 34% during the session and nearly eliminated after its close.

Even as I promised that we would reduce the burden on the General Fund, I saw a trap. I predicted that the DoE would be cited as being either incompetent in its budgeting or dishonest. In this report, my prediction seems to be proved correct despite evidence of more responsible motives and documentation of efforts to be forthcoming.

Targeted Technical Assistance

The targeted technical assistance initiative was a complex undertaking. Space does not permit a detailed treatment of its design or rationale (a more complete Overview is appended as Attachment A) but it is important to know that its purpose was to provide external technical assistance to complexes to plan for the transition to school based services as well as service testing and compliance. The Federal Court's orders of June, 2000 required that the State enter into a contract with an external agency to provide this TA, and to do so within a timeframe that simply did not permit the usual procurement practices.

Given that circumstances did not permit things to be done in "the usual way" (and that there is nothing wrong in that alone), the public's interest and the Committee's concerns should most properly be focused on three primary questions: 1. Were those who provided TA qualified to do so? 2. Was the contract let in a manner that protected the public's interests? 3. How did the contractors perform and what was the impact of the effort?

Were those who provided TA qualified to do so? The report's treatment of this matter raises questions of analytic rigor, balance and fairness. The suggestion that the technical assistance coordinators (TAC's) were not qualified is based on Mr. Albert Yoshii's testimony who makes it amply clear (Committee Testimony, pp. 119-122) that he knows nothing about the TAC's except what he learned from Mr. Robert Golden. Mr. Golden, in turn, testified that he knows nothing about them other than what he heard from two calls from the Big Island (Committee Testimony, pp. 36-40). One of those who made the calls (Mr. Danford Sakai) testified that he informed me that the major concern was that NLK had on occasion been perceived as "too critical and challenging of DoE staff in the

schools." When asked if he had been told by staff that NLK was not qualified to provide that type of service, he replied "No." (Committee Testimony, p. 24) and that to his knowledge staff was not opposed "to NLK being one of the organizations to provide technical assistance." (Committee Testimony, pp. 23-24)

Just what were the TAC's qualifications for this effort? The qualifications of the TAC's are presented in documentation provided by PREL. I will summarize them here: 1) Of the total complement of TAC's 26% had Doctorates; 58% had Master's Degrees -- a combined total of 84% with advanced degrees in education, special, education, counseling or related fields; 2) Over half of the TAC's have since been hired by the University of Hawai'i, the Department of Health, or the DoE -- further validation of their qualifications; 3) PREL has extensive qualified staff in education program design and management and over ten years experience in technical assistance focusing on underserved and rural locales much like those of this initiative; 4) NLK had 45-50 employees, national accreditation by the mainland based Commission on Accreditation of Rehabilitation Facilities, experience providing mental health services to over 200 children in 28 schools with annual billings averaging \$2-2.5 million.

Was the contract let in a manner that protected the public's interests? The Committee is rightfully concerned to question whether a rumored (and later admitted) personal indiscretion compromised the public's interest in the award of this contract. In fact, the public's interest was not compromised and there are a number of reasons why it could not have been. First, the relationship grew to become personal *after* the contract was executed. Second and even more to the point, there is ample documentation of the involvement of others in decision making regarding the contract. Knowing that the contract was to be defined and pursued outside the usual procurement procedures we were concerned that prudent judgments be made.

1. Dr. Douglas Houck, not I, was the individual most responsible for representing the DoE in defining the initiative and coordinating it once the effort got underway. Despite the fact this contract was of singular concern to the Committee and that he was in charge of the contract, the Committee did not ask him anything about it in approximately four hours of testimony.

2. As the time for contract execution approached, a three person panel was formed to hear a presentation from the proposed coordinators, ask tough questions, and examine credentials and background. Two of the three panelists recommended approval and voted in favor of the contract, offering on their reaction forms comments such as "strong clinical team," "expertise in bridging mental health to education," "can provide the necessary team approach (if properly supported by DoE) to bring the identified complexes into compliance," "staff has an understanding . . . and commitment to school based services," and "I believe that they will be able to do the job in an appropriate manner." The Investigative Committee heard from and incorporated the views of the lone dissenter into its deliberations. It chose not to hear from the two others present who were in favor of the contract.

3. As the initiative was restructured in response to those concerns that were legitimate, I introduced NLK to PREL as the firm that had developed the initiative. I made it clear that they were not required to subcontract to NLK, that it was not a requirement of the contract. This fact has been confirmed by Mr. John Kofel, president of PREL. He was quoted in the press as saying that "Dr. LeMahieu did not insist on their [NLK] involvement. That was our decision." (Honolulu Advertiser, May, 2001 and confirmed on Oct, 20, 2001) The reporter who wrote that story has since checked her notes and corroborates that as correct and accurate. It was correct when the contract was being set up, it was correct when reported in May and in October, 2001, it is correct today. That the contract includes NLK as a subcontractor does not necessarily mean that it was a precondition of the contract any more than a construction contract that identifies the general contractor's choice of electricians necessarily required those subcontractors as a precondition. To suggest otherwise is disingenuous.

How did the contractors perform and what was the impact of the effort? Those who provided TA performed extremely well in the main and far better than might be expected under the circumstances. This is not to suggest that there were no problems, but perfection is hardly the appropriate standard of judgment. Questions about performance come from two sources. Ms. Debra Farmer expressed concern that the TAC's had to be trained regarding DoE Programs including local regulations and administrative rules. This was to be expected as they were external contractors. It in no way suggests that they were unqualified as it is to be expected that external contractors will have to be oriented to local rules in order to best communicate and apply their expertise. In addition, Mr. Sakai was questioned about some early difficulties that he was aware of. He testified that as soon as the problems were brought to the attention of the Project Director Dr. Kimo Alameda they were resolved at the [school and complex] level (Committee Testimony pp. 84-85) and that problems were resolved such that the communications "met the needs . . . and it was satisfactory." (Committee Testimony, pp. 53-54)

Much more important is the performance of those complexes served by the Technical Assistance Initiative. (Detailed data has been provided to the Committee by PREL; they are summarized on Attachment B.) The TTA

focused on the 15 complexes deemed by the Court to be having the greatest difficulty coming into compliance. Of those 15, ten have undergone service testing. Of those ten, seven passed service testing completely and three others passed one of the two portions, falling close on the other. In other words, the ten complexes tested have yielded seven complete successes and three partial successes. An examination of the numbers quantifies the gains in those complexes. When compared to previous testing done (most of it in the 1994-95 timeframe), the TTA complexes that were service tested increased their performance by 28.8 percentage points. A comparison to all other complexes not receiving TTA support but service tested twice within the same timeframe shows that the comparison group increased their performance by 19 percentage points. The comparison again is 28.8 percentage points improvement in the TTA complexes compared to 19 percentage points in all others. In other words, the TTA complexes not only dramatically increased their performance, they did so significantly better than complexes not receiving TTA support. While honesty compels one to admit that the TAC's were not the only reason for this tremendous success (much credit goes to the folks in the schools) it would be equally unfair to discount them, especially given the superiority over the comparison group without TAC support. As Superintendent Hamamoto has said the success is due to all pulling together.

Summary and Challenges to the Committee

In summary, this response speaks to allegations and insinuations of possible impropriety in the award of a contract and possible efforts to subvert the Legislature's oversight and appropriate funds for inappropriate purposes. As demonstrated here and corroborated by evidence, none of this occurred. Those who provided technical assistance under the contract were well qualified to do so; the plans were independently reviewed by a number of senior staff in the DoE, and they recommended 2 to 1 to proceed with the award. Ultimately the decision to subcontract with NLK was left to the prime contractor, as their president has stated repeatedly to the press and reporters have corroborated. Most important, the TAC's were of great benefit to a number of complexes and the success was remarkable for an undertaking so complex and so quickly assembled. There was no effort to dodge legislative oversight. We committed to control costs and shift funding sources (including federal monies which the legislature has repeatedly advocated) in meetings as far back as January and February of 2001, meetings at which at least four members of the investigative committee were present. Relevant documentation was then provided at each of the many relevant hearings before House and Senate committees.

This leaves the Committee with three very great challenges: 1) to distinguish real problems from unpopular decisions; 2) based on #1, to fashion solutions that do not impede effective management of public affairs; and 3) to carefully manage the lessons of this investigation such that they are not again prohibitive of efforts to innovate or to take action in the interest of solving our State's problems.

We do have real problems, and the work of the Committee has uncovered a number of them. It is important, however, to distinguish real and enduring problems from matters that are not or that are unique to this circumstance or time. For example, the Columbus contract and the PREL contract, whatever one might think of them substantively, are unique to the current situation. They would not be needed at any other time and they would not have been possible at any other time. It is not clear that they constitute situations that need legislative remedy.

The whole of the investigation has uncovered a number of legitimate problems. Inability to monitor billings under contracts or analyze and report expenditures has been a concern for some time. We see now the problems that this can create. There are two possible approaches to addressing such issues. One may impose (legislative) controls and constraints or one may invest in the systems necessary to monitor, analyze and report effectively. The record is clear that the latter solution leads to a healthy and effective system. The record is equally clear that no set of controls will ever be able to anticipate all possible problems and instead they will perpetuate the inefficiency and inability to act decisively for which our government is well known. When faced with the most serious economic crisis ever to face our State, the very first thing that the Governor sought was relief from such constraints. He was right to do so; we should learn from that.

Finally, there is the matter of the lessons learned by our system from this experience. The Committee must consider them carefully in order to help us create the system we want and need. Not all decisions with which we might disagree constitute wrongdoing. Similarly, not every action taken in an unusual manner is mismanagement. Not even every mistake is an error deserving of the severest punishment. To treat them as such teaches the Department to never put accomplishment ahead of time served, performance ahead of procedures, and never seek to innovate or advocate the unusual. That sort of risk taking is what is most needed in a system struggling to reform itself. We must not teach that the way things have always been done is the only acceptable way. If the work of this Committee substantiates past practice as the standard for judging action, our system will take a dangerous turn in exactly the wrong direction..

BENJAMIN J. CAYetano
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2380
HONOLULU, HAWAII 96804

Attachment 5

PATRICIA HAMAMOTO
INTERIM SUPERINTENDENT

OFFICE OF THE SUPERINTENDENT

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OFFICE OF THE AUDITOR
STATE OF HAWAII

December 18, 2001

The Honorable Colleen Hanabusa, Senator
The Honorable Scott K. Saiki, Representative
Co-Chairs, Joint Senate-House Felix Investigative Committee
Hawaii State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Senator Hanabusa and Representative Saiki:

The Department of Education appreciates the opportunity to comment on the *Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance With the Felix Consent Decree*.

The Department has made significant progress towards complying with the federal court's requirements of the Felix Consent Decree and Contempt Order. This is a result of the diligent efforts of all the leadership and staff at state, district offices, complexes and schools who have focused on identifying and serving those students in need of mental health services. We therefore would like to recognize all of those individuals who have helped the Department achieve its significant progress towards compliance.

We also acknowledge the efforts of the Joint Senate-House Investigative Committee over the past several months. The Committee's Report has listed several recommendations. The Department recognizes that major improvements must be made in various areas, including fiscal management of Felix-related expenditures. The Department is taking corrective action regarding the Committee's recommendations.

The Department recognizes that its existing fiscal organization structure, management information and internal processes have not been satisfactory. Therefore, I have begun several initiatives to revamp the Department's fiscal management:

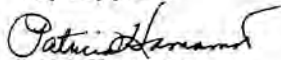
- a. Establishing an organization structure that will be conducive to effective and efficient fiscal management, including the coordination of budget and accounting functions, with the objective of producing consistent and accurate financial and statistical information.
- b. Defining relevant and useful management information data.

The Honorable Colleen Hanabusa, Senator
The Honorable Scott K. Saiki, Representative
Co-Chairs, Joint Senate-House Felix Investigative Committee
December 18, 2001
Page 2

- c. Implementing a financial analysis process, to include financial projections and effective use of unexpended resources.
- d. Developing a system of accountability that will link program outcomes with fiscal results. As part of this initiative, we will research the development of an activity-based or performance-measurement costing method. This approach could result in more detailed cost analyses and more specific identification of services provided to Felix-class students. We anticipate that data from the ISPED system may provide valuable data in such analyses.

Some these initiatives will include both short-term and long-term solutions. In the short-term, there are a number of tasks that can be completed and implemented within a reasonably short period of time. Long-term plans would involve operational and computer system changes that may take longer than one year. Whether short-term or long-term, our consistent goal will be to achieve effective and efficient fiscal management of the Department.

Very truly yours,


Patricia Hamamoto
Superintendent

PH:EK

BENJAMIN J. CAYETANO
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Attachment 6

PATRICIA HAMAMOTO
SUPERINTENDENT

OFFICE OF THE SUPERINTENDENT

December 18, 2001

The Honorable Colleen Hanabusa, Senator
The Honorable Scott K. Saiki, Representative
Co-Chairs, Joint Senate-House Felix Investigative Committee
Hawaii State Legislature
Honolulu, Hawaii 96813

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OFFICE OF THE AUDITOR
STATE OF HAWAII

Dear Senator Hanabusa and Representative Saiki:

Thank you for the opportunity to comment on the *Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance With the Felix Consent Decree*.

I would like to clarify your finding that "*the DOE purchased laptop computers for vacant positions.*" [page 18] This issue was raised in my internal audit report ("*fiscal review*") of the Felix Response Plan.

As I testified to the Committee on October 27, 2001, the definition of "vacant position" requires further explanation. A "vacancy" in a special education teacher position, for example, indicates that there is no certified Department employee in that position. However, subsequent to the issuance of my report, I was informed that vacant positions most likely were filled with substitute teachers, or a contracted employees. Therefore, in most cases, there may have been persons assigned to teach the special education students. The laptop computers would have been used by persons assigned to teach the special education students, and would not be "*sitting idle or used for purposes other than compliance with the Felix consent decree.*" Accordingly, as mentioned in my testimony on October 27, 2001, the dollar impact of 140 laptops for the "vacant" positions costing \$294,000 [page 19], as originally reported, may be substantially reduced.

I have not yet been able to verify the exact number of "vacant" positions occupied by substitutes or contract employees, and have not yet been able to recalculate the dollar impact. I expect to complete the verification of those statistics in time for the upcoming Legislative session.

Sincerely,

Edwin Koyama
Edwin Koyama
DOE Internal Auditor

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

Attachment 7

December 18, 2001

Joint Investigative Committee Staff
Office of the Auditor
465 S. King Street, Room 500
Honolulu, HI 96813

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OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Committee:

RE: Preliminary Draft Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance with the Felix Consent Decree


On behalf of Pacific Resources for Education and Learning (PREL), I would like to thank you for the opportunity to respond to the Committee's draft report. In the spirit of fairness, objectivity, and accuracy, I would like to share a few additional pieces of information regarding PREL's involvement in the Felix Consent Decree work.

It is important to know that the State asked for PREL's assistance in meeting an impending Federal benchmark. Knowing the importance of providing services to children, the potential impact of not meeting the court mandated benchmarks, and PREL's demonstrated ability to successfully manage, implement, and monitor targeted, complex technical assistance, PREL accepted the contract in good faith. We considered the potential of political implications arising from Felix work, but felt that these implications were more than offset by the opportunity to help others meet the needs of children in our state. Consequently, we accepted the legally executed contract and from that point to the present have done everything humanly possible to deliver the services needed.

Regrettably, the Committee's report does not include the most important part of this work – the service testing results. Attached, please find an updated summary of service testing outcomes for those school complexes that received targeted PREL technical assistance. The improvement is dramatic, particularly when contrasted to the previous seven years of non-compliance. PREL is not suggesting that our assistance alone is responsible for the improvements realized; we made that clear in our testimony before the Committee. Appropriately, recognition and congratulations should go to the individual schools, the parents, PREL's partners, and others.

PREL is proud of its work, the compliance achievements realized, and the services to deserving children and families.


Respectfully,



John W. Kotel
President & CEO

Attachment

Cc: Gary Slovin, Esq.
Goodsill Anderson Quinn & Stifel



Pacific
Resources for
Education and
Learning

1099 Alahele Street
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Website: www.prel.org

An Equal Opportunity Employer



Nā Kāko‘o Felix Technical Assistance Project

SUMMARY OF RESULTS

Pacific Resources for Education and Learning (PREL) was contracted to provide technical assistance to develop and implement a Service Design Plan for 15 designated Hawaii Department of Education school complexes, so as to enable the DOE to provide school based delivery services to meet the requirements of the Felix v. Cayetano Consent Decree. The designated school complexes were those with the lowest compliance scores.

The contract was initiated in August 2000 with an end date of September 1, 2001. The contract was extended to October 31, 2001, primarily due to rescheduling of service testing as a result of the teachers' strike in Spring 2001. With the extension, new complexes were designated for targeted technical assistance.

Following is a summary of Service Testing reviews and compliance status for complexes that received assistance under the contract:

Results of Service Testing Reviews and Compliance Status by Complex

Complex	Test Date	Compliance Status Before Targeted Technical Assistance	Compliance Status After Targeted Technical Assistance
1 Aiea	February 2001	Not in compliance	Full
2 Kaiser	January 2001	Not in compliance	Full
3 Leilehua	January 2001	Not in compliance	Full
4 Kahuku	October 2001	Not in compliance	Provisional
5 Kealahou	November 2001	Not in compliance	Provisional
6 Lahainaluna	October 2001 November 2000 May 1999	Not in compliance	Provisional
7 Maui	October 2001	Not in compliance	Provisional
8 Milliani	September 2001	Not in compliance	Provisional
9 Roosevelt	October 2001 October 2000 November 1999	Not in compliance	Provisional
10 Waiialua	September 2001	Not in compliance	Provisional
11 Kapolei	February 2001	Not in compliance	Partial
12 Konawaena	October 2001	Not in compliance	Partial
13 Wai'anae	March 2001	Not in compliance	Partial
14 Ka'ū	March 2000	Not in compliance	Revisit February 2002
15 Lāna'i	December 2000	Not in compliance	Revisit February 2002
16 Moloka'i	October 1999	Not in compliance	Revisit February 2002
17 Pāhoa	January 2000	Not in compliance	Revisit February 2002
18 Hāna	March 2001	Not in compliance	Revisit January 2002
19 Kohala	February 2000	Not in compliance	Revisit January 2002
20 Baldwin	October 1999	Not in compliance	Revisit November 2001

^aSchool Based Service Report, ^bNumber of cases reviewed, ^cCoordinated Service Report.

Attachment 8

BENJAMIN J. CAYETANO
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801

BRUCE S. ANDERSON, Ph.D., M.P.H.
DIRECTOR OF HEALTH

In reply, please refer to:
File:

December 18, 2001

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OFFICE OF THE AUDITOR
STATE OF HAWAII

Joint Investigative Committee Staff
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

Dear Joint Investigative Committee Staff:

Enclosed you will find the Department of Health's response to the draft Report of the Joint Senate-House Investigative Committee to investigate to the State's Compliance with the Felix Consent Decree.

If you have any questions, please call me or Anita Swanson, Deputy Director for Behavioral Health, at 586-4416.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce S. Anderson".

Bruce S. Anderson, Ph.D., M.P.H.
Director of Health

Enclosures

**State of Hawaii
Department of Health
Executive Summary**

Thank you for this opportunity to respond to the **Report of the Joint Senate-House Investigative Committee to Investigate the State's Compliance with the Felix Consent Decree**. The Department of Health (DOH) continues to support the information needs of Joint Senate-House Investigative Committee To Investigate the State's Compliance With the Felix Consent Decree (hereafter referred to as the Committee).

General Comments

While the Department supports the objectives of the Committee, there is concern that information and data previously submitted to the Committee is not evident in this report. It is understandable that the Committee received a great deal of information and committee members may not have been able to review all of the information in the time available. Given that situation, we would ask the Committee to use caution when coming to conclusions and making recommendations. Specific feedback to the report is offered below.

"Compliance Measures Arbitrary and Unscientific," "Compliance is a Moving Target," "School Complexes Unclear About Compliance" (pages 10 – 14)

This is an inaccurate statement. The Department has consistently been aware of the requirements for compliance with the Consent Decree. The selection of youth for service testing utilizes a stratified sampling procedure. This method is used to ensure that youth are selected from each school. The Department of Health employees are clear on the expectations of compliance presentations. Family Guidance Center Chiefs have consistently participated in these presentations to the Court Monitor. If there is any perception within the Department of the "monitors standards changing," it relates to additional commitments made by the State when the State was held in contempt.

"The DOE and DOH exploit 'the money is no object' expectations" (page 14)

The Department provided testimony that this is not the case. The Department has provided information to Legislature accounting for departmental Felix costs. Also, the Department offered in testimony that the Legislature has been supportive of the Department's efforts to comply.

"The DOH has used confidentiality to limit legislative oversight" (page 30)

The Department has no intention of inappropriately withholding documentation from the Committee. Indeed we have made every effort to provide information requested by the Committee in a timely manner. The AG's Office continues to advise the Department of the need to redact any information shared, in order to protect student's rights under the Family Educational Rights & Privacy Act (FERPA). The Department follows the advice of the Attorney General's (AG) Office regarding this matter.

"Internal Monitoring at the DOH is deficient (pages 30-31)

The Department's system for monitoring the quality and effectiveness of mental health services is extensive as mandated by the Consent Decree. The system has received national accolades, and is considered by experts in the field to be a model for other mental health systems. The Department's monitoring system has received national accolades, and is considered by experts in the field to be comprehensive and a model for other mental health systems. Oversight and review is consistent and intensive, and includes monitoring of compliance with standards and expenditures. Areas monitored include programmatic compliance with licensing rules, quality of treatment processes, performance on case-based reviews (child status and program functioning), quality of supervision and training, status of

sentinel events and complaints, quality of family engagement, and many other dimensions of performance. Attached are documents that provide an overview of the CAMHD provider monitoring system.

“Personal Relationships were involved in the implementation of MST” (page 45)

The Department took great care to ensure that all state personnel requirements in this area were followed. In the early summer 2000, John Donkervoet, a licensed clinical psychologist, was interviewed for the MST Administrator position by a DOH panel in accordance with Department recruitment policies. At the time of his interview Dr. Donkervoet was employed by the Adult Mental Health Division. Ms. Anita Swanson, Dr. AJ Arensdorf and Ms. Carol Matsuoka conducted the interview. Dr. Donkervoet was selected for the position as Clinical Director of the MST Continuum of Care Project and began employment on July 3, 2000. His supervisor was Carol Matsuoka, MST Administrator. Ms. Mary Brogan, CAMHD Clinical Services Manager, directly supervised Ms. Matsuoka. The MST Home Based Programs and the MST Continuum were under the supervision of the Clinical Services Offices, headed by Ms. Mary Brogan.

Ms. Tina Donkervoet contacted the State Ethics Commission to verify that there would be no violations if Dr. Donkervoet worked for CAMHD. State Ethics Commission verified that as long as Dr. Donkervoet met the position’s qualification requirements, was hired in accordance with departmental recruitment policies, and was not directly supervised by Ms. Donkervoet; there would be no violations.

“The DOH allows provider to overcharge for services” (pages 48-50)

The DOH takes strong exception to any implication that we allow (which implies permission) for providers to over bill. For the past two fiscal years, CAMHD has conducted fiscal claims reviews involving the audit of provider records for adequate claims documentation. CAMHD has required annual fiscal reports, and provided quarterly explanation of benefits to the parent/guardian and care coordinator to allow for verification of service delivery. The examples identified in the report have already been addressed with the Auditor’s Office. The report, as previously provided to the Auditor’s Office, is attached.

Computer Problems Continue (page 51)

The Department strongly disagrees with the statements criticizing CAMHD’s computer problems. While large provider systems, such as CAMHD, might always expect some level of billing disputes between payer and payee, the CAMH management information system (CAMHMIS) has greatly increased the Department’s ability to complete timely fiscal reports and data evaluation. The CAMHMIS system has been reviewed by the Auditor’s Office on several occasions. We recommend that the committee reference the most recent Auditor’s report for comments regarding the strengths of the information system.

“MST was costly, wasteful experiment”/“MST was a failure” (page 52 - 53)

The Department elected to implement the Continuum of Care (COC) research project after great consideration of the issues impacting the state. The Department was faced with criticism and concern about the high number of youth being placed on the mainland, escalating costs of out of home residential care, and criticisms from stakeholders for not applying evidenced based treatments. The COC program was initiated to serve complex, severely challenged youth in a community based setting. The funds used in the MST COC project were funds already being expended on the participating youth. These youth and the corresponding expenditures were diverted from higher cost residential treatment and mainland placement into the COC program.

MST is one of the most intensely researched treatment model in children’s services. It is accurate that most of this research has involved youth with willful misconduct issues. And it is also true that the developer of the treatment model, has completed the research. We agree that there are limitations to the interpretations of the research when the developer participates in the study, however, there are tremendous gaps in the research knowledge in children’s mental health at this time. At the present time, there are not

sufficient numbers of treatment modalities that have been empirically validated with high-end, complex, emotionally disturbed youth with co-occurring disorders. Given this, the Department presented to the legislature that MST was one of the most promising treatments, and recommended that we implement a study on a small scale to evaluate it's effectiveness. We have an obligation to serve this population, and applying MST COC study was an attempt at implementing a promising treatment in a controlled manner and evaluating the results.

The Department agrees with the Office of the Auditor Report of January 2001, that all treatments and services should be reviewed for outcomes and effectiveness. Currently, University of California San Francisco (UCSF) is conducting review of the model. This report is due to the legislature 20 days prior to session. Any decisions or conclusions about the effectiveness of MST should be deferred to this evaluation.

A DOH employee has a private business on the grounds of a private provider (page 55)

Dr. David Drews, a CAMHD Branch Chief, is also the President of Central Pacific University. As submitted in Dr. Drews' testimony, CPU's private office space has never been on the grounds of a private provider. As stated in his testimony, normal business operations were never transacted at the identified private provider location. An arrangement was made to use some classroom space for future seminars and workshops, in exchange for cleaning and renovating the space. An internal comprehensive investigation conducted by CAMHD concluded that this relationship did not constitute a conflict of interest and minor Website modifications and sign placement issues were recommended. The DOH CAMHD policy regarding outside employment was followed by Dr. Drews and CAMHD. A copy of this investigation was previously provided to this Committee and is again attached for reference.

The issue of preferential treatment being given to the agency was also examined, and it was found that the allegation of increasing services during intercession was not only false, but it was shown that services were actually cut back during the period when it was alleged they were increased. There is no evidence that any preferential treatment has ever existed. There have been no substantiated problems with the arrangement. However, due to the Legislative committee's concerns, Dr. Drews chose to terminate any arrangement with this private agency.

It is important to emphasize that during Dr. Drews' tenure and under his leadership, all six Honolulu complexes have passed service testing and been deemed in full compliance with the requirements of the Consent Decree. Honolulu district has reduced the number of Mainland placed youth from 19 to one by implementing sound clinical transition plans. Dr. Drews and the Honolulu Family Guidance Center staff have demonstrated consistent professionalism and competence in representing the State with respect to a variety of compliance issues, performance outcomes, and school complex compliance presentations

Comments on Recommendations

The first recommendation offered in this report is that the Investigative Committee be given the authority to continue this process. The Legislature already has many committee resources available, including the Education and Health Subject Committees of both Houses, the Joint Felix Task Force, and the money committees of both Houses. This committee has invested significant resources looking from a historical perspective at the Department's role in the Felix Consent Decree. We encourage the Legislature through the Joint Felix Task Force to work with the Department to evaluate how we can sustain our efforts to meet children's needs in the future.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 2848

The purpose of this bill is to propose amendments to the State Constitution that:

- (1) Authorize the State to issue Special Purpose Revenue Bonds (SPRBs) to assist not-for-profit private elementary schools, secondary schools, colleges, and universities; and
- (2) Authorize the State and its political subdivisions to combine into a single issue, two or more separately authorized proposed issues of SPRBs in an amount not to exceed the combined total of the proposed separate SPRB issues.

Your Committee on Conference finds that regardless of whether a student chooses to attend a public or private school, the mission of the State is to ensure that all students in Hawaii receive an effective education. This bill allows private schools within the State to make use of the financial advantages provided by funding construction work through SPRBs.

This bill also provides for "bond pooling" which will allow separate issues of SPRBs to be combined, which could help reduce the costs of issuing these bonds and allow smaller entities to combine their financial resources in obtaining funding for their respective construction needs.

However, your Committee on Conference also notes that because the "bond pooling" provisions of this bill are generalized and not restricted to SPRBs issued to assist private educational institutions, these provisions fall outside of the scope of the bill's title. Additionally the bond pooling provisions are applicable to political subdivisions of the State which also falls outside of the scope of the bill's title.

Accordingly, your Committee on Conference has amended this bill by:

- (1) Restricting the "bond pooling" provisions to apply only to SPRBs issued by the State to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities; and
- (2) Changing the constitutional question to read: "Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities; and to combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, separately authorized, in a total amount not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds?"

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2848, 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. 2848, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Kanno, Taniguchi, Kawamoto, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

Representatives Ito, Takumi, Hamakawa, Suzuki, Bukoski, Davis.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Hamakawa, Bukoski).

Conf. Com. Rep. No. 2 on H.B. No. 1012

The purpose of this bill is to propose a constitutional amendment to require that candidates for senator and representative must live in the district they wish to represent prior to filing nomination papers and must remain in the district from the date of the filing through their terms of office, if elected, with an exception when reapportionment has occurred.

Your Committee has made technical, nonsubstantive amendments to this bill to ensure a smooth transition following future reapportionments.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1012, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1012, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Ihara.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, none.

Representatives Suzuki, Hamakawa, Espero, Cabrerros, Halford, Rath.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Halford, Rath).

Conf. Com. Rep. No. 3 on H.B. No. 2382

The purpose of this bill is to:

- (1) Require the Governor to provide public notice, and to accept public comments for at least 60 days, before expanding the inmate capacity of any existing correctional facility or constructing any new correctional facility; and
- (2) Make the public comment period concurrent with the review and public comment period required for an environmental assessment or environmental impact statement required for the proposed site or construction.

Your Committee on Conference finds that the public should be encouraged to participate in the process whenever new correctional facilities are proposed, when existing facilities are expanded to accommodate more inmates, and when significant capital improvement projects are undertaken at correctional facilities.

Therefore, your Committee on Conference has amended this bill by:

- (1) Specifying that the public notice and comment requirements only apply when the cost of expansion or construction at existing correctional facilities exceeds \$500,000;
- (2) Changing the effective date to take effect upon approval; and
- (3) Making other technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2382, 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. 2382, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Hanabusa, Ihara, Taniguchi, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ihara, Taniguchi).

Representatives Garcia, Souki, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 4 on H.B. No. 2527

The purpose of this bill is to provide for increased public safety. Specifically, this bill:

- (1) Allows the Department of Labor and Industrial Relations to set the reinspection frequencies of boilers and pressure systems based on safety considerations; and
- (2) Changes the mandatory inspection for elevators and kindred equipment from eight-month intervals to one-year intervals.

Your Committee on Conference has amended this measure by:

- (1) Clarifying statutory language by removing the effective date of July 1, 2000, from section 397-4(a)(6)(D), Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2527, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2527, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Nakata, Taniguchi, Fukunaga, Hanabusa, Hemmings.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Fukunaga).

Representatives Saiki, Nakasone, Pendleton.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 5 on H.B. No. 1942

The purpose of this bill is to establish a temporary commission known as the Filipino Centennial Celebration Commission to oversee arrangements for the commemoration of the centennial anniversary of the arrival of the first Filipinos to Hawaii.

Your Committee on Conference has amended this measure by inserting a provision declaring that members of the Commission shall be immune from civil liability as provided for under section 26-35.5, Hawaii Revised Statutes.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1942, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1942, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chumbley, Hanabusa, Inouye, Kawamoto, Kim, Menor, Hemmings.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Inouye, Menor, Hemmings).

Representatives Chang, Suzuki, Halford.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 6 on H.B. No. 1758

The purpose of the bill is to allow law enforcement officers to use a copy, facsimile telecommunication, or other reliable reproduction of a domestic abuse protective order in lieu of the original order to provide service of notice.

Your Committee on Conference finds that the use of electronic copies would greatly expedite the service and enforcement of protective orders, and enhance protection of the complainant.

Your Committee on Conference amended the bill by making the effective date upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1758, 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. 1758, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, English, Fukunaga, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Slom).

Representatives B. Oshiro, Hamakawa, Auwae.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 7 on H.B. No. 2305

The purpose of this bill is to:

- (1) Provide deadlines for contesting informally probated wills; and
- (2) Give a creditor 18 months in which to challenge a disallowance by a personal representative when the notice of disallowance does not advise of the 60-day limitations period to challenge the disallowance.

Your Committee on Conference has made amendments to this bill by:

- (1) Reinserting the term "within" before the new deadlines for contesting informally probated wills, to clarify that any contest must occur within the enumerated deadlines; and
- (2) Moving the phrase "whichever time period expires first" out of the subparagraph containing the last enumerated deadline, and into the paragraph containing all three deadlines, to clarify that the phrase refers to all deadlines, not only the last deadline.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2305, 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. 2305, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Fukunaga, Slom.
Managers on the part of the Senate.

Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives B. Oshiro, Hamakawa, Thielen.

Managers on the part of the House.

Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 8 on H.B. No. 2568

The purpose of this bill is to assist in the collection of state taxes by:

- (1) Expanding the Department of Taxation's current authority to ascertain the fair market value of sales between affiliated companies or persons when the consideration paid is not indicative of the fair market value of sales and all taxes administered under title 14, Hawaii Revised Statutes;
- (2) Providing a continuous levy on the salary or wages of a delinquent taxpayer;
- (3) Indemnifying a person from the claims of third parties when the person honors a state tax levy; and
- (4) Expanding the authority for recovering unpaid withholding taxes.

Your Committee on Conference has amended the measure by:

- (1) Clarifying that the provision concerning income taxes withheld by an employer applies to withholding requirements for payroll periods beginning on or after July 1, 2002, rather than to income taxes withheld for a payroll period beginning on or after July 1, 2002; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2568, 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. 2568, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Hanabusa, Taniguchi, Hogue.

Managers on the part of the Senate.

Ayes, 2. Noes, none. Excused, 1 (Hogue).

Representatives Suzuki, Nakasone, Djou.

Managers on the part of the House.

Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 9 on H.B. No. 2002

The purpose of this bill is to support efforts to transform the Holiday Inn Sunspree Resort Kauai into an economically viable resort by authorizing the Department of Land and Natural Resources to issue new state leases to Kauai Beach Resort, LLC, the hotel's owner and operator.

Your Committee on Conference has amended this bill by:

- (1) Changing the effective date to July 1, 2002; and
- (2) Making technical, nonsubstantive amendments to correct certain typographic errors.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2002, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2002, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Hanabusa, Kim, Chun Oakland, Hemmings.

Managers on the part of the Senate.

Ayes, 3. Noes, none. Excused, 2 (Kim, Hemmings).

Representatives Kanoho, Nakasone, Djou.

Managers on the part of the House.

Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 10 on H.B. No. 2536

The purpose of this bill is to allow the Department of Land and Natural Resources to continue to transfer certain management and jurisdictional directives relating to aquatic resources from specific statutes to administrative rules by deleting the sunset provision in the enabling act, section 17 of Act 85, Session Laws of Hawaii 1999.

Your Committee on Conference has amended this bill by changing the effective date to June 29, 2002.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2536, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2536, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Kanno, Chun Oakland, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hemmings).

Representatives Kanoho, Nakasone, Bukoski.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 11 on H.B. No. 1724

The purpose of this bill is to provide more flexibility in assigning special number plates for military service by allowing a qualified registered owner to obtain these plates for multiple vehicles as well as for different categories of military service.

Your Committee on Conference has amended this bill by:

- (1) Removing the term "noncommercial" as it applies to motor scooters; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1724, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1724, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Fukunaga, Hanabusa, Inouye, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Hanabusa, Slom).

Representatives Souki, Espero, Pendleton.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Pendleton).

Conf. Com. Rep. No. 12 on H.B. No. 2577

The purpose of this bill is to provide the Harbors Division of the Department of Transportation with greater flexibility to develop harbor lands and facilities.

Your Committee on Conference has amended this measure by making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2577, 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. 2577, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Inouye, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hogue).

Representatives Souki, Kanoho, Espero, Garcia, Bukoski, Djou.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Garcia).

Conf. Com. Rep. No. 13 on H.B. No. 1843

The purpose of this bill is to reinstate binding arbitration for bargaining unit 9 (Registered Professional Nurses).

Your Committee on Conference has amended this measure by:

- (1) Changing the effective date to July 1, 2002; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1843, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1843, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Taniguchi, Hanabusa, Ihara, Sakamoto, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Ihara, Sakamoto).

Representatives Saiki, Nakasone, Davis.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 14 on H.B. No. 2723

The purpose of this bill is to reduce solid and liquid waste by requiring the counties to establish a program for recycling food waste as part of their county integrated solid waste management plan.

Your Committee on Conference has amended this measure by replacing its contents with the contents of its companion measure, S.B. No. 2909, H.D. 1, which reflects the position of Senate conferees with technical amendments made by the House.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2723, 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. 2723, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Kim, Chun Oakland, Kawamoto, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Chun Oakland, Kawamoto).

Representatives Morita, B. Oshiro, Yonamine, Cabreros, Auwae, Djou.
Managers on the part of the House.
Ayes, 4. Noes, 2 (Auwae, Djou). Excused, none.

Conf. Com. Rep. No. 15 on H.B. No. 2045

The purpose of this bill is to authorize county established corporations or boards, which own or operate facilities for the furnishing of electricity, to issue revenue bonds.

Your Committee on Conference has amended this measure by:

- (1) Specifying that as a requirement for the authorization to issue revenue bonds, the corporation or board direct all of its revenues toward the furnishing of electrical services, and not toward the general fund of the county, unless the transfer of revenues constitutes a payment in lieu of taxes;
- (2) Changing the effective date to upon its approval;
- (3) Changing the repeal date to June 30, 2004; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2045, 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. 2045, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Taniguchi, Chun, English, Inouye, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (English, Slom).

Representatives Morita, Yonamine, Bukoski.
Managers on the part of the House.

Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 16 on H.B. No. 870

The purpose of this bill is to allow for the direct negotiation of master leases on industrial parks developed under a joint venture or development agreement. This bill:

- (1) Clarifies the authority of the Board of Land and Natural Resources (Board) in designating lands to be used as industrial parks;
- (2) Declares that if an industrial park is to be developed in partnership or under a development agreement with a private party, that the private party shall be selected in accordance with the procurement code;
- (3) Allows the Board, through negotiation, to issue master leases within an industrial park to the entity that developed the industrial park or to a nominee of the entity;
- (4) Authorizes a master lessee to issue tenant subleases within the industrial park without the consent of the Board; and
- (5) Clarifies that the Board, through negotiations, may issue a master lease to a corporation whose members or shareholders are either eligible permittees or eligible sublessees of the industrial park.

Your Committee on Conference has amended this bill by:

- (1) Specifying that in identifying a private party to develop an industrial park, the private party shall be selected via the competitive sealed bidding or competitive sealed proposal process set forth in the procurement code; and
- (2) Making technical, nonsubstantive amendments to conform to standard drafting conventions.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 870, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 870, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Hanabusa, Chun Oakland, Sakamoto, Hemmings.

Managers on the part of the Senate.

Ayes, 4. Noes, none. Excused, 1 (Hemmings).

Representatives Kanoho, Nakasone, Meyer.

Managers on the part of the House.

Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 17 on H.B. No. 2443

The purpose of this bill is to remedy the filing of frivolous financing statements with the Bureau of Conveyances (Bureau) by assuring that the filing of the financing statements are authorized by the debtors.

Your Committee on Conference was concerned that under this bill, the government would also be subject to the provisions that allow a debtor to request the registrar of the Bureau to demand from a secured party a copy of the security agreement that purportedly authorized the filing of the financing statement. If the secured party does not answer the demand within thirty days, the financing statement is deemed unauthorized. Under these provisions, a debtor could conceivably have a legitimate financing statement that was filed by the government deemed unauthorized if the government fails to produce a copy of the security agreement within thirty days. It may be difficult for a government to respond within such a time period.

Accordingly, your Committee on Conference has amended this bill by:

- (1) Exempting any instrument that is recorded by the United States, the State, or any county from the provisions preventing the filing of frivolous financing statements; and
- (2) Making technical, nonsubstantive amendments to conform to standard drafting conventions.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2443, 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. 2443, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Hogue.

Managers on the part of the Senate.

Ayes, 3. Noes, none. Excused, none.

Representatives Kanoho, B. Oshiro, Meyer.

Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 18 on H.B. No. 2166

The purpose of this measure is to assist not-for-profit private elementary schools, secondary schools, colleges, and universities that serve the general public by authorizing the State to issue special purpose revenue bonds for their benefit, contingent upon ratification of constitutional amendment authorizing the same.

Your Committee finds that quality education is in the public interest, whether families and students choose to receive that education at public or private schools. This measure allows private schools serving the public interest to gain the resources needed to facilitate their educational mission through the use of special purpose revenue bonds.

Your Committee has amended the measure by:

- (1) Altering all references to “not-for-profit private elementary schools, secondary schools, colleges, and universities that serve the general public” to read “not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities that serve the general public”; and
- (2) Adding language regarding bond pooling which states that “the State may combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, separately authorized as aforesaid, in the total amount of not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds.”

These amendments bring the statutory language of this measure into conformity with the constitutional amendment language in the related measure of H.B. No. 2848, H.D. 1, S.D. 2, C.D. 1.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2166, 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. 2166, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Kanno, Kawamoto, Taniguchi, Chumbley, Inouye, Hogue.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kawamoto).

Representatives Ito, Takumi, Hamakawa, Suzuki, Davis, Ontai.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Hamakawa, Ontai).

Conf. Com. Rep. No. 19 on H.B. No. 1996

The purpose of this bill is to provide income tax relief by:

- (1) Lowering the adjusted gross income threshold for individuals required to make annual payments for their estimated income taxes from \$150,000 to \$50,000; and
- (2) Reducing the percentages used to determine the required annual payment from 90 percent to 60 percent.

Your Committee on Conference has amended this measure by changing the effective date to January 1, 2003.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1996, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1996, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Hanabusa, Taniguchi, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives Nakasone, Suzuki.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, none.

Conf. Com. Rep. No. 20 on H.B. No. 223

The purpose of this bill, is to require the Joint Formulary Advisory Committee to use the most current Physician's Desk Reference in developing drug formularies for optometry.

Your Committee on Conference has amended this bill by:

- (1) Inserting a findings and purpose section;
- (2) Repealing the Joint Formulary Advisory Committee and transferring responsibility for formulary selection to the Board of Examiners in Optometry;
- (3) Allowing therapeutically certified optometrists to prescribe and use topical pharmaceuticals approved by the Board of Examiners in Optometry; and
- (4) Prohibiting optometrists from using anti-fungal, injectable, or oral agents.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 223, 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. 223, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Menor, Kim, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Matsunaga).

Representatives Arakaki, Hiraki, Chang, Yonamine, McDermott, Whalen.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Chang, McDermott).

Conf. Com. Rep. No. 21 on H.B. No. 741

The purpose of this measure is to protect parties who fall victim to civil litigation lodged to stifle legitimate forms of civil and political expression.

Your Committee on Conference finds it appropriate to provide an expedited judicial mechanism to dismiss "strategic lawsuits against public participation" (SLAPPs) at an early stage of litigation, to spare unnecessary stress and expense.

Your Committee on Conference has amended this measure to reflect provisions contained in SLAPP legislation recently adopted in the state of Colorado, especially the definitions of "lack of substantial justification" and "strategic lawsuit against public participation." Other technical, nonsubstantive amendments were made for clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 741, 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. 741, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Nakata, Kanno, Fukunaga, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Fukunaga, Hemmings).

Representatives B. Oshiro, Hamakawa, Gomes.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Gomes).

Conf. Com. Rep. No. 22 on H.B. No. 2120

The purpose of this bill is to adopt the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA). The UCCJEA:

- (1) Assigns priority to home state custody;
- (2) Provides continuing exclusive jurisdiction to the state that makes the initial custody determination, so long as a party to the original custody determination remains in that state;
- (3) Authorizes enforcement proceedings in a state other than the state issuing the custody order;
- (4) Provides an expedited process to enforce interstate child custody and visitation orders;
- (5) Authorizes the Attorney General and county prosecutors to locate the child and enforce custody orders; and
- (6) Provides uniformity among the states.

The UCCJEA was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1997 to replace the Uniform Child Custody Jurisdiction Act of 1968, codified in chapter 583, Hawaii Revised Statutes (HRS). The NCCUSL's commentary to the UCCJEA provides guidance in interpreting the UCCJEA.

Your Committee on Conference has amended this bill by:

- (1) Requiring a court to schedule a hearing on the first judicial day possible when the hearing is either:
 - (A) To enforce a child-custody determination; or
 - (B) To issue a warrant to take physical custody of a child in connection with a proceeding to enforce a child-custody determination;
- (2) Inserting a savings clause to preserve existing powers, rights, penalties, and pending proceedings when the UCCJEA becomes effective and chapter 583, HRS, is repealed; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2120, 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. 2120, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Fukunaga, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives B. Oshiro, Hamakawa, Thielen.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Thielen).

Conf. Com. Rep. No. 23 on H.B. No. 2315

The purpose of this bill is to:

- (1) Clarify the law on refusal to provide ingress to or egress from any public or private place (Chapter 852, Hawaii Revised Statutes (HRS));
- (2) Define law enforcement officer as it is used in Chapter 852, HRS; and
- (3) Exempt labor disputes from Chapter 852, HRS.

Your Committee on Conference finds that section 850-1, HRS, uses the term "police or other peace officer" which should be updated with the term "law enforcement officer."

Your Committee on Conference has amended this bill by:

- (1) Deleting reference to a labor dispute exemption; and
- (2) Retaining the present statutory language describing the offense.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2315, 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. 2315, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Fukunaga.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, none.

Representatives Hamakawa, B. Oshiro, Thielen.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Thielen).

Conf. Com. Rep. No. 24 on H.B. No. 2427

The purpose of this bill is to add provisions to the Hawaii Victim's Bill of Rights, section 801D, Hawaii Revised Statutes (HRS), that would:

- (1) Toll the statute of limitations for victims until the perpetrator of the crime is released from jail; and
- (2) Provide a mechanism to notify victims and their families of possible restitution.

Your Committee on Conference finds that torts often arise out of criminal matters. However, during the period defendants are incarcerated, they are beyond the reach of any satisfaction of judgements. Extending the statute of limitations for civil action against the perpetrator into a period of financial stability will provide a greater opportunity for restitution.

Your Committee on Conference also finds that placing the tolling provision of the statute of limitations with other similar provisions will give adequate notice to the public of its existence.

Your Committee on Conference has amended this bill by:

- (1) Inserting the provisions for tolling of the statute of limitations into chapter 657, HRS; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2427, 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. 2427, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Matsuura, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives Hamakawa, B. Oshiro, Thielen.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 25 on H.B. No. 2438

The purpose of this bill is to provide criminal penalties for persons:

- (1) Committing identity theft of another individual; and
- (2) Obtaining identity documents under false pretenses or using a false or fictitious identity.

Your Committee on Conference finds that misappropriation of personal identification information is on the rise. This measure begins to address the criminal conduct associated with intentional identity theft.

Your Committee on Conference has amended this bill by:

- (1) Deleting reference to the crime of deceptive use of a fictitious identity and an accompanying section regarding the definition of "personal information"; and
- (2) Deleting the amendments made regarding the offense of and penalties for misuse of a certificate of identification.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2438, 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. 2438, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives Hamakawa, Hiraki, Gomes.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Gomes).

Conf. Com. Rep. No. 26 on H.B. No. 2817

The purpose of this bill is to clarify the physician-patient and psychologist-client privileges and to provide a hearsay exception for certified records in the Rules of Evidence.

Your Committee on Conference has amended this bill by:

- (1) Amending the definition of "psychologist" to mean a person authorized to engage in the diagnosis or treatment of a mental or emotional condition so that this definition is consistent with the definitions of "attorney" and "physician," which also use the term "authorized," for the corresponding evidentiary privileges; and
- (2) Amending the definition of "statement" to include an assertion in a writing as opposed to an assertion in writing.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2817, 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. 2817, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Ihara).

Representatives B. Oshiro, Hamakawa, Gomes.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Gomes).

Conf. Com. Rep. No. 27 on H.B. No. 1749

The purpose of this bill is to:

- (1) Require the Department of Health (DOH) to disclose the criminal history of a prospective resident applicant seeking entry into an adult residential care home (ARCH);
- (2) Provide DOH with the discretion to allow more nursing facility level residents to live in an ARCH; and
- (3) Make other clarifying amendments to the ARCH laws.

Your Committee on Conference has amended this measure at the recommendation of the Department of the Attorney General by:

- (1) Clarifying that DOH only needs to disclose to the ARCH operators, criminal history records of applicants who have been admitted in the mental health system as a result of an acquittal for an offense involving violence to a person or have been convicted of an offense involving violence to a person; and
- (2) Clarifying that divisions or offices of DOH that refer individuals to an ARCH must disclose to the ARCH operator only the information that the particular office or division possesses at the time of the application.

Other technical, nonsubstantive amendments have been made for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1749, 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. 1749, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, Hemmings.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Hemmings).

Representatives Arakaki, Kahikina, Hamakawa, B. Oshiro, Auwae, Gomes.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Kahikina, Gomes).

Conf. Com. Rep. No. 28 on H.B. No. 2521

The purpose of this bill is to enable the Department of Health (DOH) to respond rapidly to emergency health problems before they develop into catastrophic health emergencies. Specifically, this measure will:

- (1) Enable DOH to form partnerships with health care facilities and providers to plan for and deliver services under circumstances where DOH's existing resources are inadequate;
- (2) Update and reform the quarantine laws to provide due process to potentially contagious individuals that DOH might seek to isolate from the public;
- (3) Allow DOH to sequester or isolate contaminated items or materials to protect the public from toxic or infectious substances;
- (4) Enable disease investigators to obtain critical information to determine the cause and limit the impact of disease outbreak; and

- (5) Provide persons providing care during an epidemic immunity from liability for simple negligence, except in cases of wilful misconduct.

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

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2521, 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. 2521, H.D. 2, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, English.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (English).

Representatives Arakaki, B. Oshiro, Kawakami, Kahikina, Stonebraker, Thielen.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Stonebraker, Thielen).

Conf. Com. Rep. No. 29 on H.B. No. 1730

The purpose of this bill is to raise the drivers education fund underwriters fee and reallocate the fee between the Insurance Division of the Department of Commerce and Consumer Affairs and the Director of Commerce and Consumer Affairs for driver education and traffic safety programs.

Your Committee on Conference has amended this measure by:

- (1) Specifying that \$1 per registration fee shall be allocated to the Insurance Commissioner to be expended for the operation of the drivers education program provided in section 286-128(d), Hawaii Revised Statutes (HRS);
- (2) Specifying that \$2 per registration fee shall be allocated to the Director of Commerce and Consumer Affairs for the drivers education program administered by the Department of Education (DOE) and the traffic safety education program established and administered by DOE pursuant to section 302A-417, HRS;
- (3) Changing the effective date to July 1, 2002; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1730, 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. 1730, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, English, Hanabusa, Sakamoto.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (English, Hanabusa).

Representatives Souki, Ito, Espero, Garcia, Bukoski, Ontai.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Ito, Ontai).

Conf. Com. Rep. No. 30 on H.B. No. 1731

The purpose of this bill is to:

- (1) Transfer the distribution of the drivers education fund underwriters fees deposited into the Special Drivers Education Fund Account, from the University of Hawaii Community Colleges, who no longer administer the program, to the Department of Transportation, who presently administers the program;
- (2) Recast the Special Drivers Education Fund Account as the Motorcycle Operators Education Special Fund (Special Fund);
- (3) Authorize the Department of Transportation (DOT) to expend moneys distributed to DOT for the administration of a motorcycle and motor scooter drivers education program;
- (4) Appropriate \$20,000 to DOT for fiscal year 2002-2003; and
- (5) Certify motorcycle operator education programs operated in the State by any branch of the United States armed services that meet specific requirements.

Your Committee on Conference would like to note that it has received assurances from DOT that the certification of motorcycle and motor scooter training programs conducted by the United States armed services are presently being given certification through Administrative Rules and that statutorily establishing the certification for these programs is not necessary.

Your Committee on Conference has amended this measure by:

- (1) Renaming the Special Fund as the Motorcycle and Motor Scooter Operators Education Fund;
- (2) Deleting the provision authorizing the certification of motorcycle operator education programs operated in the State by any branch of the United States armed services;
- (3) Deleting the appropriation of \$20,000 to DOT from the Motorcycle Operators Education Fund;
- (4) Deleting the provision for the transfer of funds from the Drivers Education Fund Account established pursuant to section 431:10G-107(b), HRS, to the Motorcycle Operators Education Fund; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1731, 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. 1731, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Fukunaga, Matsunaga, Sakamoto, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Fukunaga, Matsunaga).

Representatives Souki, Takumi, Espero, Garcia, Bukoski, Ontai.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Garcia, Ontai).

Conf. Com. Rep. No. 31 on H.B. No. 2302

The purpose of this bill is to provide judges the discretion to conditionally issue or renew driver's licenses or permits, other than commercial driver's licenses, in the event that the loss or lack of a license, or a lack of alternative means of transportation, may result in loss of employment.

Your Committee on Conference has amended this measure by changing the effective date from July 1, 2050, to July 1, 2003.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2302, 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. 2302, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Fukunaga, Kanno, Kim, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Kanno).

Representatives Souki, Hamakawa, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 32 on H.B. No. 2509

The purpose of this bill is to:

- (1) Clarify the statutory provisions of the parking for persons with disabilities law;
- (2) Prohibit parking in the access aisle adjacent to the parking space reserved for persons with disabilities and make such a violation a traffic infraction subject to a fine of \$250 to \$500;
- (2) Postpone the effective date of the parking requirements relating to persons with disabilities from July 1, 2002, to July 1, 2003.

Your Committee on Conference has amended this measure by:

- (1) Reducing the minimum fine for parking in a space reserved for persons with disabilities without properly displaying a removable windshield placard, temporary removable windshield placard, or special license plate from \$250 to \$100;

- (2) Reducing the minimum fine for a person using a parking space reserved for persons with disabilities, who refuses, or fails, to present an identification card to an enforcement officer upon request from \$250 to \$100;
- (3) Reducing the fine for parking in access aisles adjacent to a disabled parking stall to \$100;
- (4) Reducing the minimum fine for any private entity failing to comply with the parking for disabled person's law from \$250 to \$100 for each separate offense;
- (5) Changing the effective date to June 30, 2002; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2509, 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. 2509, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Fukunaga, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Souki, Hamakawa, Moses.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Moses).

Conf. Com. Rep. No. 33 on H.B. No. 1842

The purpose of this bill is to enable pharmacists to provide services in a broader range of clinical settings by redefining the practice of pharmacy.

Your Committee has amended the Hawaii Food, Drug, and Cosmetic Act to make it consistent with the revisions to the scope of practice of pharmacy. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1842, 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. 1842, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Menor, English, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hemmings).

Representatives Arakaki, Hiraki, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 34 on H.B. No. 1901

The purpose of this bill is to allow victims to request that the person charged with a sexual offense against them be tested for human-immunodeficiency virus (HIV) and mandates HIV testing of those convicted of sexual offenses.

Your Committee on Conference has amended this bill by:

- (1) Removing the requirement for the court to seek the consent of the charged person to voluntarily submit to an HIV test;
- (2) Requiring that the HIV test results remain confidential except to the physician, HIV counselor, and the victim or guardian of a minor or incapacitated victim; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1901, 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. 1901, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, Chun.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Kanno).

Representatives Arakaki, B. Oshiro, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 35 on H.B. No. 771

The purpose of this bill, as received, is to allow the Governor to contract with the Research Corporation of the University of Hawaii to develop facilities for a minimum and medium security rehabilitation center and facilitate research on rehabilitation.

After careful deliberation, your Committee on Conference has amended this bill by deleting its substance, and inserting language the substance of which was heard by both the House of Representatives and the Senate earlier this session.

As amended, the measure mandates that an elected official forfeit public office at the time of a felony conviction rather than at the time of sentencing.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 771, 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. 771, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Kawamoto, Matsuura, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

Representatives Hamakawa, Garcia, Nakasone, Suzuki, Auwae, Gomes.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Gomes).

Conf. Com. Rep. No. 36 on H.B. No. 2426

The purpose of this bill is to create new criminal offenses relating to child pornography and to electronic enticement of a child.

Your Committee on Conference finds that this measure addresses the problem of utilizing computer technology in committing crimes against children. This measure also attempts to define "child pornography" in the context of the crime of promoting child abuse and in light of recent U.S. Supreme Court case law.

Your Committee on Conference amended the bill by:

- (1) Deleting from the definition of "child pornography" references of a visual representation that is described as containing a person engaging in sexual conduct who is under the age of twenty years;
- (2) Deleting references to an affirmative defense of adult age;
- (3) Inserting a severability clause; and
- (4) Making technical and nonsubstantive changes for style and clarity;

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2426, 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. 2426, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Hogue).

Representatives Hamakawa, B. Oshiro, Thielen.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Thielen).

Conf. Com. Rep. No. 37 on H.B. No. 2065

The purpose of this bill is to allow the Board of Nursing (Board) to:

- (1) Grant prescriptive authority to qualified advanced practice registered nurses (APRN); and
- (2) Establish an advisory committee to advise the Board with respect to formulary matters.

Your Committee on Conference has amended this bill by:

- (1) Requiring the Department of Commerce and Consumer Affairs to establish a joint formulary committee to recommend applicable formularies and requiring the Board of Medical Examiners to consider the recommendations of the joint formulary advisory committee in adopting the formulary;
- (2) Requiring the Board to adopt rules regarding prescriptive authority for APRNs;
- (3) Requiring the Board to submit a report to the Legislature prior to the Regular Session of 2004;
- (4) Inserting a sunset date of June 30, 2004 and providing that existing administrative rules remain in force until the Board adopts new rules; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2065, 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. 2065, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Matsuura, Kim.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Kim).

Representatives Arakaki, Hiraki, Stonebraker.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Stonebraker).

Conf. Com. Rep. No. 38 on H.B. No. 2506

The purpose of this bill is to:

- (1) Streamline and centralize the process for registering and recording vital events such as births, deaths, and marriages by allowing a designated representative of the Department of Health (DOH) in each county to process the records;
- (2) Require DOH to ensure adequate security in safeguarding electronic records; and
- (3) Increase the fee for permits issued by the Director of Health from \$5 to \$20. Fifty percent of the amount received from fees will be earmarked for the Vital Statistics Improvement Special Fund.

Your Committee on Conference has amended this bill by removing the provision for electronic safeguards since DOH already has safeguards in place. Other technical, nonsubstantive amendments were made for purposes of style, consistency, and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2506, 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. 2506, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Taniguchi.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Taniguchi).

Representatives Arakaki, Kawakami, Stonebraker.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Stonebraker).

Conf. Com. Rep. No. 39 on H.B. No. 2741

The purpose of this bill is to discourage smoking and the purchase of cigarettes by:

- (1) Raising the excise tax on cigarettes to 10 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2002; and
- (2) Removing the June 30, 2006, sunset date on the cigarette and tobacco tax, section 245-3, Hawaii Revised Statutes.

Your Committee on Conference has amended this measure by replacing the 10-cent excise tax per cigarette with the following schedule of excise taxes:

- (1) An excise tax equal to 6 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after September 30, 2002;

- (2) An excise tax equal to 6.5 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2003; and
- (3) An excise tax equal to 7 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2004.

Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2741, 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. 2741, H.D. 2, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Chun Oakland, Hanabusa, Sakamoto.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Sakamoto).

Representatives Arakaki, Kawakami, Leong.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Leong).

Conf. Com. Rep. No. 40 on H.B. No. 202

The purpose of this bill is to:

- (1) Amend the health insurance reimbursement or "clean claims" law in section 431:13:108, Hawaii Revised Statutes (HRS); and
- (2) Establish parity in mental health and substance abuse treatment insurance coverage under chapter 431M, HRS, for minors covered in policies that provide benefits pursuant to the chapter, while excluding coverage of mental illness services for minors eligible for these services under the Felix Consent Decree.

Your Committee on Conference finds that there is a need to address child and adolescent mental health and substance abuse issues before they escalate into tragedies, such as the high school shootings in other states. In addition, providing children with access to needed treatment early in life will help to reduce societal costs in the future. Your Committee on Conference notes that the Hawaii Medical Service Association has estimated that the insurance costs of this measure, which allows utilization management, will be minimal.

Your Committee on Conference has amended this bill by:

- (1) Removing the provisions relating to the clean claims law;
- (2) Changing the effective date to July 1, 2003; and
- (3) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 202, 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. 202, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, Menor, Kokubun, Sakamoto, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Kokubun, Sakamoto).

Representatives Hiraki, Arakaki, Kawakami, Chang, Marumoto, Whalen.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 41 on H.B. No. 1713

The purpose of this measure is to require an association of apartment owners (AOAO) that has received a request for information from an owner, to notify the owner in writing of its intent to impose fees for providing that information prior to making the assessment, except where costs are assessed to provide information on delinquent assessments or in connection with enforcement proceedings.

Your Committee on Conference finds that under the current measure, owners do not have the opportunity to withdraw a request for information once they have received notification. The measure also requires an AOAO to provide written notification 10 days prior to "assessing" the cost of providing information.

Your Committee on Conference has amended this measure by:

- (1) Replacing the term "assessing" with "incurring" to ensure that owners receive notification prior to an AOA actually incurring the cost of providing information; and
- (2) Allowing an owner to withdraw a request for information without being charged any costs for the information.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1713, 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. 1713, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kim, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives Hiraki, Chang, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 42 on H.B. No. 1715

The purpose of this bill is to increase, from 120 to 365 days, the time allowed to obtain the votes needed to approve a proposed change to the bylaws of an association of apartment owners.

Your Committee on Conference has amended this measure by removing an amendment to paragraph (7) of section 514A-82(b), Hawaii Revised Statutes, that would have had an unintended substantive effect on the condominium law.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1715, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1715, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kim, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Kim).

Representatives Hiraki, Chang, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 43 on H.B. No. 1716

The purpose of this bill is to require each party in a mediated dispute between an apartment owner and the association board of directors to be responsible for its own costs of participating in the mediation unless both parties agree otherwise.

Your Committee on Conference has amended this bill by making the bill effective upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, 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.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, none.

Representatives Hiraki, Chang, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Chang).

Conf. Com. Rep. No. 44 on H.B. No. 2832

The purpose of this bill is to:

- (1) Clarify exceptions to the condominium public report requirements that apply to registered time share projects;
- (2) Clarify and revise the law regulating time share sales presentation solicitations; and
- (3) Allow certain hotels to partially convert to time share.

Specifically, this measure:

- (1) Requires that a purchaser of a time share interest be provided with a time share disclosure statement, but not a condominium public report or supplementary public report, if the offer and sale of the time share interest occurs in the State;
- (2) Allows acquisition agents and their employees and independent contractors to solicit individuals to attend a time share sales presentation:
 - (A) Without the necessity of a real estate license;
 - (B) From a principal place of business, branch office, other real estate place of business, or booth; and
 - (C) Without the presence of a real estate licensee, so long as solicitors remain within the real estate place of business or booth;

and
- (3) Authorizes time shares in an existing hotel of sixty or more units that is a valid non-conforming use under county ordinance, and is located in a county with a population of over 500,000, so long as 40 percent of the units remain available for sale or rental as residential apartments.

Your Committee on Conference has amended this measure by:

- (1) Eliminating the requirement that an acquisition agent's employees remain in the branch office or other real estate place of business other than the principal place of business when extending invitations to attend a times share sales presentation;
- (2) Exempting apartments designated in the declaration of a condominium property regime for hotel, time share, transient vacation rental, or commercial use, from condominium law parking stall requirements; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2832, 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. 2832, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, English, Kim, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (English).

Representatives Hiraki, Chang, Meyer.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 45 on H.B. No. 2843

The purpose of this bill is to update the election process by:

- (1) Requiring all special elections, except for special primary, special general, and special non-partisan elections, to be conducted by mail only;
- (2) Instituting a mandatory recount for very close elections;
- (3) Mandating separate ballots based on party; and
- (4) Ensuring that a person holding public office at the time of a felony conviction forfeits that office as of the time of the conviction, not the sentence.

Your Committee on Conference has amended this bill by:

- (1) Requiring the establishment of polling places in the county clerk's office and allowing their establishment elsewhere;
- (2) Limiting the time for mandatory recounts to seven days after the election, rather than 15 days;
- (3) Deleting the provision relating to forfeiture of a public office after a felony conviction;
- (4) Inserting a provision to clarify that a person holding public office forfeits that office at the time of a conviction of election fraud; and

- (5) Making numerous technical, nonsubstantive amendments to make the provision on contesting elections clearer and more consistent and to include reference to runoff elections and automatic recounts necessitated by small vote differences.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2843, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2843, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Kim, Taniguchi, Fukunaga, Hanabusa, Ihara, Hogue.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 3 (Fukunaga, Ihara, Hogue).

Representatives Hamakawa, Saiki, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 46 on H.B. No. 2720

The purpose of this bill is to require owners of vehicles purchased out-of-state to prove payment of use taxes prior to being issued a certificate of motor vehicle registration.

Your Committee on Conference has amended the measure by:

- (1) Requiring that owners of motor vehicles of the current, previous, and subsequent year model bought out-of-state, subsequently brought into the State, and subject to the use tax under Chapter 238, Hawaii Revised Statutes, provide with the application for registration proof of payment of the use tax pursuant to requirements established by the Department of Taxation; and
- (2) Changing the effective date from January 1, 2005, to January 1, 2003.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2720, 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. 2720, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Hanabusa, Ige, Kawamoto, Kim, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

Representatives Suzuki, Nakasone, Leong.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 47 on H.B. No. 2495

The purpose of this bill is to appropriate \$2,268,663 in general funds and \$1,538,194 in federal funds to provide emergency funding for foster board and board-related costs, permanency assistance, and difficulty-of-care payments for foster and adoptive parents, permanent custodians, and guardians of children with special needs.

Your Committee on Conference has amended this measure by deleting the section relating to the general fund expenditure ceiling. Your Committee on Conference notes that the emergency appropriation contained in this bill will not cause the aggregate general fund appropriation for the State to exceed the general fund expenditure ceiling set forth in the State Constitution.

Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2495, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2495, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Taniguchi).

Representatives Kahikina, Kawakami, Stonebraker.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Stonebraker).

Conf. Com. Rep. No. 48 on H.B. No. 1722

The purposes of this bill, among other things, are to:

- (1) Provide relief beyond April 30, 2002, for the airport concessions still suffering from the terrorist events of September 11, 2001;
- (2) Reduce the motor vehicle safety inspection requirement for heavy commercial vehicles from twice a year to once a year; and
- (3) Repeal the June 30, 2002, sunset date of Act 332, Session Laws of Hawaii 1993, which authorizes the establishment of the Air Carrier Commission.

Your Committee on Conference has amended this measure by:

- (1) Deleting the provisions relating to:
 - (A) Relief for the airport concessions still suffering from the terrorists events of September 11, 2001; and
 - (B) The reduction of the motor vehicle safety inspection requirement for heavy commercial vehicles from twice a year to once a year;
- (2) Changing the effective date to July 1, 2002; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1722, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1722, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Menor, Taniguchi, Fukunaga, Kim, Sakamoto, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Menor, Sakamoto).

Representatives Souki, Hiraki, Takamine, Espero, Pendleton, Rath.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Takamine, Pendleton).

Conf. Com. Rep. No. 49 on H.B. No. 2552

The purpose of this bill is to establish consistent standards and process requirements for public as well as private lands that are involved in safe harbor agreements (SFAs) and habitat conservation plans (HCPs). This bill:

- (1) Broadens the definition of a "landowner" who can enter into SHAs and HCPs by including public lands; and
- (2) Clarifies that confidentiality provisions for HCPs or SHAs are applicable to private lands.

Currently, only owners of private land can enter into SHAs and HCPs. This exclusion of public lands could negatively affect various developments that involve endangered species on public lands. For example, ongoing projects ranging from the construction of the North-South Road in Ewa, Oahu, to the Kealakehe planned community on the island of Hawaii could be delayed because of this exclusion.

Your Committee on Conference was initially prepared to consider a broader approach involving public lands and SHAs and HCPs that was developed jointly by the Department of Land and Natural Resources and conservation groups. However, concerns that the bill's title may be too narrow to encompass these provisions pursuant to Article III, Section 14, of the State Constitution dictated that your Committee on Conference develop a temporary solution rather than subject this measure to a possible veto.

Accordingly, your Committee on Conference has amended this bill by:

- (1) Reverting to the original definition of "landowner" and also specifying that public lands may be included provided that it is limited to the following projects:
 - (a) The North-South Road, Ewa, Oahu, and the Kapolei Parkway, Ewa, Oahu;
 - (b) The Cyanotech Corporation, incidental take permit and habitat conservation plan at the NELHA Facility, Keahole Point, Hawaii; and
 - (c) The Kealakehe planned community on the island of Hawaii;
- and

- (2) Deleting the provision that limited the confidentiality provisions for HCPs or SHAs to private lands.

Finally, your Committee on Conference is optimistic about the eventual adoption of H.C.R. No. 103 which requests a wide spectrum of organizations, agencies, and interested parties to establish a working group to analyze Hawaii's endangered species law, chapter 195D, Hawaii Revised Statutes, and make recommendations to the 2003 Legislature. This working group should be able to recommend long-term strategies to address the underlying issues contained in this bill.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2552, 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. 2552, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Kanno, English, Kawamoto, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Kawamoto).

Representatives Kanohe, Morita, Nakasone, Schatz, Djou, Meyer.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 50 on H.B. No. 1357

The purpose of this bill is to:

- (1) Require moneys in the Hospital and Medical Facilities Special Fund (Special Fund) to be used to offset educational program expenses of the Hospital and Medical Facilities Branch, Department of Health (DOH);
- (2) Specify how expenditures from the Special Fund are to enhance the capacity of hospital and medical facilities programs, but limiting the amount of moneys used for education;
- (3) Requiring that funds in the Special Fund in excess of a specified amount at the end of each fiscal year be deposited into the general fund;
- (4) Requiring DOH to report to the Legislature on the status of the Special Fund;
- (5) Specify that fines collected by DOH for violations of the adult residential care homes licensing laws be deposited into the general fund; and
- (6) Statutorily establish guidelines for the handling and security of the personal effects of hospital patients.

Your Committee on Conference has amended this bill by:

- (1) Specifying that no more than \$230,000 of the Special Fund may be used during any fiscal year for education;
- (2) Specifying that any amount in the Special Fund in excess of \$356,000 at the end of each fiscal year be deposited into the general fund;
- (3) Removing the statutory establishment of guidelines for patient's personal effects and instead requesting the Healthcare Association of Hawaii to report to the Legislature on the status of how hospitals in the State handle and provide for the security of the personal effects of hospital patients;
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1357, 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. 1357, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Chun Oakland, Fukunaga, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Hanabusa).

Representatives Arakaki, Kawakami, Stonebraker.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 51 on S.B. No. 996

The purpose of this measure is to amend the Constitution of the State of Hawaii to authorize the initiation of felony prosecutions by written information, in addition to the existing processes of grand jury indictments and preliminary hearings.

Section 10, article I, of the State Constitution requires that felony prosecutions be initiated by grand jury indictment or upon the filing of a complaint following a preliminary hearing. These procedures require the expenditure of substantial resources by the State and counties since hearsay testimony is not allowed and probable cause must be established through the testimony of witnesses. Additionally, in grand jury proceedings, jurors must be impaneled and compensated, and staff hired to assist the grand jury.

This measure proposes a constitutional amendment to allow an alternative method of initiating a felony prosecution. The direct filing method of initiating a prosecution, which is used in ten other states, involves the submission to the court of a document, also known as a written information, that is similar to a complaint and that is supported by affidavits and other documentary evidence. If a judge finds probable cause based upon the written information, a warrant is issued and the case proceeds to trial.

Your Committee on Conference finds that the use of this alternative method of prosecuting felonies will result in cost savings to the State and counties and allow for better use of law enforcement personnel and other resources. This measure does not eliminate safeguards for the accused because probable cause will still be required to support the issuance of a warrant, and a finding of probable cause will be subject to challenge in a hearing. Further, because prosecutions will be initiated in a more timely fashion, cases will proceed more quickly to trial.

Your Committee on Conference has amended this measure by reverting to S.B. No. 996 in its original form, which does not specify that the charge by information must be for the lowest grade of felony offense.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 996, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 996, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Matsuura, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Matsuura).

Representatives Hamakawa, B. Oshiro, Thielen.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 52 on S.B. No. 997

The purpose of this measure is to allow for Class C felonies to be prosecuted by information.

Your Committee on Conference finds that the current method of felony prosecutions through grand jury indictment or a preliminary hearing requires large amounts of resources by the prosecuting attorney and the judiciary. This measure creates an alternative method to initiate felony prosecutions, which is similar to those being used by over 27 states. This will allow information, similar to a complaint with documentary exhibits to support the charge, to be submitted to a judge for a determination of probable cause.

Your Committee on Conference has amended this measure by deleting its contents and inserting a provision to require the Judicial Council to convene a task force to engage in a comprehensive review of criminal charging procedures. The task force would report its findings and recommendations to the 2003 Session.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 997, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 997, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Matsuura, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Matsuura).

Representatives Hamakawa, B. Oshiro, Thielen.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 53 on S.B. No. 2732

The purpose of this measure is to update and clarify the State's business registration laws, including requirements governing the appointment of a trustee to dispose of a dissolved corporation's property, the use of electronic communications in shareholder meetings, appointment of a registered agent, annual report filings, and administrative dissolution of registered entities. Your Committee finds that these amendments will facilitate the formation and operation of business entities in this State.

Your Committee has amended this measure by making technical, nonsubstantive amendments to correct typographical errors and an internal reference, and to establish consistency in the statutory language.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2732, 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. 2732, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, none.

Representatives Hiraki, B. Oshiro, Nakasone, Chang, Jaffe, Whalen.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Chang).

Conf. Com. Rep. No. 54 on S.B. No. 99

The purpose of this measure is to clarify the permissible scope of election activities of employees of the liquor commission.

Current law prohibits liquor commission employees from engaging in election activities that support, advocate, or aid in the election or defeat of any candidate. Your Committee on Conference finds that this prohibition may be unconstitutional.

This measure allows liquor commission employees to engage in election activities, if the employee notifies the commission in writing of the employee's intent to do so. If an employee becomes a candidate for public office, the employee is required to take leave of absence for the election activity period. Commission employees are prohibited from receiving contributions, or receiving or transferring anything of value from a licensee in connection with an election of a candidate.

Your Committee on Conference has amended this measure to also prohibit an employee from soliciting contributions.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 99, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 99, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Kim, Nakata, Chumbley, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Slom).

Representatives Hamakawa, B. Oshiro, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 55 on S.B. No. 2964

The purpose of this measure is to statutorily establish the Hawaii Commission for National and Community Service, and transfer the programs and functions from the Department of Labor and Industrial Relations to the University of Hawaii.

Your Committee has amended this measure by clarifying that the program shall be attached to the University of Hawaii for administrative purposes only.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2964, 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. 2964, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Fukunaga, Sakamoto, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Sakamoto, Hogue).

Representatives Takumi, Espero, Rath.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 56 on S.B. No. 3053

The purpose of this measure is to statutorily establish the public health nursing branch program.

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

- (1) Deleting all references to establishing the program as a "branch"; and
- (2) Changing the effective date to upon its approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3053, 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. 3053, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Fukunaga, Ige, Hogue.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, none.

Representatives Arakaki, Kawakami, Leong.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Leong).

Conf. Com. Rep. No. 57 on S.B. No. 3040

The purpose of this measure is to require the confidential treatment of nonpublic information of captive insurance companies.

Presently, only nonpublic information of a financial nature that is disclosed by a captive insurance company to the Commissioner is required to be held confidentially. However, captive applicants and licensees are required to submit to the Commissioner other nonpublic information such as personal information relating to a captive's directors and officers, including social security and passport numbers.

This measure extends the confidentiality requirement to all nonpublic information, financial or otherwise, disclosed in a captive's license application or business plan, or of its parent or parent's member organizations. Your Committee finds that this requirement will ensure that business-sensitive and personal information remains confidential, unless disclosure is deemed necessary by the Commissioner, and that the information provided to the State will be utilized for regulatory purposes only and will not be subject to disclosure to competitors.

Your Committee has amended this measure to clarify that all nonpublic information provided by a captive insurer to the Commissioner is required to be treated in a confidential manner, including information other than that contained in a captive's license application or business plan, or of its parent or parent's member organizations. Your Committee also made technical, nonsubstantive amendments to reflect preferred drafting style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3040, 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. 3040, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, none.

Representatives Hiraki, B. Oshiro, Whalen.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 58 on S.B. No. 2046

The purpose of this measure is to create a criminal offense for causing injury or death to a guide dog, signal dog, or service animal.

This measure recognizes the unique skills of guide dogs, signal dogs, and service animals that have completed lengthy and specialized training to serve their owners with disabilities. The owners are highly dependent on their dogs, who serve as the eyes and ears for the disabled. These dogs have become the object of taunting and injury from people or from other dogs.

Your Committee on Conference has amended this measure by adding the offense of intentional interference with the use of a guide dog, signal dog, or service animal.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2046, 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. 2046, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Ihara).

Representatives Hamakawa, B. Oshiro, Thielen.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 59 on S.B. No. 2926

The purpose of this measure is to require the Department of Education (DOE) to conduct a comprehensive occupational validation study of its educational officers.

Your Committee finds that the original language of this measure would have compensated public high school assistant athletic directors in the same manner as public high school coaches. Your Committee continues to find athletics an integral part of the holistic development of students and will work to insert language comparable to the original draft in a different vehicle. However, your Committee further finds that a comprehensive occupational validation study of DOE educational officers would build upon efforts already underway in this area and facilitate effective public school administration.

Your Committee has amended the measure by changing the effective date from July 1, 2020 to July 1, 2002.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2926, 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. 2926, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Matsunaga).

Representatives Ito, Suzuki, Ontai.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Ontai).

Conf. Com. Rep. No. 60 on S.B. No. 2934

The purpose of this measure is to expand the definition of "special liquor district" to include areas designated for historic preservation and residential protection.

Your Committee has amended this measure by including an amendment to section 281-56, Hawaii Revised Statutes, that requires liquor inspectors, in their reports on applications for licensure, to include possible adverse effects that the premises may have on the surrounding community in counties with a population of 500,000 or more residents.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2934, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2934, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kim, Fukunaga, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hogue).

Representatives Kanoho, Hamakawa, Jaffe.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Jaffe).

Conf. Com. Rep. No. 61 on S.B. No. 2613

The purpose of this measure is to prohibit shark feeding as part of a commercial activity. Your Committee has agreed that this measure is to insure public safety in near shore waters by banning commercial shark feeding operations that may aggravate the problem of aggressive shark behavior towards swimmers and surfers.

Your Committee has amended this measure by changing the effective date from July 1, 2050, to July 1, 2002.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2613, 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. 2613, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Tam, Inouye, Kanno, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ihara, Slom).

Representatives Kanoho, Ahu Isa, Bukoski.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Bukoski).

Conf. Com. Rep. No. 62 on S.B. No. 2816

The purpose of this bill is to establish the Hawaii Educator Incentive Program to increase the number of qualified teachers in Hawaii public schools.

Specifically, this bill:

- (1) Provides tuition reimbursements for students who complete an approved teacher education program in Hawaii and teach in Hawaii public schools;
- (2) Provides that the maximum tuition reimbursement shall not exceed the cost of tuition, textbooks, and required materials for the teacher education program at the University of Hawaii;
- (3) Provides that periodic installment reimbursements begin one year after employment as a full-time teacher, conclude after the sixth year of teaching in certain designated hard-to-fill positions, and cease if the individual stops teaching in Hawaii public schools; and
- (4) Establishes the Hawaii Educator Incentive Special Fund (Fund), to be administered by the Department of Education to provide financial assistance to program participants.

Upon further consideration, your Committee on Conference has amended this bill by deleting its contents and inserting the provisions of its companion bill, H.B. No. 2558, S.D. 2 which is substantially similar to this bill.

As amended, this bill establishes the Hawaii Educator Incentive Program that will be administered by a designated federal credit union that is under contract with the Department of Education.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2816, 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. 2816, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chun Oakland, Hanabusa, Ige, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Ige, Matsunaga).

Representatives Takumi, Ito, Saiki, Espero, Ontai, Rath.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Saiki, Ontai).

Conf. Com. Rep. No. 63 on S.B. No. 2290

The purpose of this measure is to exempt applicants for an independent bill reviewer's license from all licensing requirements except the payment of a fee if they possess certain credentials granted by the American Health Information Management Association (AHIMA).

Upon further consideration and the Department of Commerce and Consumer Affairs' complete review of this matter, your Committee on Conference has amended the measure by:

- (1) Including "certified coding associate" as an additional credential qualifying for an exemption;
- (2) Deleting "certified coding specialist – physician based" from the listed credentials; and
- (3) Making technical, nonsubstantive amendments for the purpose of clarity.

It is the intent of your Committee on Conference that the statutory exemption for "certified coding specialist" includes an exemption for the credential of "certified coding specialist – physician based".

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2290, 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. 2290, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Menor, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Hogue).

Representatives Hiraki, Chang, Whalen.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 64 on S.B. No. 2526

The purpose of this measure is to require state and county agencies having contracts, programs, and services covered under the parental preference law, to report annually to the legislature on the effect of implementation of that law.

Section 577-7.5, Hawaii Revised Statutes (HRS), relating to eliminating parental preferences in government contracts, programs, and services was enacted by Act 301, Session Laws of Hawaii (SLH) 2001, and will become effective July 1, 2002. Because of the importance of maintaining the integrity of a functional family in child-rearing, your Committee on Conference believes that the legislature should be informed of the progress in implementing Act 301, SLH. The mandates of the law could be difficult to implement in the short term, but should be feasible in the long term as the internal administrative system evolves over a period of time.

Your Committee on Conference has amended this measure by deleting "on the effect of" before "the implementation of this section", at page 3, line 3 of the H.D. 1.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2526, 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. 2526, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Taniguchi, Fukunaga, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Fukunaga, Slom).

Representatives Takamine, Kawakami, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 65 on S.B. No. 2786

The purpose of this measure is to further standardize the operations of the Hoisting Machine Operators Advisory Board.

Specifically, the measure places the Board within the Department of Labor and Industrial Relations for administrative purposes, and authorizes the Board to employ a half-time Executive Director and fix the Executive Director's compensation.

Your Committee on Conference finds that article V, section 6 of the state constitution requires state executive branch agencies to be placed within the principal departments of the executive branch of state government unless they are agencies or commissions that are either temporary or for special purposes.

In accordance with this constitutional requirement, the measure corrects an oversight in the occupational safety and health law, namely, the failure to place the hoisting machine operators advisory board within an executive department, by attaching that board to the Department of Labor and Industrial Relations for administrative purposes. Your Committee on Conference believes that without this amendment, the actions of the Board could be challenged on constitutional grounds.

In addition, your Committee on Conference finds that the hiring of a half-time Executive Director will greatly assist the Board in performing a number of necessary functions, such as scheduling meetings, receiving and reviewing certification applications, and disseminating application materials, and that funding for the position would be through the assessment of fees from the certification of hoisting machine operators.

Upon further deliberation, your Committee on Conference has amended the measure by deleting the reference to Chapter 77, Hawaii Revised Statutes, since this chapter will be repealed on July 1, 2002, as part of the amendments made to the Hawaii Revised Statutes by Act 253, Session Laws of Hawaii 2000.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2786, 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. 2786, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Hanabusa, Chumbley, Ihara, Taniguchi, Slom.
Managers on the part of the Senate.

Ayes, 4. Noes, none. Excused, 2 (Chumbley, Ihara).

Representatives Saiki, Nakasone, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 66 on S.B. No. 796

The purpose of the H.D. 2, of this measure was to provide immunity for county lifeguards, and the county or State that employs them, from liability against damages arising from the acts or omissions of lifeguards while performing emergency lifeguard services.

Your Committee on Conference notes that the issue of providing lifeguards with immunity has been considered for several sessions. This measure represents the culmination of years of debate and consideration. Testimony on this measure indicated that the prospect of large damage suits contributes to the costs of insurance and the reluctance to providing lifeguards. Your Committee on Conference believes that the lifeguards and the State or county must have immunity so that lifeguards can at least be provided on the beaches.

The C.D. 1 version amended the H.D. 2 version by:

- (1) Not including "inattention to duty" as an exception to liability for county lifeguard services;
- (2) Applying the exception to liability for county lifeguard services even while the lifeguard is an "employee of the State"; and
- (3) Adding that the statutory waiver of immunity from liability of the State for torts shall not supersede the exception to liability for county lifeguard services.

The C.D. 1 provided immunity for county lifeguards, and the county or State that employs them, from liability against damages arising from the acts or omissions of lifeguards while performing rescue, resuscitative, and other lifeguard services at state and county beaches and beach parks.

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

- (1) Deleting the "inattention to duty" language;
- (2) Providing that immunity extends only to lifeguard services within the county lifeguard's scope of employment provided on the beach or in the ocean;
- (3) Deleting the exception relating to the broad waiver of tort liability for the State because the State is given immunity in this measure specifically limited to acts or omissions of lifeguards while performing lifeguard services;
- (4) Extending the sunset provision in Act 190, Session Laws of Hawaii 1996, from June 30, 2003, to June 30, 2007; and
- (5) Adding a sunset provision to allow a reasonable time for the construction of lifeguard facilities, hiring and training of additional lifeguards and establishing sufficient experience to evaluate the need for continued immunity in the future.

The C.D. 2 is intended to provide the State and counties with qualified immunity so that lifeguards can be stationed at dangerous beaches, while appropriately limiting such immunity to acts or omissions committed while providing rescue or resuscitative actions or other emergency lifeguard services on the beach. The sunset provision will allow for an evaluation of this measure after sufficient experience has been obtained.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 796, S.D. 1, H.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 796, S.D. 1, H.D. 2, C.D. 2.

Signed by the Chairs on behalf of the Committee.

Senators Tam, Kanno, Chumbley, Chun, English, Kim, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Slom).

Representatives Kanoho, Hamakawa, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 67 on S.B. No. 940

The purpose of this measure is to clarify the rights and obligations of health insurers, mutual benefit societies, and health maintenance organizations with regard to the health coverage rights of persons with third-party claims for damages.

Refusing to provide or limiting health coverage to persons who have third-party claims for damages is not permitted, except for reimbursement under section 663-10, Hawaii Revised Statutes (HRS). This measure makes such acts unfair insurance practices under

article 13 of the insurance code to eliminate any doubt that health insurers have always been subject to these limitations under section 663-10, HRS. Health insurers continue to be entitled to reimbursement of their subrogation liens under section 663-10, HRS.

Your Committee on Conference has amended this measure to give health insurers the right to refuse or limit coverage until workers' compensation or motor vehicle insurance personal injury protection (PIP) medical benefits are used to pay applicable medical expenses. This will avoid duplicate payments for the same expense or shifting those expenses to health insurance. Persons with workers' compensation or motor vehicle insurance PIP benefits must use those benefits first before applicable health insurance. This provision does not apply to workplace or motor vehicle liability coverage. Thus, the limited exemption provided in section 431:13-103(a)(10)(C)(i), HRS, is intended to apply only to the extent that the claimant has workers' compensation or motor vehicle PIP medical coverage available to pay applicable medical expenses. The exemption does not extend to liability, uninsured, or underinsured motorist benefits, and health insurers may not refuse to provide or limit coverage because a claimant may be entitled to recover under those coverages.

Under this measure, as amended, health insurers are also given the right to require reasonable notice of third party claims and reasonable cooperation in providing sufficient information. Claimants who intentionally seek to evade their reimbursement obligations will waive their rights. Reimbursement of payments made because of untimely notice is provided to protect health insurers and avoid forfeiture. Insurers and claimants are given the option of submitting disputes to impartial binding arbitration, if both insurer and claimant agree. It is intended that the consumer have an independent right and opportunity to select arbitration or court proceedings, rather than having it imposed as a policy or contract term. Health insurers are given the right to adequate discovery in both arbitration and court proceedings to obtain required information.

This measure provides a fair balance between the rights of health insurers to recover reimbursement for their payments and protection for consumers to retain adequate health coverage and redress for injuries. This measure, as amended, should eliminate any confusion caused by Act 29, Session Laws of Hawaii 2000, and clarify that Act 29 had no effect on the rights and obligations imposed on health insurers by section 663-10, HRS.

Your Committee on Conference has also amended this measure to provide that it shall become effective upon its approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 940, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 940, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, none.

Representatives Hiraki, Hamakawa, Takamine, Chang, Pendleton, Whalen.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Pendleton, Whalen).

Conf. Com. Rep. No. 68 on S.B. No. 2075

The purpose of this measure is to allow licensed dental hygienists to operate under the general or direct supervision of a licensed dentist in public health settings.

Hawaii's children suffer from high rates of dental caries and baby bottle tooth decay. The Dental Health Division of the Department of Health, which provides dental hygiene services in Hawaii's public schools, is only able to access one third of the schools every third year due to budgetary constraints. In addition, many adults lack proper dental care due to lack of insurance or the unavailability of dental care in rural areas.

To address the need for better access to dental care, this measure authorizes licensed dental hygienists to provide dental education and fluoride application services under the direct or general supervision of a licensed dentist in public health settings. "Public health setting" is defined to include nursing homes, adult day care centers, assisted living facilities, mental institutions, and nonprofit health clinics, in addition to currently authorized public health settings for the provision of dental hygiene services. Direct reimbursements to dental hygienists practicing in public health settings is prohibited. In addition, this measure requires all dental hygienists to complete courses in pharmacology and medical emergencies.

Your Committee has amended this measure by replacing its contents with the language of S.B. No. 2075, S.D. 2. As amended, this measure:

- (1) Contains legislative findings and purpose provisions;
- (2) Includes hospitals within the definition of "public health setting";
- (3) Allows dental hygienists to conduct dental screenings in public health settings;
- (4) Limits the requirement that the provision of dental hygiene services in public health settings be prescreened and authorized by a supervising licensed dentist to the provision of services other than dental education, dental screening, and fluoride application;

- (5) Removes the limitation on the category of nursing home patients that may receive services from a dental hygienist;
- (6) Removes the requirement of coursework in pharmacology and medical emergencies for dental hygienists;
- (7) Requires the Board of Dental Examiners to study the effects of this measure as it relates to the safety and efficacy of providing dental hygiene services in public health settings, and to report its findings to the 2007 Legislature; and
- (8) Takes effect upon its approval, rather than on July 1, 2010.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2075, 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. 2075, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Matsuura, Kim, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Kim).

Representatives Arakaki, Kahikina, Hiraki, Nakasone, Jaffe, Whalen.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 69 on S.B. No. 2309

The purpose of this measure is to prohibit the operation of ocean watercraft more than a mile from shore unless the vessel is equipped with either a VHF-FM radio or an Emergency Position Indicating Radio Beacon (EPIRB).

Your Committee on Conference finds that recreational boaters are often in grave danger when their vessel becomes disabled or lost at sea. Although Hawaii's marine rescue personnel, including the United States Coast Guard personnel stationed here, are extremely skilled at locating and rescuing lost boaters, rescue efforts are immeasurably more difficult when the vessel operators do not carry a device to notify rescue personnel of their location.

Moreover, search and rescue efforts are extremely costly, and the longer a search and rescue operation takes, the greater the cost to the State. Therefore, your Committee on Conference agrees with the intent of this measure.

Your Committee on Conference amended this measure to reinstate the provisions of the S.D. 1 version, which contained technical language differences from the H.D. 2 version with regard to the vessels covered by this measure.

Your Committee on Conference further amended this measure to fully exempt all canoes, jet skis, surfboards, and paddleboards. As amended, users of kayaks and training sailboats must carry a VHF-FM radio or EPIRB when operating more than a mile from shore, unless accompanied by a vessel that carries such a device.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2309, 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. 2309, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Tam, Fukunaga.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Tam).

Representatives Kanoho, Hamakawa, Espero, B. Oshiro, Bukoski, Marumoto.
Managers on the part of the House.
Ayes, 6. Noes, none. Excused, none.

Conf. Com. Rep. No. 70 on S.B. No. 2824

The purpose of this measure is to conform the Hawaii State tax laws with the Internal Revenue Code.

Your Committee on Conference finds that Hawaii's income tax law does not automatically conform to changes made by Congress to the Internal Revenue Code (IRC). Hawaii law requires the Department of Taxation (Department) to introduce legislation each year that may include changes in the IRC made by Congress in the previous year, pursuant to section 235-2.5(c), Hawaii Revised Statutes.

This measure will apply the IRC, as amended, "as of December 31, 2001." Because President Bush signed the Job Creation and Worker Assistance Act of 2002 (JCWAA) into law on March 9, 2002, the JCWAA did not amend the IRC "as of December 31, 2001." The provisions of the JCWAA, therefore, are not applicable for Hawaii income tax purposes for the 2001 taxable year and subsequent years. The JCWAA includes a bonus depreciation deduction and an expansion of the net operating loss (NOL) carryback period from two to five years for NOLs in the 2001 or 2002 taxable years.

Your Committee on Conference has made technical amendments to more accurately reflect IRC references.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2824, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Chun Oakland, Hanabusa, Ige, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Chun Oakland, Ige).

Representatives Takamine, Espero, Djou.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 71 on S.B. No. 859

The purpose of this measure is to establish an earned-time program under the Department of Public Safety (DPS) for incarcerated persons to be eligible for parole.

Your Committee on Conference notes the testimony of the DPS before the Senate Committee on the Judiciary on the S.D. 1, that Hawaii had a "good time credit" statutory provision which was repealed by Act 264, Session Laws of Hawaii 1967. Act 264 vested the Hawaii Paroling Authority (HPA) with the discretion to determine early parole. This measure is not intended to invade the authority of the HPA, because the inmate becomes "eligible" for parole upon meeting certain conditions. The authority to grant the parole still remains with the HPA.

Your Committee on Conference has amended this measure by changing the effective date to upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 859, 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. 859, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Fukunaga, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Ihara).

Representatives Garcia, Hamakawa, Auwae.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 72 on S.B. No. 720

The purpose of this measure is to expand the prohibition against discrimination by the State against a person with disabilities and to extend the prohibition to county governments.

Your Committee on Conference finds that this measure will strengthen current law to ensure that individuals with disabilities have access to state and county government services and programs.

Your Committee on Conference has amended this measure to delete the word "solely" in relation to the prohibition against discrimination based on disability by a public entity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 720, 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. 720, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Kanno, Matsuura, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Arakaki, Hamakawa, Kawakami, Yonamine, Moses, Stonebraker.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Yonamine, Stonebraker).

Conf. Com. Rep. No. 73 on S.B. No. 2337

The purpose of this measure is to increase the penalties for the offense of racing on highways.

After much deliberation, your Committee on Conference agreed to use the provisions of the H.D. 2 version of this measure as a base for the C.D. 1 version. The House version amended section 291C-103, Hawaii Revised Statutes, to impose a fine of up to \$2,000 and imprisonment for up to one year, for persons convicted of racing on a highway while operating their vehicle at a speed exceeding the posted speed limit by at least 30 miles per hour.

In addition, your Committee on Conference amended this measure to provide additional penalties, as follows:

- (1) For an offense that occurs within five years of a prior conviction, a one-year license suspension; and
- (2) For an offense that occurs within five years of two prior convictions, a three-year license suspension. A vehicle owned by a defendant which is used in the commission of an offense and which has been used in the commission of two prior offenses that resulted in convictions may be subject to forfeiture under chapter 712A, Hawaii Revised Statutes.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2337, 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. 2337, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Fukunaga, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hemmings).

Representatives Souki, Hamakawa, Gomes.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 74 on S.B. No. 2698

The purpose of this measure is to address the Hawaii Supreme Court's findings in State v. Eto Bani by adding provisions to the sex offender registration law to require court overview of the release of sex offender information to the public.

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

- (1) Requiring a sex offender to provide the names and legal addresses of current and future educational institutions attended by or employing the sex offender including the starting and ending dates, in the registration information provided to the Attorney General's office;
- (2) Including the names and legal addresses of current and future educational institutions attended by or employing the sex offender including the starting and ending dates, in the registration information that can be disclosed to the public;
- (3) Adding the evidentiary standard of a "preponderance of the evidence" to the State's burden of proof, when the State is petitioning for public release of sex offender information;
- (4) Requiring the court, upon written findings, to order public release of information for a minimum of ten years up to a maximum of the offender's lifetime; provided that an offender with a lifetime determination may petition, once every ten years, for reconsideration by the court; and
- (5) Allows the court to relieve the sex offender from a lifetime determination upon written findings that the offender does not present a threat to the community and public release is no longer necessary.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2698, 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. 2698, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, Slom.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Slom).

Representatives B. Oshiro, Hamakawa, Thielen.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 75 on S.B. No. 331

The purpose of this measure is to streamline the administrative eviction process for public housing tenants while protecting tenants' rights to due process.

The current process for evicting public housing tenants is often slow and protracted, resulting in revenue losses to the State when tenants stop paying rent and contributing to the lack of sufficient public housing. However, earlier efforts to address this problem by replacing administrative eviction proceedings with judicial summary possession proceedings raised concerns about public housing tenants' abilities to defend themselves against an eviction under the judicial process.

This measure balances the need for more streamlined eviction procedures with tenants' needs for meaningful opportunities to contest an eviction by imposing additional pre-eviction requirements on the Housing and Community Development Corporation of Hawaii (HCDCH) that are intended to help tenants identify and resolve tenancy problems, clarifying that eviction hearings are contested case proceedings under the Administrative Procedure Act, requiring that the eviction board have a tenant member, requiring that tenants be provided the opportunity to cure a lease violation, and repealing the administrative appeal process.

Your Committee has amended this measure by:

- (1) Inserting a drop-dead date of July 1, 2007, and providing that eviction proceedings pending as of this date shall continue under the procedures established in this measure;
- (2) Requiring that the HCDCH submit a report to the Legislature in 2006 regarding evictions processed under the revised procedures and the effects of this measure on the eviction process, and proposing legislation to extend or repeal the sunset; and
- (3) Making a technical amendment for the purpose of clarification.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 331, 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. 331, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Kim, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Kim).

Representatives Kahikina, Hamakawa, Auwae.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 76 on S.B. No. 2733

The purpose of this measure is to clarify and make consistent the producer licensing laws and related insurance laws.

The Producer Licensing Act was enacted pursuant to Act 216, Session Laws of Hawaii (SLH) 2001, and goes into effect on July 1, 2002. This Act replaces the various regulatory schemes governing general agents, subagents, and solicitors with a single licensing scheme for insurance producers.

This measure reconciles inconsistencies in the insurance code and other insurance laws that resulted upon the adoption of the Act. This measure also reauthorizes the licensing of managing general agents as this authority was inadvertently repealed by Act 216, SLH 2001.

Your Committee has amended this measure by:

- (1) Replacing its contents with the language of the S.D. 2 version of the measure;
- (2) Repealing the bonding requirement for surplus lines brokers; and
- (3) Making technical amendments to correct internal references, and to reflect current statutory language and preferred drafting style.

The differences between this measure, as received, and as amended herein, are primarily stylistic in nature. However, your Committee was informed by the Insurance Division that, as amended herein, this measure will make Hawaii's law more uniform with the laws of the other states and satisfy the requirements of the National Association of Insurance Commissioners for license reciprocity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2733, 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. 2733, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, none.

Representatives Hiraki, Nakasone, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 77 on S.B. No. 2898

The purpose of this measure is to establish a caves protection law to protect the unique cultural and natural resources found in caves throughout the State of Hawaii.

Your Committee on Conference finds that this measure is a critical step in protecting the fragile natural and cultural resources in Hawaii's caves, including human burials and other evidence of native Hawaiian use and traditions.

Your Committee on Conference has considered a number of concerns raised regarding this measure.

It is the intent of the Committee on Conference that if a "charge" is assessed, as defined in chapter 520, Hawaii Revised Statutes (HRS), a person shall be deemed to be engaged in commercial entry, as defined in this measure. It is also the intent of the Committee on Conference that the permitted land-altering activities in the definition of "construction context" refers to all activities allowed by law, including activities for which a formal permit may not be required. With regards to confidentiality issues raised by the Office of Information Practices, it is not the intent of your Committee on Conference to restrict access to information on cave locations and resources that is already a matter of public record.

Your Committee on Conference has amended this measure to:

- (1) Revise the confidentiality provisions to require the department to keep all government information on a cave confidential if an owner believes, after consultation with the department, that disclosure would be detrimental to protection of the cave;
- (2) Under criminal penalties, raise the fine for a first offense to \$1,000, and for any subsequent offense to \$1,500, clarify that penalties under this section do not limit imposition of penalties under chapter 6E, HRS, and that fines under this section shall not be suspended or waived;
- (3) Further detail and clarify the cumulative penalties;
- (4) Delete the theft provisions regarding funerary objects; and
- (5) Make technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2898, 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. 2898, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Chun, Kanno, English, Ihara, Kokubun, Hemmings.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kanno).

Representatives Morita, B. Oshiro, Bukoski.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 78 on S.B. No. 2708

The purpose of this measure is to authorize the Housing and Community Development Corporation of Hawaii (HCDCH) to waive the three-year buyback requirement for the sale of affordable housing.

In order to prevent speculative investment and preserve affordable housing, homeowners of affordable units in government-sponsored housing projects are prohibited from selling their homes on the open market for a specific number of years during which time the HCDCH retains the first option to buy back the property. Originally the buyback period was ten years, but when the residential market began to stabilize in the early to mid-1990s, resulting in the sale of market-priced homes at prices comparable to those of affordable homes, the legislature reduced the length of the buyback period.

Finding that the ten-year restriction was hindering the resale of affordable units by homeowners facing financial hardship and a developer's ability to compete in the residential market, the legislature in Act 272, Session Laws of Hawaii 1998, reduced the buyback period to three years and provided that the period would revert back to ten years on December 31, 2000. Act 99, Session Laws of Hawaii 2001 (Regular Session), reestablished the three-year buyback period for another three and one-half years and provided for the law to revert back to the ten-year restriction period on December 31, 2004.

Current market and economic conditions reduce the risk of speculation in the housing market. Therefore, this measure allows the HCDCH to waive the three-year buyback provision to allow the developers of affordable housing projects to compete on more equal

footing with the developers of market-priced homes. Additionally, on December 31, 2004, the buyback period will revert back to ten years and HCDCH's waiver authority is repealed.

Your Committee has amended this measure by replacing its contents with the language of the Senate version of this measure, S.D. 1. As amended, this measure authorizes a temporary waiver of the buyback and use restrictions by amending statutory law, rather than by enacting session law.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2708, 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. 2708, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Tam, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Tam).

Representatives Kahikina, Kawakami, Auwae.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 79 on S.B. No. 2234

The purpose of this measure is to create the offense of failure to maintain age verification records of sexually exploited individuals.

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

- (1) Creating the offense of sexual exploitation of a minor;
- (2) Creating the offense of failure to maintain age verification records of sexual performers;
- (3) Creating the offense of disseminating visual depiction of sexual conduct without affixed information disclosing location of age verification records of sexual performers;
- (4) Adding definitions to section 712-1210, Hawaii Revised Statutes, to comport with the newly created offenses;
- (5) Including sexual exploitation of a minor within covered offenses subject to forfeiture of property upon conviction under section 712A-4, Hawaii Revised Statutes;
- (6) Adding a severability clause;
- (7) Requesting a report to the Legislature prior to the convening of the 2004 regular session, from each county prosecutor indicating the numbers of arrests, charges, convictions, and dismissals under the new offenses;
- (8) Changing the effective date to upon approval with a repeal of sexual exploitation provisions on July 1, 2004; and
- (9) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2234, 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. 2234, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Kanno, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Taniguchi).

Representatives Arakaki, Kahikina, Hamakawa, Saiki, Djou, Meyer.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Saiki, Meyer).

Conf. Com. Rep. No. 80 on S.B. No. 233

The purpose of this measure is to clarify the definition of "Chiropractic", clarify the unauthorized practice of chiropractic violations subject to penalties, and insert the definition of chiropractic and chiropractic treatment into the motor vehicle insurance law.

This measure conforms the chiropractic standard of practice to that set forth by the United States Department of Education, and followed by accredited chiropractic colleges in the United States. The changes also clarify the practice of chiropractic in accordance with national accreditation standards of the Council of Chiropractic Education.

Your Committee on Conference has amended this measure as follows:

- (1) Adding that reimbursement for chiropractic treatment under workers' compensation is limited to treatment to only the human spinal column;
- (2) As to the definition of "Chiropractic":
 - (a) Clarifying the permissible scope of chiropractic treatment in relation to the anatomy of the human body;
 - (b) Allowing administrative rules to further clarify the definition, and to include the head, extremities, rib cage, abdomen, extraspinal manipulative treatment and evaluations, referral for laboratory examination of a specimen; and
 - (c) Deleting reference to the five spinal regions and to the definition of "Extraspinal";
- (3) As to the penalty section, retaining the current language, and adding "doctor of chiropractic", "chiropractic physician", and "diploma", with reference to the prohibited practice of chiropractic by any person other than a licensed chiropractic; and
- (4) Deleting the revision to section 431:10C-103.6, Hawaii Revised Statutes, relating to personal injury protection benefits.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 233, 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. 233, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Kanno, Matsuura, Kim, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Kim, Slom).

Representatives Arakaki, Hiraki, B. Oshiro, Chang, Marumoto, Stonebraker.
Managers on the part of the House.
Ayes, 6. Noes, none. Excused, none.

Conf. Com. Rep. No. 81 on S.B. No. 594

The purpose of this measure is to establish the Neurotrauma Advisory Board and the Neurotrauma Special Fund, within the Department of Health.

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

- (1) Deleting information in the preamble regarding medical costs of neurotrauma;
- (2) Modifying the purposes of the special fund to include education on neurotrauma, assistance to individuals and their families to access services, and creation of a registry of neurotrauma injuries;
- (3) Directing the traumatic brain injury advisory board to consult with the neurotrauma advisory board in advising the Department of Health;
- (4) Providing a \$500,000 expenditure ceiling for the Neurotrauma Special Fund;
- (5) Changing the effective date of the surcharges on driving under the influence offenses to January 1, 2003; and
- (6) Making technical non-substantive changes for the purposes of clarity and style.

Your Committee notes that while the provision of funding to support direct services to neurotrauma survivors was deleted from this measure, it is contemplated that the Department of Health in consultation with the Neurotrauma Advisory Board, will gather data to determine the extent to which direct services could reasonably be funded within the limits of the resources available within the special fund. Your Committee further agrees that this issue can then be re-visited during the 2003 regular session.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 594, 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. 594, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Kawamoto, Fukunaga, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Fukunaga, Kawamoto).

Representatives Arakaki, Hamakawa, Kawakami, Yonamine, Leong, McDermott.
Managers on the part of the House.

Ayes, 4. Noes, none. Excused, 2 (Hamakawa, McDermott).

Conf. Com. Rep. No. 82 on S.B. No. 733

The purpose of this measure is to fix the employer assessment rate for the Employment and Training Fund at .01 per cent of taxable wages as of January 1, 2002, and to delete the sunset provision.

Your Committee finds that training the State's workforce to keep up skills and develop new ones helps keep Hawaii's employed at the cutting edge of their chosen professions and occupations. Furthermore, your Committee finds that small businesses, which generally cannot afford training costs, have accessed the employment and training fund to their advantage.

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

- (1) Requiring employers to contribute fifty percent, rather than up to fifty percent, of the cost of programs of the Employment and Training Fund;
- (2) Adding provisions recommended by the Auditor as contained in Auditor's Report No. 01-08, Audit of the Employment and Training Fund, that establish criteria and standards to effectively administer the programs and functions of the Employment and Training Fund; and
- (3) Changing the effective date from January 1, 2002, to July 1, 2002.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 733, 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. 733, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Hanabusa, Buen, Kanno, Taniguchi.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Buen).

Representatives Saiki, Nakasone, McDermott.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (McDermott).

Conf. Com. Rep. No. 83 on S.B. No. 3063

The purpose of this measure is to support programs of the Department of Land and Natural Resources (DLNR) that benefit the environment by authorizing DLNR to develop environmentally-themed products for sale to the public to raise revenue.

Your Committee on Conference agreed to use the H.D. 2 version of this measure as a base for the C.D. 1. The House version of this measure differed from the Senate version primarily in that it mandated that any revenues raised from the sale of environmentally-themed products be used to benefit the environment in an area related to the environmental theme of the product sold. Your Conference Committee notes that DLNR must devise a system to track funds from various product sales to ensure that the proceeds are used for a purpose related to the environmental theme of the product sold.

Your Committee on Conference further amended this measure to direct that the funds raised from the sale of products authorized by this measure be deposited into the Endangered Species Trust Fund established pursuant to section 195D-31, Hawaii Revised Statutes, rather than into the Natural Area Reserve Fund.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3063, 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. 3063, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Taniguchi, English, Hanabusa, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Hanabusa, Taniguchi).

Representatives Morita, Saiki, Thielen.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 84 on S.B. No. 2757

The purpose of this measure is to continue and clarify the reforms contained in Act 253, Session Laws of Hawaii 2000, otherwise known as the Civil Service Modernization Act.

Specifically, the measure:

- (1) Clarifies that the compensation of employees excluded from collective bargaining and whose pay is presently set by a salary commission shall continue to be set by the salary commission; and
- (2) Extends the sunset date for the Separation Incentive Program from June 30, 2002, to June 30, 2008.

Upon further deliberation, your Committee on Conference has amended the measure by changing the effective date from upon approval to June 30, 2002.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2757, 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. 2757, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Taniguchi, Ihara, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Saiki, Nakasone, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 85 on S.B. No. 2802

The purpose of this measure is to authorize the board of land and natural resources to lease public lands to renewable energy producers through direct negotiation.

Your Committee on Conference finds that the provisions of this measure will encourage the development of renewable energy projects and reduce the State's dependency on fossil fuels.

Your Committee on Conference has amended this measure to reinstate the reference to the definition of "public utility" as defined in section 269-1, Hawaii Revised Statutes (HRS), delete the definition of "public utility" set out in section 171-95, HRS, and make the Act effective upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2802, 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. 2802, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Menor, Taniguchi, Chun Oakland, Matsunaga, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Chun Oakland, Taniguchi).

Representatives Kanoho, Morita, Magaoay, Jaffe, Meyer.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, none.

Conf. Com. Rep. No. 86 on S.B. No. 2763

The purpose of this measure is to establish the Hawaii Birth Defects Program and the Hawaii Birth Defects special fund to support the program.

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

- (1) Inserting definitions of "Adverse reproductive outcome", "Birth defect", "Institutional review board", "Registry", "Research", and "Researcher" into the new part;
- (2) Increasing the marriage license fee by \$10 and earmarking the increase for deposit into the Hawaii Birth Defects special fund;
- (3) Establishing a \$200,000 expenditure ceiling for the Hawaii Birth Defects special fund; and
- (4) Making technical nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2763, 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. 2763, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Fukunaga, Taniguchi, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Taniguchi).

Representatives Arakaki, Kawakami, Stonebraker.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 87 on S.B. No. 2775

The purpose of this measure is to appropriate \$1 in general funds for fiscal year 2001-2002 to repay funds advanced by the State, and to pay for mandated and rural healthcare costs for fiscal year 2001-2002.

Your Committee on Conference finds that the Hawaii Health Systems Corporation and its facilities play an important role in providing medical services and care to the people of Hawaii, especially on the Neighbor Islands. This measure will ensure that the Hawaii Health Systems Corporation meets its fiscal obligations in providing services to members of the general public who need hospital-based services.

Your Committee has amended this measure by changing the amount of the appropriation from \$1 to \$5,000,000.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2775, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2775, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Chun Oakland, Fukunaga, Ige.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Fukunaga, Ige).

Representatives Nakasone, Saiki, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Saiki).

Conf. Com. Rep. No. 88 on S.B. No. 2682

The purpose of this measure is to satisfy the claims against the State for refunds of taxes, judgments and settlements, and for other miscellaneous payments as provided by law.

This bill serves as the vehicle by which claims against the State are transmitted to the Legislature for its consideration.

Your Committee has amended the bill by adopting the recommendations of the Attorney General to add sixteen additional claims totaling \$2,454,378.44. The claims include:

(1) <u>Kobayashi, et al. v. State of Hawaii</u>	\$8,000;
(2) <u>Lista v. State of Hawaii, et al.</u>	\$22,042.18;
(3) <u>Suntera v. Quinn, et al.</u>	\$75,000;
(4) <u>Kobayashi, et al. v. State of Hawaii</u>	\$8,000;
(5) <u>Shimizu v. State of Hawaii, et al.</u>	\$30,000;
(6) <u>Kihara, et al. v. Chandler</u>	\$1,683,541.44;
(7) <u>Akau v. State of Hawaii</u>	\$15,000;
(8) <u>Barona v. State of Hawaii</u>	\$42,500;
(9) <u>Hernandez v. State of Hawaii</u>	\$17,500;
(10) <u>Lawrence v. Akana, et al.</u>	\$10,000;
(11) <u>Fernandez, et al. v. State of Hawaii</u>	\$75,000;
(12) <u>Carvalho v. State of Hawaii</u>	\$75,000;
(13) <u>Kramer v. Ellett, et al.</u>	\$26,132.32;
(14) <u>Le, San Thi, et al. v. Kent Yasuda and State of Hawaii, et al.</u>	\$200,000;
(15) <u>Silva v. University of Hawaii, et al.</u>	\$138,162.50;
(16) <u>Hoshijo, et al. v. State of Hawaii</u>	\$25,000; and
(17) <u>Eastman, Meka</u>	\$3,500.

Items (1) and (4) above represent the same claim paid from two different sources.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2682, 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. 2682, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Hanabusa, Chun Oakland, Ige.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Ige).

Representatives Hamakawa, Takamine, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 89 on S.B. No. 2350

The purposes of this measure are to:

- (1) Establish a transient accommodations tax (TAT) trust fund as a holding account for TAT revenues to supplement shortfalls in the tourism special fund, provided that any moneys not needed to reach the annual cap of \$64,292,000 to the tourism special fund shall be credited to the general fund;
- (2) Cap TAT revenues to the tourism special fund at \$64,292,000, and allocate up to \$2,000,000 of any revenues in excess of \$62,292,000 for natural resources, with ninety per cent to the state parks special fund and ten per cent to the Hawaii statewide trail and access program; and
- (3) Change the allocation of TAT revenues to the tourism special fund from 37.9 per cent to 32.6 per cent and allocate 5.3 per cent of the TAT to the transient accommodations trust fund.

Your Committee on Conference finds that this measure will provide additional funding for Hawaii's parks and trails, which are used by visitors and residents alike, while continuing to provide a secure source of funds for tourism promotion and visitor industry research.

Your Committee on Conference has amended this measure to:

- (1) Cap the TAT revenues to the tourism special fund at \$63,292,000;
- (2) Reduce the maximum allocation to state parks and trails to \$1,000,000;
- (3) Require the Hawaii tourism authority to spend \$1,000,000 in the tourism special fund to support efforts to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors; and
- (4) Make technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2350, 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. 2350, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Taniguchi, Inouye, Sakamoto, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Inouye, Sakamoto).

Representatives Chang, Suzuki, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 90 on S.B. No. 2666

The purpose of this measure is to establish a seal of quality program for fresh and processed agricultural products that are produced within the State.

Your Committee on Conference finds that Hawaii's agricultural products inherently maintain a distinct and well-deserved reputation of freshness, value, and quality in the market. In order to compete nationally and internationally, there needs to be a consolidated and uniform method of indicating that an agricultural product originates from Hawaii and carries with it Hawaii's valuable goodwill. Establishing a seal of quality program would ensure that only products that have been substantially fabricated or have had a substantial portion of their value added in Hawaii will be presented to consumers as genuine Hawaii products. Your Committee on Conference finds that this measure establishes a program that provides Hawaii's agriculture industry a labeling standard that preserves and enhances the value of their Hawaiian products.

Your Committee on Conference has amended this measure by:

- (1) Requiring nonprofit corporations contracted pursuant to the seal of quality program to develop the marketing programs for licensed products, issue licenses and collect the license fees, and to develop promotional materials and establish and collect fees for their usage;

- (2) Providing that these nonprofit corporations may assist the Department of Agriculture in monitoring compliance with the seal of quality program and may accept gifts or grants from public agencies or other sources;
- (3) Mandating the Department of Agriculture to adopt rules as necessary to implement the seal of quality program;
- (4) Eliminating the provisions that establish a seal of quality special fund; and
- (5) Making technical, nonsubstantive changes to accommodate the foregoing amendments.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2666, 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. 2666, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Buen, Hanabusa, Menor, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Menor, Taniguchi).

Representatives Abinsay, Cabrerros, Gomes.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Gomes).

Conf. Com. Rep. No. 91 on S.B. No. 706

The purpose of this bill is to:

- (1) Authorize the issuance of \$100,000,000 in general obligation bonds for deposit into the hurricane reserve trust fund;
- (2) Transfer \$100,000,000 from the hurricane reserve trust fund to the general fund to be used by the Hawaii hurricane relief fund;
- (3) Appropriate funds for numerous state programs; and
- (4) Establish a pilot loss mitigation grant program to provide grants for the installation of wind-resistive devices.

Your Committee has amended this measure by:

- (1) Codifying the loss mitigation grant program in the insurance code;
- (2) Requiring the annual interest in the hurricane reserve trust fund to be transferred to the general fund;
- (3) Reducing from \$5,000,000 to \$2,000,000 the amount to be transferred into the loss mitigation grant fund and replacing the hurricane reserve trust fund with the general fund as the source of the transfer;
- (4) Reducing from \$100,000,000 to \$29,000,000 the amount to be transferred from the hurricane reserve trust fund to the general fund, to be used by the Hawaii hurricane relief fund;
- (5) Deleting the authorization to issue general obligation bonds for deposit into the hurricane reserve trust fund; and
- (6) Deleting the appropriations to the numerous state programs.

Your Committee finds that funds from the inactive hurricane reserve trust fund should continue to be used for purposes related to the hurricane insurance law and should not be used to cover up budget shortfalls in other state programs.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 706, 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. 706, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Kawamoto, Chun Oakland, Ige, Inouye, Kim, Hemmings.
Managers on the part of the Senate.
Ayes, 6. Noes, none. Excused, 1 (Chun Oakland).

Representatives Takamine, Kawakami, Leong.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 92 on S.B. No. 23

The purpose of this bill is to authorize paid leave for state and county employees performing disaster relief services as a certified American Red Cross disaster volunteer.

Your Committee on Conference has amended this measure by:

- (1) Deleting language specifying the exact number of days of paid leave of absence the Chief Executive may grant a state or county employee performing disaster relief services as a certified American Red Cross disaster volunteer;
- (2) Specifying that the compensation for those regular hours during which the employee is absent from work to perform disaster relief services for the American Red Cross shall be determined by the Chief Executive;
- (3) Specifying that the duration of the leave of absence granted an employee performing disaster relief services for the American Red Cross shall be determined by the Chief Executive;
- (4) Defining the Chief Executive as the Governor, the respective mayors, the Chief Justice of the Supreme Court, and the chief executive officer of the Hawaii Health Systems Corporation. The term may also include the Superintendent of Education and the President of the University of Hawaii; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 23, 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. 23, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Kim, Taniguchi, Kawamoto, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Hogue).

Representatives Saiki, Nakasone, Rath.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 93 on S.B. No. 2078

The purpose of this bill, as received, is to require the Employees' Retirement System (ERS) to pay interest on pensions that are not processed and issued within 90 days of a member's retirement.

Your Committee on Conference has amended this measure by deleting its contents and inserting language that enables individuals who:

- (1) After June 30, 2002, have at least 10 years of credited service as a firefighter and are deemed permanently medically disqualified to be a firefighter due to a service related disability by the employer's physician; and
- (2) Continue employment in a class A or B contributory position other than a firefighter,

to have a retirement allowance of 2.5 percent of the individual's average final compensation for credited years of service as a firefighter upon retirement.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2078, 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. 2078, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Kawamoto, Taniguchi, Kanno, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Taniguchi, Slom).

Representatives Sakai, Nakasone, Rath.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 94 on S.B. No. 2724

The purpose of this measure is to repeal the Real Estate Commission's authority to arbitrate disputes involving housing cooperatives, allow a principal broker to delegate management duties, but not accountability, to a broker in charge, and repeal duplicative registration and fidelity bond requirements for condominium managing agents who are real estate brokers in good standing.

Your Committee has amended this measure to:

- (1) Preclude a Hawaii-licensed salesperson with an encumbered license from taking the real estate broker's examination;
- (2) Allow a person holding a current, unencumbered license issued by another state or a jurisdiction recognized by the Association of Real Estate Law officials, with equivalent licensing requirements to take the real estate broker's examination;
- (3) Clarify that a broker in charge may certify the experience of a real estate salesperson for the purpose of qualifying for the broker examination;
- (4) Allow an out-of-state licensee to be granted full equivalency for the broker's examination experience requirement, but to preclude a real estate salesperson with an encumbered out-of-state license from qualifying for equivalency;
- (5) Allow a Hawaii licensee who holds an unencumbered license in another state to receive credit towards the continuing education requirement for license renewal based on continuing education completed in the other state, but only with respect to the elective credits requirement; and
- (6) Establish a \$25 fee for equivalency determination applications, pending the adoption of administrative rules.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2724, 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. 2724, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Hogue).

Representatives Hiraki, Nakasone, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 95 on S.B. No. 2737

The purpose of this measure is to extend immunity to public and private agencies and entities engaged in civil defense functions, including the various branches of the military, the national guard, public utilities, and private entities.

Your Committee on Conference amended the bill by reformatting its provisions to:

- (1) Clarify that the public and private agencies and entities listed shall have immunity only from civil liability when engaged in civil defense functions; and
- (2) Separate the provisions regarding armed forces personnel, to clearly provide both civil and criminal immunity to the United States army, air force, navy, marines or coast guard, and the national guard from any other state when assisting civil authorities engaged in civil defense functions.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2737, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2737, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Kim, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hemmings).

Representatives Hamkawa, Hiraki, Magaoay, B. Oshiro, Davis, Thielen.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Hiraki).

Conf. Com. Rep. No. 96 on S.B. No. 1188

The purpose of this measure is to require that any person convicted for the first time for a nonviolent drug possession or use offense be sentenced to probation and community service.

This measure also requires:

- (1) The paroling authority not to revoke parole for the first violation of a nonviolent drug-related parole condition if the defendant undergoes drug treatment;
- (2) The court not to revoke probation for the first violation of a nonviolent drug-related probation condition;

- (3) The establishment of interagency coordination through an interagency cooperative agreement to oversee the development and implementation of offender substance abuse treatment programs;
- (4) The expungement of a nonviolent drug possession offense if the defendant completes a mandated drug treatment program; and
- (5) An exemption from drug court for sentencing under this Act.

Your Committee on Conference finds that the link between substance abuse and crime is well established. Your Committee does not wish to diminish the seriousness of crime, but looks to approaching crime as being the result of addiction that is treatable. The treatment route is expected to produce a reduction in crime and recidivism. The intent of this measure is to promote treatment of nonviolent substance abuse offenders, rather than incarceration, as being in the best interests of the individual and the community at large.

Your Committee on Conference has amended this measure by:

- (1) Clarifying that first time non-violent drug offenders, including probation and parole violators, be sentenced to undergo and complete drug treatment instead of incarceration;
- (2) Deleting references to:
 - (a) Definition of "nonviolent drug possession offense";
 - (b) Exemption from drug court;
 - (c) Conditions for an exception to the new sentencing provision;
 - (d) Amendments to chapter 353G, Hawaii Revised Statutes, relating to criminal offender treatment Act; and
 - (e) The Department of Health conducting an inventory of existing substance abuse programs and developing a "best practice" service guide;
- (3) Defining "drug treatment program";
- (4) Adding the offense of possession of drug paraphernalia as a qualifying offense;
- (5) Requiring the Hawaii Paroling Authority to conduct a review of current incarcerated persons who may qualify under this Act and to grant them parole;
- (6) Clarifying the expungement provision, on recommendation of the Attorney General;
- (7) Clarifying that the potentially eligible person must not have any violent felony convictions for five years;
- (8) Requiring the coordinating body to meet at least quarterly in a meeting subject to chapter 92, Hawaii Revised Statutes;
- (9) Clarifying that the person sentenced to probation under this measure who fails to complete the drug treatment program, will be returned to court for further sentencing if no other suitable treatment is amenable to the offender;
- (10) Adding that the provisions of this measure do not give rise to a cause of action against the State, state employees, or treatment providers;
- (11) Making appropriate statutory conforming amendments;
- (12) Deleting all appropriations; and
- (13) Changing the effective date to July 1, 2002.

Your Committee on Conference intends the term "conviction for any violent felony" to refer to a conviction for an offense against the person that involves the use of violence.

Your Committee on Conference intends that funding for this measure work in concert with the final draft of H.B. No. 1245.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1188, 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. 1188, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Hanabusa, Chun, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Slom).

Representatives Garcia, Arakaki, Nakasone, Espero, Auwae, Leong.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Nakasone, Leong).

Conf. Com. Rep. No. 97 on S.B. No. 2416

The purpose of this measure is to establish a long—term care financing program to assist Hawaii citizens in paying for long-term care services.

This measure is a product of the Joint Legislative Committee on Long-Term Care, formed pursuant to S.C.R. No. 23, C.D. 1, 2001, to develop and implement a plan for a dedicated source of revenue to provide a state—funded long—term care services system.

Specifically, this measure establishes a board of trustees to establish a benefits package for three levels of care in ascending order of intensity beginning with home health care and ending with extended adult residential care home services (including hospital services), and a method for financing such benefits.

After further consideration, your Committee on Conference has amended this measure by including the provisions common to S.B. No. 2416, H.D. 2, and H.B. No. 2638, S.D. 1. All appropriations in the H.D. 2 were deleted. As amended, this measure provides:

- (1) A purpose section, which is a shortened version of the purpose section in H.B. No. 2638, S.D. 1;
- (2) A definition section defining the term “long-term care services”, from H.B. No. 2638, S.D. 1, to give the temporary trustees direction to pursue their plan;
- (3) Establishment of a temporary board of trustees, appointed by the Governor, to design a tax-based long-term care system to finance long-term care services and to report to the 2003 Session. The Governor or designee serves as an ex officio member of the temporary board. The temporary board, among other things, would plan for a permanent board of trustees, and consider for purposes of its report, S.B. No. 2416 and H.B. No. 2638 and all drafts thereto, Special Committee Report No. 4, on S.C.R. No. 23, 2001, and the actuarial report made pursuant thereto;
- (4) Establishment of the Hawaii long-term care benefits fund, beginning July 1, 2003, a provision common to both measures;
- (5) Specification for the investment parameters and fiduciary and other obligations of the permanent board of trustees, including an annual actuarial report and report to the legislature, a provision common to both measures;
- (6) Administrative expenses of the temporary board to be paid from moneys obtained through budget savings by the Governor; and
- (7) An appropriation of \$40,000, to the University of Hawaii at Manoa to convene a long-term care summit and to report to the legislature for the 2003 Session.

The intent of your Committee on Conference is that this measure enacts a statutory framework for the future development of a long-term care financing program. As such, this measure represents the initial step in an incremental progression of development of what is destined to become a model for the nation.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2416, 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. 2416, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Chun Oakland, Fukunaga.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Arakaki, Kawakami, Kahikina, Yonamine, Leong, McDermott.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Leong, McDermott).

Conf. Com. Rep. No. 98 on S.B. No. 2867

The purpose of this measure is to set Medicaid payment rates within fair compensation limits through an increased appropriation of state general funds and other federal funds.

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

- (1) Changing the purpose of this measure to prohibit the Department of Human Services from submitting proposed amendments to Medicaid plan to eliminate or diminish the DRI McGraw-Hill inflation component and return on equity program until the Legislature approves and fully funds a mandatory program to replace these factors;

- (2) Changing the first provision in Section 2 of this measure to reflect the new purpose;
- (3) Deleting the appropriation; and
- (4) Changing the effective date to upon its approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2867, 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. 2867, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Chun Oakland, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Kahikina, Kawakami, Stonebraker.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Stonebraker).

Conf. Com. Rep. No. 99 on S.B. No. 2228

The purpose of this measure is to authorize the issuance of up to \$10,000,000 in special purpose revenue bonds to assist the Hawaii Macadamia Tree, Incorporated in establishing a macadamia processing and production facility on the island of Hawaii.

Your Committee finds that macadamia nut processing and production can help fill the void created by the cessation of sugar operations in Hawaii, particularly in terms of jobs and revenues to the State.

Your Committee has amended this measure by changing the effective date to July 1, 2002, and making technical, nonsubstantive stylistic changes.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2228, 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. 2228, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Buen, Hanabusa, Tam, Inouye, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Slom).

Representatives Abinsay, Cabrerros, Moses.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Moses).

Conf. Com. Rep. No. 100 on S.B. No. 2907

The purpose of this measure is to establish a tax credit for the private development of attractions and educational facilities at Ko Olina Resort and Marina.

Your Committee on Conference finds that this measure will spur the further development of Ko Olina and the surrounding area, to the benefit of residents and visitors alike.

Your Committee on Conference has amended this measure to:

- (1) Make the tax credit applicable for qualified costs incurred in the six taxable years from January 1, 2003, to December 31, 2008, up to a maximum of \$75,000,000 of credits for all six years, and a maximum of \$7,500,000 in any one year, in the aggregate for all qualified taxpayers;
- (2) Clarify that to qualify for the tax credit, a taxpayer shall have expended qualified costs on and be developing a world-class aquarium and marine science research facility, and shall dedicate one-half of taxable income of the aquarium to the State, beginning on the seventeenth year;
- (3) Require a qualified taxpayer, no later than March 31 of each year in which qualified costs were expended in the previous taxable year, to submit a written, certified statement to the director of taxation on the qualified costs and the tax credit claimed;
- (4) Include in the definition of "qualified costs" plans and design, and costs for equipment that is permanently affixed to a building or structure;
- (5) Make the Act effective upon approval for qualified costs incurred after December 31, 2002; and

- (6) Make technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2907, 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. 2907, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Kawamoto, Taniguchi, Hanabusa, Sakamoto, Slom.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Sakamoto).

Representatives Ahu Isa, Takamine, Magaoay, Suzuki, Djou, Leong.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Suzuki).

Conf. Com. Rep. No. 101 on H.B. No. 2512

The purpose of this bill is to:

- (1) Establish the Public Health Nursing Services Special Fund (Fund) to receive and expend Medicaid funds for case management services for medically fragile children; and
- (2) Appropriate moneys for the Fund.

Your Committee on Conference has amended this bill by:

- (1) Inserting an appropriation amount of \$90,720; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2512, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2512, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Chun Oakland, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Chun Oakland, Taniguchi).

Representatives Arakaki, Kahikina, Kawakami, Yonamine, Djou, Leong.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Yonamine, Djou).

Conf. Com. Rep. No. 102 on H.B. No. 1595

The purpose of this bill is to:

- (1) Ensure that adjustments in compensation and benefit packages for excluded civil service employees are at least equal to their counterparts and subordinates within the jurisdiction; and
- (2) Require that proposed adjustments are equivalent or not less than adjustments provided within the employer's jurisdiction.

Your Committee on Conference has amended this measure by:

- (1) Clarifying that each jurisdiction shall provide adjustments for its respective excluded civil service employees based on recommendations from its respective personnel director;
- (2) Changing the effective date to July 1, 2002; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1595, 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. 1595, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Taniguchi, Chun Oakland, Hanabusa.

Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Chun Oakland).

Representatives Saiki, Nakasone, Davis.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 103 on H.B. No. 2276

The purpose of this bill is to provide that except for cost items and any non-cost items that are tied to or bargained against cost items, all provisions in the agreement that are in conformance with this chapter shall be valid and enforceable and shall be effective as specified in the agreement.

Your Committee on Conference has amended this measure by changing the effective date to July 1, 2002.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2276, 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. 2276, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Taniguchi, Kanno, Kawamoto, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Kawamoto, Slom).

Representatives Saiki, Nakasone, Rath.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 104 on H.B. No. 2500

The purpose of this bill is to correct statutory references and make other clarifying amendments to make the law consistent with civil service reform initiatives enacted by Act 253, Session Laws of Hawaii 2000.

Your Committee on Conference has amended this measure by:

- (1) Specifying that teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides within the Department of Education shall be exempt from civil service requirements effective July 1, 2003; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2500, 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. 2500, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Hanabusa, Chumbley, Taniguchi, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Slom).

Representatives Saiki, Nakasone, Rath.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 105 on H.B. No. 2525

The purpose of this bill is to maintain a fair public works bidding process by ensuring that when contractors bid on public works construction projects, it is done pursuant to standards that are fair, equitable, and uniformly applied.

Specifically, this bill:

- (1) Clarifies that chapter 104, Hawaii Revised Statutes (the law regarding wages and hours of employees on public works), applies to every public works contract in excess of \$2,000 regardless of whether prevailing wage, overtime, and other requirements are stated in a contract or the contracts specifications;
- (2) Requires each bidder on a public works construction project to submit a signed affidavit to the governmental contracting agency attesting to the bidder's acknowledgement of and intent to comply with chapter 104, HRS;

- (3) Specifies that failure by the contracting agency to include prevailing wage, overtime, and other requirements in a contract in excess of \$2,000 for construction of a public work project shall not be used as a defense by a contractor or subcontractor for noncompliance with chapter 104, HRS; and
- (4) Authorizes the disclosure of the terms of a collective bargaining agreement to any federal or state agency authorized to enforce chapter 104, HRS.

Your Committee on Conference has amended this measure by:

- (1) Deleting the requirement for each bidder to submit a signed affidavit to the governmental contracting agency attesting to the bidder's acknowledgement of and intent to comply with chapter 104, HRS.
- (2) Adding a new section to chapter 103, Hawaii Revised Statutes, specifying the wage and hour requirements of employees on public works construction contracts;
- (3) Requiring that any bidder or offeror affirm their intent to comply with the requirements of chapter 104, HRS, through certification prior to entering into any contract for construction of a public work project in excess of \$2,000; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2525, 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. 2525, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Hanabusa, Kawamoto, Kim, Sakamoto.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Kim, Sakamoto).

Representatives Saiki, Nakasone, Leong.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 106 on H.B. No. 2018

The purpose of this bill is to encourage lessees of State agricultural lands whose leases are about to expire to maintain productive use of these lands by providing greater certainty in their agricultural leases. This bill allows lessees, within five years of lease expiration, to petition the Department of Land and Natural Resources (DLNR) to issue a public notice to determine whether other persons are interested in bidding for a lease on the property. If the existing lessee is outbid, the new tenant shall compensate the existing lessee for the residual value of any improvements made. If no one is interested in bidding for the lease, DLNR shall negotiate a new lease with the existing lessee not to exceed the term of the previous lease.

Your Committee on Conference considered a simpler and less time-consuming process that involves the immediate re-auction of the lease. Upon further consideration, your Committee on Conference has amended this bill by deleting its substance and inserting provisions that:

- (1) Allow any qualified lessee of an agricultural lease, which has run at least thirty years and has less than five years remaining, to apply to DLNR for the re-auction of the lease;
- (2) Authorize DLNR to re-auction the lease with the written consent of any person or entity with an interest in, or subordinate to, the lease;
- (3) Authorize the Board of Land and Natural Resources to:
 - (a) Reject any application for re-auction if it determines that the land can be used for a public purpose or for a higher, better, or more appropriate use; and
 - (b) Establish additional qualification criteria and requirements for qualified lessees;
- (4) Require the qualified lessee to sign an agreement specifying that the existing lease shall be canceled at the conclusion of the re-auction, and that the qualified lessee shall indemnify the State from any claims resulting from the early termination of the existing lease; and
- (5) Repeal these provisions on July 1, 2007.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2018, 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. 2018, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Buen, Inouye, Ihara, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ihara, Taniguchi).

Representatives Kanoho, Abinsay, Nakasone, Hale, Gomes, Moses.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Gomes, Moses).

Conf. Com. Rep. No. 107 on H.B. No. 1950

The purpose of this bill is to:

- (1) Establish the Medicaid Prescription Drug Expansion Program (Program) to make prescription drugs more affordable to individuals whose income is at or below three hundred percent of the federal poverty level;
- (2) Create the Medicaid Prescription Drug Rebate Special Fund (Special Fund) to accept rebates from pharmaceutical manufacturers to be used to expand Medicaid prescription drugs benefits;
- (3) Appropriate \$1,500,000 to the Special Fund to pay \$1 for each prescription written for a qualified individual and to pay for administrative costs of the Program; and
- (4) Require that the appropriated funds be reimbursed by the Program by the end of fiscal year 2004-2005 if sufficient manufacturers' rebates have been received to cover the appropriation amount.

Your Committee on Conference has amended this bill by:

- (1) Clarifying that the Special Fund may accept legislative appropriations;
- (2) Specifying that the Special Fund be used for the purposes of expanding Medicaid prescription drug benefits and administering the Program; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1950, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1950, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Menor, Taniguchi, Buen, Fukunaga, Ige, Kim, Hemmings.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 3 (Fukunaga, Ige, Taniguchi).

Representatives Kahikina, Kawakami, Leong.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Leong).

Conf. Com. Rep. No. 108 on H.B. No. 2072

The purpose of this bill is to appropriate moneys to the Housing and Community Development Corporation of Hawaii from the Emergency Budget and Reserve Fund to provide housing assistance to Hawaii's needy.

Your Committee on Conference finds that the State is still suffering from the financial effects of the events of September 11, 2001. Many people have lost their jobs and do not have enough regular income to make mortgage, rent, and utility payments and face the possibility of eviction, foreclosure, or the denial of vital utility services. This bill will help these people while they seek employment and prevent them from becoming homeless or suffer a financial burden that they cannot overcome.

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

- (1) Inserting a statement of findings and purposes;
- (2) Changing the appropriation from an unspecified amount to \$1,000,000; and
- (3) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2072, 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. 2072, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Menor, Taniguchi, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Menor, Taniguchi).

Representatives Kahikina, Kawakami, Rath.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Rath).

Conf. Com. Rep. No. 109 on H.B. No. 2638

The purpose of this bill is to provide an equitable and affordable system of long-term care in Hawaii by establishing the Hawaii Long-term Care Financing Program (Program).

Specifically, this bill:

- (1) Establishes an interim board of trustees to design a tax-based long-term care system and determine the means of collection of a tax and determining the nature and amount of benefits;
- (2) Establishes the Hawaii Long-term Care Benefits Fund (Benefits Fund) into which will be deposited the moneys collected as long-term care income taxes;
- (3) Establishes the Board of Trustees of the Hawaii Long-term Care Benefits Fund within the Department of Budget and Finance (B&F) to administer the Program; and
- (4) Appropriate funds for the interim board of trustees to design the Program.

Your Committee on Conference has amended this bill by:

- (1) Specifying that the Program be placed within B&F for administrative purposes;
- (2) Establishing the temporary board of trustees within the Department of Health, Executive Office on Aging, for administrative purposes;
- (3) Appropriating \$100,000 to design the Program; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2638, 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. 2638, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Menor, Taniguchi, Chun Oakland, Fukunaga.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Taniguchi).

Representatives Arakaki, Kahikina, Kawakami, Yonamine, Auwae, McDermott.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (McDermott).

Conf. Com. Rep. No. 110 on H.B. No. 2311

The purpose of this bill is to increase, from three to four, the number of circuit court judges in the second and third circuits.

Your Committee on Conference finds that recent increases in population and the number and complexity of court cases in the second and third circuits, warrant a corresponding expansion in judgeships and staff. The authorization of these positions will allow both circuits to provide smooth, efficient, and crucial judicial services to better serve their communities.

Your Committee on Conference has amended this measure by:

- (1) Changing the effective date to July 1, 2002; and
- (2) Making technical, nonsubstantive amendments for style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2311, 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. 2311, H.D. 2, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kanno, Taniguchi, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Ihara).

Representatives Hamakawa, Nakasone, Davis.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Davis).

Conf. Com. Rep. No. 111 on H.B. No. 2165

The purpose of this bill is to:

- (1) Clarify that the Hawaii Teacher Standards Board (HTSB) has sole jurisdiction over the issuing, renewing, revoking, suspending, and reinstating of teacher licenses;
- (2) Adjust the appropriation for the operation of HTSB for fiscal year 2002-2003;
- (3) Require the Department of Human Resources Development, in addition to the Department of Education, to facilitate the transfer or establishment of positions as required by HTSB; and
- (4) Require all publishers of textbooks and other instructional materials who sell their products to the State, except for publishers of materials in the Hawaiian language, to furnish computer diskettes from which braille versions can be produced.

Your Committee on Conference finds that this bill will help to clarify the authority of HTSB and ensure that this body is able to complete the implementation of its new duties relating to teacher licensing. In addition, it will ensure that HTSB has the assistance of appropriate state agencies in transferring and establishing positions.

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

- (1) Reverting back to the original appropriation amount for HTSB operations;
- (2) Appropriating \$850,000 from the Hawaii Teacher Standards Board Special Fund to conduct the functions of HTSB; and
- (3) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2165, 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. 2165, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Nakata, Taniguchi, Chumbley, Hanabusa, Ige, Hogue.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Ige).

Representatives Ito, Saiki, Suzuki, Schatz, Davis, Ontai.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Saiki, Davis).

Conf. Com. Rep. No. 112 on H.B. No. 2353

The purpose of this bill is to:

- (1) Require the Department of Education (DOE) to expand its statewide assessment program to include norm-referenced testing in reading and math as required by the No Child Left Behind Act of 2001 (NCLBA); and
- (2) Appropriate funds to expand the statewide assessment program.

Your Committee on Conference finds that expanding DOE's testing and assessment program will enhance the effectiveness of the State's Content and Performance Standards. NCLBA is an expansive piece of federal legislation that, among other things, requires testing of students during specific years to help track individual performance, school performance, and system performance. Your Committee on Conference finds that to the extent possible, the expanded testing required by this bill should be financed through federal funding provided through NCLBA.

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

- (1) Deleting the appropriation section and specifying that the provisions of the bill shall be funded through DOE's general fund appropriation and federal funds provided through NCLBA; and
- (2) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2353, 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. 2353, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Hanabusa, Ige, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Hanabusa).

Representatives Ito, Suzuki, Ontai.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 113 on H.B. No. 2192

The purpose of this bill is to improve the effectiveness and administration of the Hawaii Tourism Authority. Specifically, this bill, among other things:

- (1) Increases both the number and the areas of expertise of the members of the Hawaii Tourism Authority (HTA) board, and clarifies that it is a policy-making board;
- (2) Requires Senate confirmation of the executive director and caps the executive director's salary at 15 percent of the three percent of the tourism special fund authorized for administrative expenses;
- (3) Authorizes the HTA to take into account Hawaii's natural resources infrastructure when developing, coordinating, and implementing state policies and directions for tourism and related activities; provided that the HTA shall support the efforts of other state and county agencies to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors;
- (4) Authorizes HTA the right to enter into contracts and agreements that focuses on visitors or promotes Hawaii as a business destination;
- (5) Limits HTA's authority to contract for administrative or oversight services for contracts relating to the promotion, development, and coordination of sports-related activities and events;
- (6) Requires legislative notice for HTA contracts over \$25,000; and
- (7) Requires at least every five years, a management and financial audit of all contracts and agreements valued at over \$15,000,000 to ensure that the HTA and its major contractors are in compliance with all relevant programmatic and financial requirements.

Your Committee on Conference finds that the HTA is beginning a new phase of its brief history. The search is underway for a new executive director, over half the current members of the board will be replaced by early July, and numerous changes in the management and operations of the HTA are underway as a result of the Auditor's Report No. 02-04, "Management Audit of the Hawaii Tourism Authority," issued in February 2002.

Your Committee on Conference welcomes these changes and believes they should result in a more effective agency that is held to a higher standard of accountability. The further adjustments in this measure will complement those already underway.

Your Committee on Conference remains concerned, however, about the level of legislative oversight necessary to ensure that the public's money is well spent. Members have considered additional contract and management restrictions, but have concluded that these may be premature at this time, given the new management that will be in place within a short time.

Members also discussed the compensation package for the new executive director, and how best to achieve some flexibility within the constraints of accountability for public moneys. Your Committee on Conference notes that the amendment to raise the cap on administrative expenses in the tourism special fund will ensure a competitive compensation package for the executive director, but strongly urges the HTA to regard this as a ceiling, and not the final compensation.

Your Committee on Conference has amended this measure by:

- (1) Raising the total number of members appointed by the Governor from lists submitted by the Legislature from four to six;
- (2) Requiring that no more than three members shall represent, be employed by, or be under contract to any one sector;
- (3) Deleting the provision requiring Senate confirmation of the executive director of the HTA;
- (4) Exempting the executive director from the employees' retirement system;

- (5) Limiting the compensation package, including salary, of the executive director to 15 per cent of the 3.5 percent authorized for administrative expenses;
- (6) Prohibiting private sector contributions for the final compensation package of the executive director;
- (7) Authorizing the HTA board to set the duties, responsibilities, hours of work, and other working conditions of the executive director;
- (8) Repealing the provision that the executive director be compensated at a salary level set by the Governor;
- (9) Deleting the restrictions on HTA's authority to contract for administrative or oversight services for contracts relating to the promotion, development, and coordination of sports-related activities and events;
- (10) Raising the cap on administrative expenses in the tourism special fund from 3 to 3.5 percent;
- (11) Requiring the HTA to reimburse the auditor for any expenditures incurred in the management and financial audit;
- (12) Specifying that the first audit shall be conducted within one year of the effective date of this measure; and
- (13) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Conference further wishes to note that the amendments to the tourism special fund contained in this measure are in no way in conflict with those made in S.B. No. 2350, S.D. 2, H.D. 2, C.D. 1.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2192, 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. 2192, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Taniguchi, English, Hanabusa, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (English, Hanabusa).

Representatives Chang, Suzuki, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 114 on H.B. No. 1777

This bill clarifies that the Public Utilities Commission, upon notice and hearing, may exempt a telecommunications provider from the public hearing and contested case requirements in rate-related matters.

Your Committee has amended this measure by replacing the reference to section "269.16" with a reference to "269-16."

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1777, 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. 1777, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Taniguchi, Hemmings.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Hemmings).

Representatives Hiraki, Nakasone, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 115 on H.B. No. 2468

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs (DCCA) to hire consultants to assist in reviewing cemetery and pre-need funeral authority license applications and other related regulatory matters.

Your Committee on Conference finds that there is an increasing need to regulate the funeral industry due to recent allegations of fraudulent practices on the Big Island and on the mainland. This measure allows DCCA to hire experts with skills in accounting, auditing law, and other areas, and have the expenses paid by the licensee whose application or activities require the retention of these consultants.

Your Committee on Conference has amended this measure by:

- (1) Clarifying that a consultant's tasks shall include reviewing an applicant's filings and other related documentation for purposes of ensuring compliance with applicable law;
- (2) Requiring DCCA to obtain an applicant's prior written consent to continue review of a filing where the costs to be charged to the applicant will exceed \$25,000;
- (3) Providing an applicant the opportunity to withdraw the filing;
- (4) Changing the effective date to upon approval; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, conformity, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2468, 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. 2468, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Taniguchi, Hanabusa.
Managers on the part of the Senate.
Ayes, 2. Noes, none. Excused, 1 (Hanabusa).

Representatives Hiraki, Yonamine, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 116 on H.B. No. 2164

The purpose of this bill is to support teacher education and retention by strengthening the Hawaii Educator Loan Program (Program) and the Hawaii Educator Loan Program Special Fund (Fund) by:

- (1) Reducing the loan forgiveness period for teachers from ten years to six years;
- (2) Specifying a schedule of loan forgiveness to conform to the reduction in the loan forgiveness period;
- (3) Authorizing additional sources of funding for the Fund;
- (4) Establishing an appropriation ceiling for the Fund;
- (5) Declaring that funds remaining at the end of each fiscal year shall remain in the Fund and shall not lapse to the general fund;
- (6) Specifying that not more than five per cent of the total amount of outstanding loans may be used for administrative expenses of the Fund;
- (7) Expediting the implementation of the Program by exempting the University of Hawaii (UH) from the public notice and public hearing requirements under chapter 91, Hawaii Revised Statutes, when adopting rules for the Program;
- (8) Appropriating moneys to be deposited in the Fund;
- (9) Authorizing the expenditure of moneys from the Fund; and
- (10) Allowing collection agencies who enter into contracts with UH to collect delinquent loans from students to pass its fees on to the debtors.

Your Committee on Conference finds that Hawaii is faced with a severe teacher shortage that is projected to increase sharply if steps aren't taken to recruit and retain qualified educators. The Program shows great promise as a tool to attract prospective teachers to Hawaii and encourage them to teach here when they graduate. This bill will take further steps to enhance the Program and make it more attractive to future teachers.

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

- (1) Deleting the appropriations into and out of the Fund;
- (2) Deleting the appropriation ceiling for the Fund; and
- (3) Changing the effective date to upon approval for all sections.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2164, 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. 2164, H.D. 2, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chun Oakland, Ige, Matsunaga.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ige, Matsunaga).

Representatives Takumi, Saiki, Ontai.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Ontai).

Conf. Com. Rep. No. 117 on H.B. No. 2752

The purpose of this bill is to encourage the repayment of student loans and deter future defaulters by authorizing the licensing authority to sanction individuals who default or breach any obligation under a state or federal student loan.

Your Committee on Conference finds that individuals who default on student loans create a significant taxpayer liability, and there are currently few sanctions available to deter defaulters. Allowing for the denial, suspension, or revocation of professional vocational licenses will act as a significant deterrent to defaulting on student loans and will decrease the unfair burden placed on taxpayers.

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

- (1) Expanding the application of sanctions to:
 - (A) Teachers;
 - (B) Insurance professionals;
 - (C) Nurses;
 - (D) Attorneys;
 - (E) Radiologic technologists and radiographers; and
 - (F) Other professionals licensed by the Department of Health;
- (2) Clarifying that nonfederal student loans administered by another state are not covered by this bill; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2752, 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. 2752, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chun Oakland, Kawamoto.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Kawamoto).

Representatives Takumi, Saiki, Ontai.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Ontai).

Conf. Com. Rep. No. 118 on H.B. No. 2453

The purpose of this bill is to assist small businesses participating in the Hawaii Capital Loan Program (Program) by providing more timely and market-aligned interest rates.

More specifically, this bill changes the frequency for adjusting the Program's loan interest rate from semiannually to the first day of each month.

Your Committee on Conference has amended this measure by making it effective upon its approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2453, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2453, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Tam, Taniguchi, Hanabusa, Ige, Slom.

Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Ige).

Representatives Ahu Isa, Magaoay, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 119 on H.B. No. 2454

The purpose of this bill is to minimize business failures and layoffs by making it easier for firms participating in the Hawaii Enterprise Zones (EZ) Partnership to fulfill their hiring requirements. This bill:

- (1) Allows EZ firms to fulfill their hiring requirements for any fiscal year that includes September 11, 2001, by using their average annual number of full-time employees as of August 31, 2001, rather than their average annual number at the end of the fiscal year;
- (2) Allows EZ firms to use their average annual number of full-time employees at the end of the fiscal year that includes September 11, 2001, as its base number of full-time employees if necessary to meet their hiring requirements in future fiscal years; and
- (3) Eliminates the use tax exemption for EZ firms.

Your Committee on Conference has amended this measure by making it effective upon its approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2454, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2454, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Tam, Taniguchi, Buen, Hanabusa, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Buen, Hanabusa).

Representatives Ahu Isa, Magaoay, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 120 on H.B. No. 1969

The purpose of this bill is to allow the Department of Education (DOE) to employ and contract attorneys to represent the DOE in civil actions and advise and assist in the lawful and efficient administration and operation of the DOE.

Your Committee on Conference finds that DOE cannot always obtain timely legal services from the Attorney General. The lack of timely legal advice can make it difficult for DOE to operate efficiently and result in significant losses of taxpayer dollars.

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

- (1) Specifying that the Board of Education shall be responsible for appointing or contracting attorneys for the benefit of DOE;
- (2) Clarifying that any attorney appointed or contracted shall not be considered a deputy attorney general; and
- (3) Making technical, nonsubstantive changes for purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1969, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1969, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Kanno, Taniguchi, Chumbley.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Chumbley).

Representatives Ito, Suzuki, Halford.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Halford).

Conf. Com. Rep. No. 121 on H.B. No. 2480

The purpose of this bill is to improve the collection and disposition of school bus fares by establishing a School Bus Fare Revolving Fund (Revolving Fund). School bus fares collected by the State will be deposited into this Revolving Fund and disbursed to fund the operation of state-contracted school bus services.

Your Committee on Conference has amended this measure by appropriating \$2,000,000 out of the Revolving Fund for the purposes of this measure. Other technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2480, 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. 2480, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Hanabusa, Kokubun, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Matsunaga, Hogue).

Representatives Ito, Suzuki, Bukoski.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Bukoski).

Conf. Com. Rep. No. 122 on H.B. No. 2212

The purpose of this measure to control and eradicate invasive alien species by:

- (1) Establishing an evasive administrator/coordinator position to coordinate state activities to fight invasive species;
- (2) Authorizing the Departments of Agriculture, Health, and Land and Natural Resources to enter public or private premises, vessels, or aircraft within the State to examine, control, or eradicate invasive species; and
- (3) Designating the administrator/coordinator as the head of the Emergency Environmental Workforce.

Your Committee on Conference has amended this measure by:

- (1) Deleting the administrator/coordinator position and permitting the establishment of a Hawaii Invasive Species Council (Council);
- (2) Administratively attaching the Council to the Office of the Governor;
- (3) Specifying that the Council, if established, shall be composed of the President of the University of Hawaii and the heads of the Departments of Agriculture, Land and Natural Resources, Business, Economic Development, and Tourism, Health, Transportation, and Commerce and Consumer Affairs, with federal and private sector representatives invited to participate;
- (4) Directing the Council, if established, among other mandates, to:
 - (A) Coordinate the efforts of participating state agencies;
 - (B) Coordinate and promote the State's position with respect to certain federal issues, including amending the Lacy Act for consistency with state laws; and
 - (C) Review state agency mandates and commercial interest that sometimes call for maintenance of potentially destructive alien species as resources for sport hunting, aesthetic resources, or other purposes;
- (5) Deleting the authorization of the Departments of Agriculture, Health, and Land and Natural Resources to enter premises to control and eradicate invasive species;
- (6) Deleting provisions relating to the designation of lead state agencies;
- (7) Deleting appropriation provisions;
- (8) Sunsetting the measure on June 30, 2007; and
- (9) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2212, 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. 2212, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Buen, Inouye, Hanabusa, English, Kawamoto, Hogue.

Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Hogue).

Representatives Morita, B. Oshiro, Yonamine, Cabrerros, Auwae, Jaffe.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Auwae, Jaffe).

Conf. Com. Rep. No. 123 on H.B. No. 2006

The purpose of this bill is to:

- (1) Expand civil enforcement remedies for improper disposal of lead acid batteries; and
- (2) Clarify statutory requirements concerning the importation, storage, disposal, surcharge fees, and reporting related to motor vehicle tires.

Your Committee on Conference has amended this measure by:

- (1) Requiring the Director of Health to waive the surcharge fee of \$1 per tire for Hawaii tire importers when the amount of the collected surcharge to be deposited into the special account in the Environmental Management Special Fund established pursuant to section 342G-63 has reached a total of between \$2,750,000 and \$3,000,000;
- (2) Authorizing the Director of Health to reinstate the \$1 per tire surcharge, with ninety days written notice to tire importers, when the remaining balance in the special account is less than \$100,000 in unencumbered funds and funds are necessary for tire cleanups and associated assessments and remediation;
- (3) Requiring the Department of Health to submit annual reports on the status of the special account in the Environmental Management Special Fund established pursuant to section 342G-63 and the status of cleanup projects, with its findings and recommendations, twenty days prior to each legislative session;
- (4) Repealing the tire surcharge on January 1, 2006; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Your Committee on Conference does not want the special account in the Environmental Management Special Fund to build up unnecessarily and is therefore authorizing the Director of Health to waive the surcharge fees.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2006, 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. 2006, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Fukunaga, Inouye, Kanno, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Fukunaga).

Representatives Morita, B. Oshiro, Yonamine, Cabrerros, Bukoski, Thielen.
Managers on the part of the House.
Ayes, 6. Noes, none. Excused, none.

Conf. Com. Rep. No. 124 on H.B. No. 1256

The purpose of this bill is to address the twin problems of litter and decreasing landfill availability by the implementation of a "bottle bill" program.

The bill would collect a small deposit beverage container fee on each eligible deposit beverage container, and also impose a 5 cent deposit on each container that will be returned to the consumer upon return of the container at a redemption facility. Moneys from the container fee and any unredeemed deposits will be used for refunds and to pay handling fees to redemption centers. Moneys may also be used for funding audit and program compliance activities, conducting recycling education and demonstration projects, promoting recycling education and demonstration projects, supporting the transportation of the containers to end-markets, and funding personnel and office expenses.

Your Committee finds that a proven method of increasing recycling rates is through the establishment of a beverage container deposit and redemption program. States with these programs have beverage container recovery rates averaging eighty per cent and have seen litter decrease by sixty-nine to eighty-three per cent. Approximately 800,000,000 beverage containers -- glass, plastic, and aluminum cans -- are imported, consumed, and discarded in Hawaii. These containers either end up in our landfills or as ugly litter that taints the natural beauty of our State for residents and visitors. We can and must do better in protecting our island home.

The landfill situation in particular is approaching a crisis. Each county faces major landfill siting problems that can best be solved by solid waste diversion to extend the life of existing landfills. A beverage container deposit and redemption system provides a

financial incentive for responsible citizens and distributes the responsibility of proper waste disposal between the distributor, retailer, consumer, and government.

Your Committee has amended the bill by:

- (1) Setting the deposit beverage container fee, which had been a blank amount, at 0.5 cents between October 1, 2002 and September 30, 2004; at 1 cent between October 1, 2004 and December 31, 2005; and at a sliding scale thereafter based on the previous quarter's redemption rate, of 1 cent if the redemption rate is seventy per cent or less and 1.5 cents if it is higher;
- (2) Changing the date for registration of deposit beverage distributors from July 1, 2002 to September 1, 2002;
- (3) Changing the date that deposit beverage container inventory reports and payment are to start from October 1, 2050 to October 1, 2002;
- (4) Setting the refund value at 5 cents per container, instead of a blank amount;
- (5) Requiring management and financial audits of the program for fiscal year 2004-2005 and 2005-2006 and every other fiscal year thereafter;
- (6) Changing the date of full implementation from October 1, 2003 to January 1, 2005;
- (7) Establishing one refund value for all deposit beverage containers sixty-four ounces or less in capacity, instead of a blank amount for container twenty-four ounces or less and a blank amount for containers larger than twenty-four ounces;
- (8) Changes the exemption of dealers required to operate redemption centers to apply if the dealer is in a high population density area and has an independent certified redemption center within two miles, or is in a rural area as defined by rule;
- (9) Requires redemption centers to be certified instead of permitted;
- (10) Changes the handling fee paid to each redemption center from a blank amount to the prevailing beverage container fee;
- (11) Requires the department of health to publish a statewide notice of the recovery rate for each calendar quarter;
- (12) Specifies that the state auditor shall have access to the records of beverage distributors, dealers, redemption centers, and recycling facilities;
- (13) Establishes an advisory committee to assist the department in developing rules to implement the program;
- (14) Keeps the advance disposal fee for glass containers at 1.5 cents;
- (15) Requires quarterly reports by the department of health to the Legislature and the Governor between October 1, 2002 and December 1, 2004;
- (16) Provides that all positions for the program personnel shall be temporary positions until explicitly authorized as permanent by the Legislature; and
- (17) Changes the effective date from July 1, 2050 to July 1, 2002.

Finally, your Committee has amended this bill by providing an exemption from the general excise tax for the deposits, and by expanding the task of the advisory committee to include assessing the impact on consumers, recyclers, and the beverage industry to address concerns of the conferees that the concerns of all affected parties be addressed by the advisory committee.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1256, 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. 1256, H.D. 2, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Inouye, Menor, Taniguchi, Tam, Hemmings.

Managers on the part of the Senate.

Ayes, 5. Noes, none. Excused, none.

Representatives Morita, Ahu Isa, Saiki, Magaoay, Bukoski, Davis.

Managers on the part of the House.

Ayes, 5. Noes, none. Excused, 1 (Ahu Isa).

Conf. Com. Rep. No. 125 on H.B. No. 2761

The purpose of this bill is to increase access to dental services and improve the quality of oral health in the state. Specifically, this bill:

- (1) Amends temporary dental licensing laws to encourage dentists to practice in safety net dental provider organizations, and in agencies or practices providing dental services to dental health professional shortage areas in the state;
- (2) Provides that licensed dental hygienists hired by the Department of Health (DOH) are to provide comprehensive services to children in public school complexes; and
- (3) Appropriates funds to be expended by DOH to implement the bill.

Your Committee on Conference finds that poor oral health among children and vulnerable adult populations is among the most widespread and pressing public health problems identified in Hawaii. This bill will provide needed dental services to those populations, and will especially benefit Hawaii's children, who have tooth decay rates that far exceed those documented on the United States mainland.

Your Committee on Conference notes that \$500,000 has been designated from the Emergency and Budget Reserve Fund in H.B. No. 1245, H.D. 1, S.D. 1, C.D. 1, to fund this measure, and has amended the bill by removing its appropriations, and making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2761, 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. 2761, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Inouye, Sakamoto, Taniguchi, Chun, Fukunaga, Hanabusa, Slom.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 3 (Chun, Sakamoto, Slom).

Representatives Arakaki, Kawakami, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 126 on H.B. No. 2840

The purpose of this bill is to ensure that scarce state resources are devoted to core government functions as specified in the Hawaii state plan and functional plans and to provide a mechanism by which all state government programs may be classified according to whether they implement core government functions.

Your Committee on Conference has amended the measure by:

- (1) Altering the composition of the Core Government Functions Advisory Commission (Advisory Commission);
- (2) Removing the appropriations section;
- (3) Changing the effective date to take effect upon approval; and
- (4) Making other technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2840, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2840, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Fukunaga, Hanabusa.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Saiki, Kawakami, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 127 on H.B. No. 1821

The purpose of this bill is to provide the Office of the Auditor (Auditor) with sufficient funds to conduct financial audits of the departments, offices, and agencies of the State by:

- (1) Creating an Audit Revolving Fund (Fund) to be administered by the Auditor to collect moneys received to conduct audits and to pay for certified public accountants to conduct those audits;
- (2) Making an unspecified appropriation for fiscal year 2002-2003 to be paid into the Fund;

- (3) Appropriating an unspecified amount of funds for fiscal year 2002-2003 for the Auditor to conduct a financial audit of the department of education.

Your Committee on Conference has amended this bill by:

- (1) Allowing the Auditor to charge audited entities a reasonable fee for the cost of performing financial audits, including financial statement audits, audits required under federal law, and audits of special funds, revolving funds, or trust funds;
- (2) Providing that legislative appropriations may be deposited into the Fund;
- (3) Reallocating general funds already appropriated by Act 1, Session Laws of Hawaii (SLH) 2002, by:
 - (A) Changing the amount appropriated to the Auditor to \$2,727,219; and
 - (B) Providing that the sum of \$1,897,443 will be used to defray the expenses of the Auditor during fiscal year 2002-2003;
- (4) Appropriating \$275,000 for fiscal year 2002-2003 to be paid into the Fund;
- (5) Changing the expending agency of the Fund to the Auditor;
- (6) Appropriating \$600,000 for fiscal year 2002-2003 from the Fund to carry out the purposes of the Fund and to provide the auditor with necessary funds to conduct financial statement audits and audits required under federal law of the department of education;
- (7) Changing the effective date to July 1, 2002; and
- (8) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1821, 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. 1821, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Hanabusa, Kim, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Suzuki, Yonamine, Halford.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Halford).

Conf. Com. Rep. No. 128 on H.B. No. 2451

The purpose of this bill is to improve the operation of the Convention Center. More specifically, this bill:

- (1) Establishes a Convention Center Enterprise Special Fund (Enterprise Special Fund) for the payment of debt service and maintenance and operating expenses of the facility;
- (2) Assigns to the Hawaii Tourism Authority the right to market, operate, manage, and maintain the Convention Center facility, with a proviso that the contract for management of the facility shall include marketing for all uses of the facility;
- (3) Beginning January 1, 2002, caps transient accommodations tax (TAT) revenues deposited into the Enterprise Special Fund at \$28,500,000 for any calendar year and requires revenues collected in excess of \$28,500,000 be deposited into the general fund;
- (4) Beginning January 1, 2004, caps TAT revenues deposited into the Enterprise Special Fund at \$29,000,000 for any calendar year and requires revenues collected in excess of \$29,000,000 be deposited into the general fund; and
- (5) Formally repeals the previous Convention Center authority law.

The provisions in this measure will reestablish a dedicated source of funds and authority for the management of the Convention Center facility – provisions that lapsed when the previous convention center law sunset on June 30, 2000. Your Committee on Conference finds that these provisions will clearly delineate the responsibility and the costs associated with the Convention Center facility, and should result in more efficient management and greater accountability of state moneys.

Your Committee on Conference has amended this measure by:

- (1) Including as deposits into the Enterprise Special Fund, any transfers from the Tourism Special Fund for marketing the facility;
- (2) Authorize expenditures from the Enterprise Special Fund for marketing the facility;

- (3) Specifying that effective January 1, 2003, and thereafter, the contract for management of the Convention Center facility shall include marketing for all uses of the facility;
- (4) Beginning January 1, 2002, capping the TAT revenues deposited in the Enterprise Special Fund at \$31,000,000, in any calendar year and requiring revenues in excess of \$31,000,000 be deposited into the general fund;
- (5) Appropriating \$46,000,000 from the Enterprise Special Fund for expenditure by the HTA; and
- (6) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2451, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2451, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Taniguchi, Buen, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Buen).

Representatives Chang, Suzuki, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 129 on H.B. No. 2595

The purpose of this bill is to appropriate \$500,000 out of the tourism special fund for fiscal year 2002-2003 for the enhancement of agricultural tourism venues by the Hawaii Tourism Authority (HTA).

Your Committee on Conference finds that agricultural tourism is a growing market in the visitor industry and that Hawaii has an opportunity to draw on statewide agricultural resources to enhance growth in this market.

Your Committee on Conference has amended this measure to clarify that the HTA shall spend not less than \$500,000 in the coming fiscal year for this purpose.

It is the intent of your Committee on Conference that the \$500,000 appropriated in this measure is funded from within the expenditure ceiling of the Tourism Special Fund.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2595, 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. 2595, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kim, Kawamoto, Buen, Taniguchi, English, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (English, Kawamoto).

Representatives Chang, Abinsay, Suzuki, Cabrerros, Halford.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 1 (Halford).

Conf. Com. Rep. No. 130 on H.B. No. 2821

The purpose of this bill is to require Senate confirmation of all first deputies and first assistants within State departments and of the Executive Director of the Hawaii Tourism Authority.

Your Committee has amended this measure by deleting its contents and inserting provisions to abolish the position of deputy or assistant to the head of any department of the State, except the University of Hawaii and the Department of Education.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2821, 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. 2821, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Hanabusa, Ihara, Nakata, Hemmings.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Ihara).

Representatives Takamine, Kawakami, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 131 on S.B. No. 2043

The purpose of this measure is to establish a temporary advisory task force to study legal issues relating to hanai adoption. The task force is directed to:

- (1) Review case law, statutory law, and Hawaiian customary and traditional practices related to hanai adoption practices;
- (2) Submit an interim report to the Legislature not later than twenty days prior to the Regular Session of 2003; and
- (3) Submit a final report of findings and recommendations, including proposed legislation, to the Legislature not later than twenty days prior to the Regular Session of 2004.

Your Committee on Conference finds that hanai adoption has long been practiced by Hawaiian families, and hanai relationships continue today. Hanai adoption generally refers to a permanent relationship, frequently with family members, that provides for a child's well being, with adults other than the child's biological parents raising and caring for the child. Although it closely resembles today's legal adoptions, early courts in Hawaii failed to grant the same rights to hanai adoptions as those given to legal adoptions that fulfill statutory requirements. Modern courts follow that precedent.

The Hawaii constitution requires that customs and traditions of native Hawaiians be protected and preserved. Your Committee on Conference believes that hanai adoption is a customary and traditional Hawaiian practice that continues today, and as such, the State must fulfill its constitutional mandate. The task force established by this measure would clarify the status of hanai relationships, helping those involved to understand their legal rights and obligations.

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

- (1) Deleting all references to moneys being appropriated for the task force;
- (2) Transferring the responsibility of convening the task force from the Department of Human Services to Volunteer Legal Services Hawaii; and
- (3) Making the convening of the task force voluntary rather than mandatory.

Your Committee on Conference realizes that without an appropriation to assist the Department of Human Services in defraying the costs of implementing this measure, the department would be hard-pressed to meet the measure's mandated purpose. However, it is your Committee on Conference's understanding that Volunteer Legal Services Hawaii is willing to convene the task force without public funding.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2043, 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. 2043, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Chun, Hanabusa, Kanno, Chun Oakland, English, Taniguchi, Slom.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 3 (Chun Oakland, Hanabusa, Taniguchi).

Representatives B. Oshiro, Espero, Gomes.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Gomes).

Conf. Com. Rep. No. 132 on S.B. No. 2478

The purpose of this measure is to allow trustees of the Office of Hawaiian Affairs to participate in and receive the same retirement benefits as other state-elected officials.

Specifically, the measure provides that:

- (1) Any trustee of the Office of Hawaiian Affairs in service on July 1, 2002, may become a member upon the trustee's election, in accordance with section 88-43, Hawaii Revised Statutes, by October 1, 2002;
- (2) Any trustee of the Office of Hawaiian Affairs elected or appointed after July 1, 2002, may become a member upon the trustee's election, in accordance with section 88-43, Hawaii Revised Statutes;
- (3) Any former trustee of the Office of Hawaiian Affairs who is a class C member on July 1, 2002, may elect to enter class A membership or remain a class C member by October 1, 2002; and

- (4) Any former trustee of the Office of Hawaiian Affairs, who served during the period of July 1, 1993, through June 30, 2002, who becomes a member on or after July 1, 2002, may elect to become a class A or class C member within 30 days of entering or re-entering service.

The measure also specifies that:

- (1) Any service as a trustee of the Office of Hawaiian Affairs during the period of July 1, 1993, through July 1, 2002, if claimed by the member, shall be credited in the member's class at the time the service is acquired; provided that membership service shall be credited in accordance with sections 88-59 and 88-272;
- (2) Any former trustee of the Office of Hawaiian Affairs who retired from service prior to July 1, 2002, shall not be entitled to claim membership service as a trustee during the period July 1, 1993, through June 30, 2002; and
- (3) Service rendered as a trustee of the Office of Hawaiian Affairs during the period of July 1, 1993, through June 30, 2002, constitutes membership service for the retirement system.

Upon further consideration, your Committee on Conference has amended the measure by deleting the provisions that enable:

- (1) Any former trustee of the Office of Hawaiian Affairs who is a class C member on July 1, 2002, to elect to become a class A member or remain a class C member by October 1, 2002; and
- (2) Any former trustee of the Office of Hawaiian Affairs, who served during the period of July 1, 1993, through June 30, 2002, who becomes a member on or after July 1, 2002, to elect to become a class A or class C member within 30 days of entering or re-entering service.

Your Committee on Conference has also amended the measure by correctly numbering the last two sections of the bill and changing the effective date of the measure from July 1, 2010, to upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2478, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2478, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Chun, Taniguchi, Chun Oakland, Ige, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ige, Hogue).

Representatives Hamakawa, Takamine, Davis.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 133 on S.B. No. 2900

The purpose of this measure is to appropriate funds to continue the efforts of the emergency environmental workforce to improve the State's economy by employing citizens to protect the environment.

Your Committee on Conference finds that the terrorist attacks of September 11, 2001, have resulted in a significant economic downturn in the State. In an effort to assist those people who were displaced as a result of the September 11, 2001, terrorist attacks, the Legislature enacted Act 4, 2001 Third Special Session, which established an emergency environmental workforce for short-term employment for individuals who lost their jobs.

Your Committee on Conference believes this program is an ingenious way of keeping Hawaii's displaced workforce working. The persons employed by the program are providing a much needed service to the community which would otherwise go unfurnished.

Upon further consideration, your Committee on Conference has amended the measure by inserting \$500,000, as the amount appropriated to continue this worthwhile program.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2900, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2900, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Hanabusa, Inouye, Chumbley, English, Ihara, Taniguchi, Slom.
Managers on the part of the Senate.
Ayes, 7. Noes, none. Excused, 1 (Ihara).

Representatives Morita, Kanoho, Magaoay, Hale, Bukoski, Thielen.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Bukoski, Thielen).

Conf. Com. Rep. No. 134 on S.B. No. 552

The purpose of this measure is to appropriate moneys to the Department of Business, Economic Development, and Tourism (DBEDT) for the establishment of a national Korean War Museum in Hawaii to pay tribute to our Korean War veterans.

Your Committee finds that many residents of Hawaii valiantly served their country during the Korean War, and many relatives of those who served have been greatly effected by the War.

Your Committee has amended this measure by:

- (1) Changing the type of matching fund sources from "federal government or private" to "federal government and other";
- (2) Inserting \$5,000 into the appropriation amount; and
- (3) Correcting the fiscal year of appropriation and effective date.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 552, 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. 552, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Tam, Kawamoto, Taniguchi, Kim, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Kim, Slom).

Representatives Garcia, Nakasone, Leong.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Leong).

Conf. Com. Rep. No. 135 on S.B. No. 2067

The purposes of this measure are to:

- (1) Repeal the HOPE endowment special fund; and
- (2) Transfer the remaining balance to the University of Hawaii tuition and fees special fund to be used for programs to support underrepresented students and promote diversity.

Your Committee finds that transferring the remaining balance of HOPE endowment special fund to the University of Hawaii tuition and fees special fund for use in programs that support underrepresented students and promote diversity is consistent with the original intent of the HOPE endowment special fund. Such diversity will foster a climate of diversity on campuses that will facilitate the social and intellectual development of all students.

Your Committee has amended the measure to make technical nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2067, 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. 2067, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chun Oakland, Hanabusa, Ige.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Ige).

Representatives Takumi, Saiki, Stonebraker.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Stonebraker).

Conf. Com. Rep. No. 136 on S.B. No. 2068

The purpose of this bill is to:

- (1) Continue funding for a position in the Department of Accounting and General Services (DAGS) to coordinate public and private efforts to repair and maintain public schools; and
- (2) Indemnify from liability construction professionals who perform services for Helping Hands Hawaii, through its project, Hawaii 3R's, to repair and maintain schools.

Your Committee finds that the Hawaii 3R's project has provided schools with repair and maintenance services very economically while bringing the school community together. The continuation of the vital DAGS position will allow these worthy efforts to continue. However, your Committee notes that providing blanket indemnification will expose the State to significant liability and potential costs.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the indemnification provisions; and
- (2) Affording volunteer status and protection from liability under Chapter 90, Hawaii Revised Statutes, to providers of construction or project-related services through 3R's.

In addition, due to the lack of available funding, your Committee on Conference has amended this bill by deleting the continued funding for the DAGS position.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2068, 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. 2068, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Kawamoto, Taniguchi, Fukunaga, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Matsunaga, Hogue).

Representatives Ito, Suzuki, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 137 on S.B. No. 2270

The purpose of this bill is to:

- (1) Strengthen the school administrator profession by establishing the Hawaii Administrator Standards Board (Board) which, among other things, shall:
 - (A) Establish school administrator certification standards; and
 - (B) Monitor school administrator quality by issuing, renewing, revoking, and suspending school administrator certificates;
 and
- (2) Establish no fewer than eight teacher positions to educate public school students about the internment of persons of Japanese ancestry in the United States during World War II and the lessons that may be learned from history.

Your Committee on Conference finds that while the Hawaii Teacher Standards Board has recently assumed the responsibility for licensing and establishing standards for teachers, there is no comparable independent body for school administrators. Establishing an independent entity to license or certify school administrators would help to create a pool of qualified professionals while enhancing accountability by separating the administration of licensing and employment.

Upon further consideration, your Committee on Conference has amended this bill by deleting its contents and inserting provisions establishing a working group to be convened by the Department of Education, with assistance from the Hawaii Educational Policy Center to address the creation of an independent body to establish standards for, and license or certify, school administrators.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2270, 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. 2270, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chumbley, Matsunaga, English.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Chumbley, Matsunaga).

Representatives Ito, Suzuki, Ontai.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Ontai).

Conf. Com. Rep. No. 138 on S.B. No. 2512

The purposes of this measure are to:

- (1) Change the per pupil funding allocation;
- (2) Establish transitional funding for conversion charter schools;
- (3) Request the auditor to develop an allocation methodology for conversion charter schools; and
- (4) Determine a calendar for the disbursement of allocations.

Your Committee finds that charter schools remain a viable model of education reform. However, as with all reform efforts in their early stages, certain modifications are needed to ensure their ongoing viability. This measure addresses those concerns. Your Committee also intends for this measure to improve the funding situation for charter schools by creating a clearer method of establishing funding allocations. With greater clarity, these allocations can be processed and disbursed to charter schools more promptly by the Department of Education (DOE).

Your Committee has amended the measure by inserting certain amended portions of S.B. No. 2036, S.D. 1, H.D. 2. These include:

- (1) Lowering the cap from 25 charter schools to 23;
- (2) Adding “organizational viability” and “compliance with applicable state laws” to those elements the Board of Education must consider when conducting independent evaluations;
- (3) Defining “organizational viability”; and
- (4) Adjusting section 302A-1182(a), Hawaii Revised Statutes, to reflect the amendments made by Act 2, Session Laws of Hawaii 2002.

Your Committee has further amended the measure by:

- (1) Inserting language prohibiting charter schools from suing the State or its political subdivisions;
- (2) Inserting language excluding from the per pupil allocation funds for:
 - (A) Services that must be provided at the state level;
 - (B) Specific programs or projects that target individual schools, complexes, or districts;
 - (C) Grants in aid; and
 - (D) Resources of new facilities that target specific, new construction projects;
- (3) Adding language allowing charter schools to enter into an annual memorandum of agreement for centralized services to be provided by the DOE prior to the beginning of each school year, provided that:
 - (A) The allocation of the charter school shall be reduced in an amount based upon the per pupil amount expended by the department for such services; and
 - (B) The DOE may not retain new century charter school funds in excess of the actual cost of the service;
- (4) Allowing charter school students the same opportunity to participate in athletics provided to students at other public schools, including the right to participate in a sport at any public school in the complex the charter school is located in if there is no comparable program at the charter school; and
- (5) Changing the effective date to upon approval.

Your Committee notes that the measure passed the Senate with, and as recently in the legislative process as S.B. No. 2512, S.D. 2, H.D. 1, contained, language allowing teachers employed at charter schools to receive probationary and tenure status, and acquire seniority; provided that they fulfilled the requirements set forth for regular DOE school teachers. Your Committee considered proposed conference drafts of this measure reinstating this language. However, based upon assurances provided by collective bargaining agents and the Board of Education (BOE), tenure and seniority will be provided to former DOE teachers teaching in charter schools through agreements reached with the DOE based on policies approved by the BOE. In light of these policies and agreements, this issue can be resolved without legislative remedy.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2512, 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. 2512, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Nakata, Taniguchi, Ige, Hogue.
Managers on the part of the Senate.

Ayes, 5. Noes, none. Excused, none.

Representatives Ito, Saiki, Suzuki, Schatz, Bukoski, Ontai.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Saiki).

Conf. Com. Rep. No. 139 on S.B. No. 2831

The purpose of this measure is to extend the benefits of the nonrefundable 4% residential construction and remodeling income tax credit to costs incurred to December 31, 2005. Act 10, Third Special Session, applies the credit to costs incurred before July 1, 2002.

Your Committee finds that, although homeowners should be granted tax relief for the construction and remodeling of their homes, in light of the severe budgetary shortfall facing the State of Hawaii, the extension of the time frame of the tax credit should be shortened to July 1, 2003, rather than December 31, 2005.

Your Committee has amended the measure by:

- (1) Ending the tax credit time frame on July 1, 2003;
- (2) Reverting back to the original language of Act 10, Third Special Session, 2001 allowing the tax credit for expenses incurred after December 31, 2000; and
- (3) Providing that the effective date applies to taxable years beginning after December 31, 2001.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2831, 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. 2831, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Kawamoto, Kim, Sakamoto, Slom.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Kim, Slom).

Representatives Ahu Isa, Takamine, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 140 on S.B. No. 3048

The purpose of this measure is to authorize the Department of Business, Economic Development, and Tourism to issue an unspecified amount of special facility revenue bonds to finance a world-class destination visitor attraction on Ford Island to tell the Navy-Marine Corps story in World War II.

Your Committee has amended this measure by:

- (1) Authorizing the Department of Transportation, rather than the Department of Business, Economic Development, and Tourism, to issue the special facility revenue bonds; and
- (2) Authorizing the issuance of not more than \$25,000,000 in special facility revenue bonds and appropriating the same amount to finance this world-class destination visitor attraction.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3048, 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. 3048, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Kawamoto, Kim, Sakamoto, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Hemmings).

Representatives Takamine, Nakasone, Moses.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Nakasone).

Conf. Com. Rep. No. 141 on S.B. No. 251

The purpose of this measure is to establish a professional counselor licensing program.

Your Committee on Conference finds that licensing of an industry promotes uniformity, enhances the quality of services and products, and increases public safety. This measure creates a licensing structure for professional counselors that will improve services, increase the pool of qualified service providers, and further promote public safety.

Your Committee on Conference has amended this measure by replacing its contents with the Senate version of this measure, Senate Bill No. 251, S.D. 2, and making several other amendments, including:

- (1) Recasting the purpose section to clarify the intent of this measure;
- (2) Including in the definition of "clinical supervisors" alternative supervisors as defined by national and/or other accrediting entities, including the Council for Accreditation of Counseling and Related Educational Programs;
- (3) Specifying that full-time professional counseling graduate students conducting professional counseling activities as part of a supervised course of study are exempt from licensure;
- (4) Deleting provisions that exempt nationally certified counselors or rehabilitation counselors from license qualification requirements if they apply within one year from the effective date of this measure;
- (5) Setting out provisions that address confidentiality and privileged communications;
- (6) Setting out provisions that prohibit a professional counselor from testifying in alimony and divorce actions;
- (7) Deleting the appropriation made by this measure;
- (8) Establishing a professional counselors licensing program startup trust fund to receive and expend funds for startup implementation of the licensing program and providing that:
 - (a) No expenditure shall be made until the balance of the fund is at least \$43,000;
 - (b) The department of commerce and consumer affairs must report the balance of the fund to the 2003 Legislature; and
 - (c) On June 30, 2004, the fund shall be dissolved and the remaining balance deposited into the compliance resolution fund;
- (9) Authorizing the Department of Commerce and Consumer Affairs to appoint an administrative assistant and secretary to assist with the activities of the licensing program;
- (10) Providing that the licensing program shall take effect on July 1, 2004, if the balance of the professional counselors licensing program startup trust fund is at least \$43,000 by October 1, 2003;
- (11) Providing that the director's powers to work on implementing the licensing program and the establishment of the professional counselors licensing program startup trust fund are effective on July 1, 2002;
- (12) Providing that this measure shall be repealed on June 30, 2009; and
- (13) Making technical, nonsubstantive changes to accommodate the foregoing amendments and for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 251, 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. 251, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Matsuura, Taniguchi, Fukunaga, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Menor, Hogue).

Representatives Hiraki, Magaoay, Meyer.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Meyer).

Conf. Com. Rep. No. 142 on S.B. No. 2127

The purpose of this measure is to provide special compensation payments to state and county retirees aged seventy years and older with at least twenty years of service, with compensation adjustments made every five years.

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

- (1) Deleting the amendments to Section 88-11, Hawaii Revised Statutes, as proposed in the House Draft 1 version;

- (2) Inserting therefor, statutory language that was originally included in Section 88-11, Hawaii Revised Statutes, pursuant to Act 339, Session Laws of Hawaii 1990, as amended by Act 275, Session Laws of Hawaii 1994, and by Act 327 Session Laws of Hawaii 1997, that provided a formula for pensioners' bonuses;
- (3) Adding a provision that provides a one time, lump sum bonus of \$200 for each state and county retiree who is seventy years of age and older with at least twenty years of credited service as of June 30, 2002;
- (4) Adding an appropriation section to the measure to provide funding for the one-time bonuses;
- (5) Changing the effective date from July 1, 2050, to July 1, 2002; and
- (6) Amending the purpose clause to reflect the measure's new purpose.

In providing the one-time bonuses under this measure, your Committee on Conference wishes to emphasize that any lump sum bonus paid pursuant to this measure shall not be construed to increase a retiree's basic monthly pension accumulation or any other post retirement benefit provided under Chapter 88, Hawaii Revised Statutes.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2127, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2127, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Nakata, Taniguchi, Ihara, Kawamoto.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Saiki, Nakasone, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 143 on S.B. No. 3047

The purpose of this measure is to appropriate general funds for the Waipahu Community Adult Day Health Center and Youth Day Care Center pilot project.

Upon further consideration your Committee has amended this measure by inserting an appropriation in the amount of \$200,000.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3047, 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. 3047, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Kawamoto, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hogue).

Representatives Arakaki, Kahikina, Kawakami, Cabreros, McDermott, Stonebraker.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (McDermott, Stonebraker).

Conf. Com. Rep. No. 144 on S.B. No. 2500

The purpose of this measure is to appropriate funds for legal services for adoptive families with low-incomes, to assist in seeking Social Security Insurance funds for special needs children, and to assist in seeking Medicare funds for dually eligible Medicaid/Medicare recipients.

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

- (1) Deleting Parts I and II of this measure, related to providing appropriations to fund legal assistance for adoptive families and for seeking Social Security Insurance funds for special needs children;
- (2) Amending Part III of this measure to delete an appropriation to assist in seeking Medicare funds for dually eligible Medicaid/Medicare recipients; and
- (3) Amending Part III to require the Department of Human Services to contract with a legal services provider to seek Medicare funds for dually eligible recipients, on a contingency fee basis where the contractor is paid one-third of the funds received by the Department of Human Services resulting from the contract.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2500, 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. 2500, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Chun Oakland, Hogue.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Kahikina, Kawakami, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 145 on S.B. No. 2568

The purpose of this measure is to establish the Hawaii Commission on Language Access to develop a statewide plan to enhance access to services for those with limited English proficiency and to provide appropriations therefor.

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

- (1) Deleting the appropriations sections; and
- (2) Changing the effective date to upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2568, 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. 2568, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Taniguchi, Fukunaga, Kim, Hogue.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Kim).

Representatives Kahikina, Kawakami, Leong.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Leong).

Conf. Com. Rep. No. 146 on S.B. No. 3049

The purpose of this measure is to authorize issuance of special facility revenue bonds to construct facilities for a ferry service between West and East Oahu.

Your Committee on Conference agreed to use the provisions of the H.D. 2 version of this measure as a base for the C.D. 1 version. The House version differed from the Senate version primarily in that it contained more general language regarding the exact destinations to be serviced by the ferry, and it designated section 266-55, Hawaii Revised Statutes, as the section under which the bonds shall be issued.

Your Conference Committee further amended this measure by inserting \$15,000,000 as the amount of bonds to be issued.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3049, 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. 3049, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Hanabusa, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, none.

Representatives Souki, Espero, Pendleton.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Pendleton).

Conf. Com. Rep. No. 147 on S.B. No. 2702

The purpose of this measure is to transfer responsibility for the Kalaeloa Community Development District to the Kalaeloa Community Development Authority.

Your Conference Committee used the H.D. 2 version of this measure as a base for the C.D. 1 version.

In addition, your Conference Committee amended this measure to:

- (1) Ensure that all development is done in accordance with state law and the State Constitution;
- (2) Base assessments on each landowner's proportionate share of the total acreage of the District;
- (3) Provide that the membership of the Authority shall be increased, if necessary, by the addition of three members, except as provided in proposed new section 206E-A;
- (4) Provide that the presence of all 16 members of the Authority is not necessary to conduct business;
- (5) Delete all of the appropriation provisions, except for the Kalaeloa Community Development District Revolving Fund, for which your Conference Committee agreed to increase the appropriation ceiling to \$500,000; and
- (6) Make another technical change for clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2702, 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. 2702, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Tam, Taniguchi, Fukunaga, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Fukunaga, Tam).

Representatives Kanoho, Nakasone, Moses.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 148 on S.B. No. 2331

The purpose of this measure is to appropriate funds for the Fiftieth Anniversary Commemoration of the Korean War Commission (Commission).

Your Conference Committee amended this measure to insert the sum of \$20,000 to be appropriated for the Commission.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2331, 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. 2331, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Taniguchi, Fukunaga, Hanabusa, Hemmings.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Fukunaga).

Representatives Chang, Suzuki, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 149 on S.B. No. 2306

The purpose of this measure is to provide state-subsidized economic relief to airport concessionaires.

Your Conference Committee amended this measure by:

- (1) Changing the language proposed to be inserted as a new subsection (b) to section 102-10, Hawaii Revised Statutes (HRS), to apply specifically and solely to reductions in business as a result of the 9/11/2001, terrorist attacks;
- (2) Inserting a new subsection (c) to section 102-10, HRS, to require the State to provide relief to concessionaires to allow them to break even, and to provide that if the State and concessionaires cannot agree, an arbitrator shall be summoned;
- (3) Inserting a new subsection (d) to section 102-10, HRS, to provide the period of relief;
- (4) Inserting a new subsection (e) to section 102-10, HRS, to provide procedures for written evidence and accounting;
- (5) Inserting a new subsection (f) to section 102-10, HRS, relating to termination conditions;

- (6) Inserting a new subsection (g) to section 102-10, HRS, requiring the State to return all deposits, bonds, and collateral to concessionaires in the event of contract termination;
- (7) Inserting a new subsection (h) to section 102-10, HRS, to provide for suspension of all laws and rules inconsistent with providing relief to concessionaires;
- (8) Inserting a new subsection (i) to section 102-10, HRS, to ensure compliance with federal laws; and
- (9) Inserting a new subsection (j) to section 102-10, HRS, to require the State to provide reports to the legislature when concessionaires are granted relief.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2306, 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. 2306, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kim, Taniguchi, Fukunaga, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Fukunaga, Kim).

Representatives Souki, Espero, Pendleton.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Pendleton).

Conf. Com. Rep. No. 150 on S.B. No. 2883

The purpose of this measure is to authorize the Insurance Commissioner (Commissioner) to issue rental car companies a limited license to sell insurance only in connection with and incidental to the rental of vehicles.

Your Conference Committee amended this measure to:

- (1) Establish the new provisions as a new part within Article 9A of chapter 431, Hawaii Revised Statutes (HRS), rather than as a new article;
- (2) Add a new definition for "limited lines motor vehicle rental company producer", to add the phrase "motor vehicle" to each of the terms "rental agreement," "rental car company," and "renter" and to delete the definition of "rental period";
- (3) Provide that persons seeking licensure under this Act shall comply with chapter 431, HRS;
- (4) Set the requirements for licensure and renewal by the Commissioner;
- (5) Add a new section to chapter 437D, HRS, regarding sales of collision damage waivers by limited line motor vehicle rental company producers;
- (6) Amend section 437D-16, HRS, to apply that section to collision insurance issued by certain lessors and limited line motor vehicle rental company producers; and
- (7) Delete the amendments providing for payment of fees by and exemption from licensure for producers.

Your Conference Committee understands that none of the insurance coverages contained in this measure shall be subject to the prohibitions and restrictions relating to collision damage waivers (as set forth in section 437D-8.5, HRS) unless such insurance coverages meet the definition of collision insurance as set forth in this measure.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2883, 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. 2883, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Menor, Taniguchi, Hemmings.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Menor).

Representatives Hiraki, Nakasone, Whalen.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 151 on S.B. No. 2431

The purpose of this measure is to strengthen the State's campaign spending laws, primarily by:

- (1) Placing a cap on the aggregate amount an individual or entity may contribute to all candidates during an election cycle;
- (2) Prohibiting unions, corporations, and banks from giving direct campaign contributions;
- (3) Prohibiting an office that has discretion or authority for awarding government contracts to award contracts to any person who has made a campaign contribution to a candidate;
- (4) Making knowingly and intentionally falsifying any required report, with the intent to circumvent the law or deceive the Campaign Spending Commission a Class C felony;
- (5) Requiring that campaign contributions used to qualify for public funding be received from individual residents of the State;
- (6) Clarifying that prohibitions on corporate or labor organization contributions to noncandidate committees apply as contributions to separate segregated funds (PACS); and
- (7) Regulating soft money of political parties and candidates.

Upon further consideration, your Committee on Conference amended this measure as follows:

- (1) To delete the sections inserted by the House of Representatives dealing with soft money and independent expenditures of candidates;
- (2) To reinstate existing law in section 11-204(b), Hawaii Revised Statutes (HRS), that provides for no limit on corporate contributions or expenditures to the corporation or company noncandidate committee;
- (3) To reformat the amendments to section 11-204, HRS, so that the provisions regarding contributions by banks, labor organizations, and corporations are inserted as new subsection (l) of that section;
- (4) To provide that any person owning at least a 25% interest in a general partnership shall be considered the same person as the partnership; and
- (5) To provide that, notwithstanding the prohibitions on campaign contributions by banks, labor organizations, and corporations, these entities shall be allowed to make up to \$6,000 in campaign contributions during a two-year election period.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2431, 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. 2431, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Kanno, Kim, Taniguchi, Ihara, Slom.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, 1 (Ihara).

Representatives Hamakawa, B. Oshiro, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 152 on S.B. No. 3028

The purpose of this measure is to regulate warrantors of vehicle protection products.

Your Conference Committee amended this measure by:

- (1) Inserting a definition of "vehicle identification number";
- (2) Including provisions to apply this measure to all vehicle protection products delivered to consumers in Hawaii;
- (3) Requiring certain vehicle protection products to include the vehicle identification number of the vehicle to which the product is applied;
- (4) Providing that when a warrantor appoints a designee to be responsible for administration of a vehicle protection product, that designee shall be liable for violations to the same extent as the warrantor;
- (5) Requiring warrantors to provide consumers with a copy of the vehicle protection product warranty within 30 days after the date of purchase;
- (6) Requiring that warrantors, when keeping electronic records, keep those records pursuant to section 489E-12, Hawaii Revised Statutes;

- (7) Requiring warrantors to maintain records for 10 years following discontinuation of business in the State;
- (8) Requiring warrantors to give consumers at least 30 days notice of cancellation;
- (9) Specifying the level of civil penalty that the commissioner may impose, up to \$5,000 for a negligent or reckless violation, and up to \$10,000 for an intentional or knowing violation. In addition, the definition of those states of mind from section 702-206, HRS, is incorporated by reference;
- (10) Authorizing the commissioner to impose a combination of the penalties listed in the measure;
- (11) Setting the fees for initial vehicle protection product warrantor registration and subsequent services at \$75; and
- (12) Setting the effective date at January 1, 2003.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3028, 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. 3028, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Menor, Taniguchi, Matsunaga, Hogue.
Managers on the part of the Senate.
Ayes, 2. Noes, 1 (Hogue). Excused, 2 (Matsunaga, Menor).

Representatives Souki, Hiraki, Espero, Chang, Marumoto, Meyer.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Chang).

Conf. Com. Rep. No. 153 on S.B. No. 3018

The purposes of the measure are to:

- (1) Enable the Superintendent of Education, appointed by the governor, to set state educational policy;
- (2) Establish a school district apportionment commission to establish fifteen school districts to deliver public education within that district;
- (3) Establish elected, five person district school boards to implement statewide educational policy within their district;
- (4) Authorize the district school boards to choose a district administrator with broad powers and flexible authority from a list of three choices provided by the Superintendent of Education; and
- (5) Establish a joint senate-house task force to analyze the effect of and propose legislation improving the measure.

Your Committee finds that, although having the only statewide school district in the country allows Hawaii to equitably distribute resources within the public education system, it also removes decision-making and accountability far from the classrooms and local communities. It is time to begin seriously examining decentralization of public education governance as a means of elevating student achievement. Such a dramatic change, however, should not be entered into lightly or with undue haste. Therefore, some of the concrete changes proposed in this measure may be somewhat premature.

In order to provide an extremely sound basis for public education governance reform, your Committee has retained a salient feature of this measure, a joint Senate-House task force to study decentralization of public education governance. Your Committee has amended the measure by:

- (1) Broadening the membership of the task force to encompass the full spectrum of stakeholders;
- (2) Adding the assistance of the Hawaii Educational Policy Center to that of the Legislative Reference Bureau for the research and drafting of proposed legislation; and
- (3) Expanding the duties of the task force to include the examination of Board of Education (BOE) and Department of Education regulations, operations, and structures, and the proposal of amendments to the State Constitution and Hawaii Revised Statutes.

Your Committee seriously considered amending the measure to create complex administrative councils in order to initiate the process of bringing public education decision-making and accountability to the community. The councils would have been given powers very comparable to those of school/community based management councils: the power to design and implement structures of shared decision-making in personnel, curriculum, instruction, budget, and facilities, and the responsibility to be accountable for the results of such decisions.

However, the breadth of these powers could have possibly been interpreted as an infringement upon the constitutional power of the BOE to formulate statewide educational policy. Your Committee was also concerned that the creation of such councils may have

interfered with the new superintendent's decentralization initiative already in process, as well as the superintendent's efforts at fostering accountability as required by the federal Public Law 107-110 No Child Left Behind Act of 2001.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3018, 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. 3018, S.D. 1, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Kanno, Taniguchi, Ige, Matsunaga.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ige, Matsunaga).

Representatives Ito, Suzuki, Hamakawa, Saiki, Bukoski, Ontai.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Bukoski, Ontai).

Conf. Com. Rep. No. 154 on S.B. No. 2036

The purposes of the measure are to:

- (1) Reduce from 25 to 23 the number of charter schools which may be established pursuant to law; and
- (2) Allow the Board of Education (BOE) to place a charter school on probation under certain conditions.

Your Committee finds a need to maintain a limit on the number of charter schools until the growing pains of this promising educational reform initiative are concluded and its long term sustainability established. Your Committee further finds that the current statutes provide the BOE with ample power to oversee charter schools, although the BOE should be given additional authority to analyze the organizational viability of charter schools and their compliance with applicable state laws. These ideas, however, have been transferred to the conference draft of the primary vehicle for charter school reform this session, S.B. No. 2512, S.D. 2, H.D. 2.

Accordingly, your Committee has amended the measure by replacing its contents with an amended version of the contents of S.B. 2926, S.D. 1., which:

- (1) Allows coaches to waive all or part of their payment stipend; and
- (2) Requires the Department of Budget and Finance to dispense funds in the amount of the waiver directly to the school for the benefit of the coach's team; and
- (3) Requires the Department of Education to provide for allocations for coaches for fiscal year 2002-2003, within available resources.

Your Committee finds that sports play in the holistic development of public school students.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2036, 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. 2036, S.D. 1, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Sakamoto, Taniguchi, Chumbley, Ige, Matsunaga.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ige, Matsunaga).

Representatives Ito, Takamine.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, none.

Conf. Com. Rep. No. 155 on S.B. No. 2383

The purpose of this measure is to stimulate the economy by providing tax incentives related to construction, including:

- (1) Establishing a nonrefundable qualified project construction tax credit for qualified project construction costs incurred after December 31, 2002; and
- (2) Expanding the hotel construction and remodeling tax credit to include property on which commercial or recreational use is permitted, and off-site improvements to serve destination resort areas.

Your Committee finds that this measure would enhance the appearance of resort and tourist properties to attract tourists, thereby helping to bolster the economy.

Your Committee has amended this measure by providing that the construction tax credit claimed shall be four per cent of the costs incurred in each taxable year during the four-consecutive-year period.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2383, 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. 2383, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Tam, Taniguchi, Hanabusa, Ihara, Kim, Sakamoto, Slom.
Managers on the part of the Senate.
Ayes, 6. Noes, none. Excused, 1 (Ihara).

Representatives Ahu Isa, Takamine, Espero, Magaoay, Davis, Leong.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Davis, Leong).

Conf. Com. Rep. No. 156 on S.B. No. 2985

The purpose of this measure is to provide a qualified improvement tax credit for the costs of capital improvements made to federally qualified health centers.

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

- (1) Deleting the definitions of “construction costs”, “equipment”, “net income liability”, and taxpayer”;
- (2) Inserting a definition of “qualified equipment” to mean costs related to equipment used for medical services or medical record-keeping that has a useful life of more than one year and costs more than \$50,000;
- (3) Modifying the definition of “qualified facility” to mean a building or structure owned or leased by a federally qualified health center;
- (4) Modifying the definition of “qualified improvement costs” to mean costs of capitalized interest expense for construction or alteration of permanent structures, including equipment;
- (5) Clarifying that the minimum costs upon which a tax credit may be claimed is \$300,000 in a taxable year, and total tax credits shall not exceed \$9,000,000 over the 10-year taxable period in which the credit may be claimed;
- (6) Clarifying that the amount of the qualified tax credit shall be equal to ten percent of the costs incurred in a taxable year;
- (7) Deleting provisions allowing for refunds for tax-exempt entities and allowing alternative calculations and allocations for other than tax-exempt entities and corporations;
- (8) Deleting provision allowing claims against net income tax liability or tax liability under Chapter 237, Hawaii Revised Statutes;
- (9) Deleting provision allowing the Director of Taxation to require tax reporting and alternative methods to determine the tax credit;
- (10) Deleting provision allowing the Director of Taxation to adopt rules to implement this tax credit;
- (11) Deleting the provision exempting state-funded projects from qualifying for the credit; and
- (12) Making technical nonsubstantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2985, 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. 2985, S.D. 2, H.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Hanabusa, Fukunaga, Ige, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 2 (Ige, Hogue).

Representatives Arakaki, Kahikina, Takamine, Yonamine, Djou, Stonebraker.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Djou, Stonebraker).

Conf. Com. Rep. No. 157 on H.B. No. 2459

The purpose of this bill is to make an emergency appropriation in the current fiscal year to pay for the State's statutorily mandated share of costs related to public employees' Social Security and Medicare expenses.

Your Committee on Conference has amended the measure by:

- (1) Removing the provision stating that the emergency appropriation will exceed the general fund expenditure ceiling; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2459, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2459, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Matsuura, Taniguchi, Chun Oakland, Hogue.
Managers on the part of the Senate.
Ayes, 3. Noes, none. Excused, 1 (Hogue).

Representatives Takamine, Kawakami, Leong.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 158 on H.B. No. 2788

The purpose of this bill is to authorize the issuance of general obligation bonds and 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 on Conference has amended the measure by:

- (1) Inserting the appropriate amounts provided by the Department of Budget and Finance; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2788, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2788, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Buen, Chun, Chun Oakland, English, Hanabusa, Ige, Inouye, Kawamoto, Kim, Kokubun, Sakamoto, Tam, Hemmings, Slom.
Managers on the part of the Senate.
Ayes, 10. Noes, none. Excused, 5 (Ige, Kawamoto, Kim, Hemmings, Slom).

Representatives Takamine, Nakasone, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 159 on H.B. No. 1245

The purpose of this bill is to:

- (1) Establish a Litigation Deposits Trust Fund;
- (2) Delete the Compliance Resolution Fund and Insurance Regulation Fund from the list of special funds that are exempt from central services expenses;
- (3) Allow moneys in the Works of Art Special Fund to be used for costs related to improvements for the state art museum in the No. 1 Capitol District building;
- (4) Allow the Emergency Budget and Reserve Fund (Rainy Day Fund) established by section 328L-3, Hawaii Revised Statutes, to be used to maintain levels of programs determined to be essential for education; and
- (5) Transfer \$88,076,000 from various funds to the general fund.

Upon further consideration, your Committee on Conference has amended this bill by deleting its substance and inserting provisions appropriating \$10,431,294 from the Rainy Day Fund to maintain levels of programs that are essential to the public health, safety, and welfare.

In appropriating \$2,535,000 for program expenses of rural hospitals, it is your Committee on Conference's intent that this sum be expended as follows:

Hana Community Health Center	\$750,000
Molokai General	\$700,000
Waianae District Comprehensive Health and Hospital Board	\$735,000
Kahuku Hospital	\$350,000.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1245, 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. 1245, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Chun Oakland, Hanabusa, Kawamoto, Sakamoto.
Managers on the part of the Senate.
Ayes, 5. Noes, none. Excused, none.

Representatives Takamine, Saiki, Marumoto.
Managers on the part of the House.
Ayes, 3. Noes, none. Excused, none.

Conf. Com. Rep. No. 160 on H.B. No. 2827

The purpose of this bill is to:

- (1) Establish the Litigation Deposits Trust Fund;
- (2) Require the Department of Budget and Finance (B&F) to include in its executive budget request a detailed listing of the amount of general funds that are encumbered for more than one fiscal year;
- (3) Establish criteria for the establishment and continuance of special funds;
- (4) Establish criteria for the establishment and continuance of revolving funds;
- (5) Expand the allowable uses of moneys within the Emergency and Budget Reserve Fund to include programs essential to education;
- (6) Reclassify, repeal, or discontinue certain special and revolving funds pursuant to recommendations of the Auditor; and
- (7) Transfer funds from certain special and revolving funds to the general fund.

Your Committee on Conference has amended this bill by:

- (1) Deleting the provision that would have required B&F to include in its executive budget request a detailed listing of the amount of general funds that are encumbered for more than one fiscal year;
- (2) Including criteria for the establishment and continuance of administratively established accounts and funds;
- (3) Repealing the University of Hawaii Workers' Compensation and Unemployment Insurance Compensation Special Fund;
- (4) Deleting transfers from the following special or revolving funds to the general fund:
 - (A) Assistance for Agricultural Enterprises on Kauai Revolving Fund;
 - (B) Assistance for Aquaculture Enterprises on Kauai Revolving Fund;
 - (C) Aloha Tower Fund;
 - (D) Tourism Research Special Fund;
 - (E) Rental Housing Trust Fund;
 - (F) Kalaeloa Community Development Revolving Fund;

- (G) Use of School Facilities for Recreational and Community Purposes Fund; and
- (H) Employment and Training Fund;
- (5) Including transfers from the following special or revolving funds to the general fund:
 - (A) Housing for Elders Revolving Fund (\$250,000);
 - (B) Petroleum Products Control Fund (\$115,000);
 - (C) Human Resource Development Special Fund (\$150,000);
 - (D) Beach Restoration Special Fund (\$50,000);
 - (E) Halawa Correctional Facility Inmate Store Fund (\$100,000);
 - (F) Oahu Community Correctional Center Inmate Store Fund (\$250,000);
 - (G) Waiawa Correctional Facility Inmate Store Fund (\$60,000); and
 - (H) State Highway Fund (\$22,000,000);
- (6) Increasing the amount to be transferred from the State Motor Pool Revolving Fund to the general fund to \$600,000;
- (7) Decreasing the amount to be transferred from the Dwelling Unit Revolving Fund to the general fund to \$23,000,000;
- (8) Decreasing the amount to be transferred from the Foreign-trade Zones Special Fund to the general fund to \$1,000,000;
- (9) Decreasing the amount to be transferred from the Hawaii Capital Loan Revolving Fund to the general fund to \$4,000,000;
- (10) Increasing the amount to be transferred from the High Technology Special Fund to the general fund to \$250,000;
- (11) Increasing the amount to be transferred from the Rental Assistance Revolving Fund to the general fund to \$6,000,000;
- (12) Decreasing the amount to be transferred from the Natural Energy Laboratory of Hawaii Authority Special Fund to the general fund to \$200,000;
- (13) Increasing the amount to be transferred from the Insurance Regulation Fund to the general fund to \$4,000,000;
- (14) Increasing the amount to be transferred from the Environmental Response Revolving Fund to the general fund to \$3,000,000;
- (15) Decreasing the amount to be transferred from the Hawaii Tobacco Settlement Special Fund to the general fund to \$1,200,000;
- (16) Increasing the amount to be transferred from the Boiler and Elevator Safety Revolving Fund to the general fund to \$500,000;
- (17) Decreasing the amount to be transferred from the State Parks Special Fund to the general fund to \$250,000;
- (18) Decreasing the amount to be transferred from the Natural Area Reserve Fund to the general fund to \$1,000,000;
- (19) Increasing the amount to be transferred from the Bureau of Conveyances Special Fund to the general fund to \$1,000,000;
- (20) Decreasing the amount to be transferred from the Special Land and Development Fund to the general fund to \$9,150,000;
- (21) Increasing the amount to be transferred from the Controlled Substance Registration Revolving Fund to the general fund to \$100,000;
- (22) Changing the effective date to June 30, 2002; and
- (23) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2827, 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. 2827, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Chun Oakland, Ige, Inouye, Kim, Sakamoto.
Managers on the part of the Senate.
Ayes, 6. Noes, none. Excused, none.

Representatives Takamine, Kawakami, Djou.
Managers on the part of the House.
Ayes, 2. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 161 on H.B. No. 2834

The purpose of this measure is to create the Hawaii Rx program to reduce prescription drug costs for all state residents who choose to participate.

In statewide hearings on this and similar measures, legislative committees received compelling and often poignant testimony time and time again from or about Hawaii residents without prescription drug coverage who cannot afford to buy the medicines they need.

Testimony was heard regarding individuals who have suffered as a result of the high cost of prescription drugs. In many instances, families who are unable to afford prescription medications must forego filling their prescriptions in order to buy food and other necessities. Others try to "stretch" medications by taking less than the prescribed dosage, thereby reducing their effectiveness. When access to prescription drugs is restricted due to prohibitive costs, public health problems arise and Medicaid and overall health-care costs increase.

The statistical evidence shows that drug prices will continue to rise, thereby making the affordability issue even more critical. According to the AARP Public Policy Institute, prescription drug prices rose at a rate over one and a half times the rate of general inflation between 1995 and 2000, prescription drug spending per American is expected to rise at an average rate of eleven and two tenths per cent in the next ten years, and prescription drugs account for the single largest component of out-of-pocket expenses for older Medicare beneficiaries.

Pharmaceutical drug manufacturers, who generally oppose state prescription drug assistance programs, contend that many pharmaceutical companies have already implemented patient assistance programs through which medications are either provided free of charge or at reduced prices. Your Committee on Conference recognizes that manufacturer-sponsored programs help some individuals, but program income limits and strict eligibility requirements, exclude many. Furthermore, pharmaceutical companies may terminate their programs at any time. The Hawaii Rx program is designed to provide Hawaii residents with uninterrupted access to affordable prescription drugs.

Manufacturers further contend that "prior authorization," an essential component of this bill, will greatly limit access to medicine. This component authorizes the Department of Human Services to exclude a manufacturer's products from State prior authorization lists if the manufacturer and Director of Human Services fail to reach a drug rebate agreement. Manufacturers argue that prior authorization would remove the profit incentive for companies to research and develop new medicines.

Your Committee on Conference finds that this argument is contradicted by data released by the Henry J. Kaiser Family Foundation which includes:

- (1) The pharmaceutical industry, which spends more than any other industry on consumer advertising in the United States, is also the most profitable;
- (2) Profits as a percent of revenues for the pharmaceutical industry have been greater than four times the median rate for all Fortune 500 firms in the late 1990s (18.6 percent of revenues compared to 4.5 percent for all Fortune 500 firms in 2000); and
- (3) Fourteen percent of pharmaceutical company revenues are spent on research and development, the same amount spent on marketing and advertising.

Finally, concern has been expressed regarding lawsuits challenging the legality of state prescription drug assistance programs. Specifically, in the State of Maine, PhRMA filed a lawsuit challenging the constitutionality of the Maine Rx program, the same program upon which the Hawaii Rx program is modeled. The Maine Rx program was upheld by the First Circuit United States (U.S.) Court of Appeals, which found that the program did not violate the Supremacy or Commerce Clause of the U.S. Constitution.

Your Committee on Conference agrees with the following quote of Supreme Court Justice Louis Brandeis, in the Court of Appeals' opinion:

"To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the nation. It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

Your Committee on Conference has amended this measure by:

- (1) Removing the provision creating a drug advisory commission. Your Committee on Conference does not believe that it is necessary at this time to create an advisory group but this may be desirable in the future;
- (2) Removing the requirement that manufacturers of prescription drugs report their marketing costs;
- (3) Removing the rebate dispute resolution provisions;
- (4) Removing amendments to chapter 346, Hawaii Revised Statutes, that require pharmacies to disclose how much is being saved by consumers and that reference the professional fee. Your Committee on Conference believes that it is more appropriate for

the Department of Human Services (DHS) to publicize the savings of participants in the Hawaii Rx program. Under this measure, dispensing fees are to be set by DHS at no less than the Medicaid dispensing fee;

- (5) Specifying that the Hawaii Rx program will begin on July 1, 2004, and that additional discounts will be available to participants on or before July 1, 2005; and
- (6) Adding a general fund appropriation of \$200,000 to be used by DHS to develop a plan for implementation of the program, and requiring DHS to report to the Legislature on its progress before the 2004 Regular Session.

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

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2834, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2834, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Matsuura, Taniguchi, Chun Oakland, Fukunaga, Matsunaga.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 2 (Matsunaga, Matsuura).

Representatives Hiraki, Arakaki, Kawakami, Saiki, Marumoto, Stonebraker.
Managers on the part of the House.
Ayes, 4. Noes, none. Excused, 2 (Saiki, Stonebraker).

Conf. Com. Rep. No. 162 on H.B. No. 1761

The purpose of this bill is to allow the Insurance Commissioner (Commissioner) to regulate the rates of "managed care plans" (health plans), which include health insurers regulated under the Insurance Code, as well as health maintenance organizations and mutual benefit societies.

The bill establishes a prior approval system where proposed rates must be filed with the Commissioner and are subject to a 90-day waiting period before becoming effective. The Commissioner may disapprove rates that are inadequate, excessive, or unfairly discriminatory. The system is similar to that applicable to workers' compensation, motor vehicle, and other property and casualty insurance lines. This bill also requires that managed care plans with reserves exceeding 50 percent of annual health care expenditures and operating expenses return the excess to enrollees, or apply it to stabilize or reduce rates.

Your Committee on Conference recognizes that rate regulation is necessary because Hawaii's noncompetitive health plan market provides no incentive for health plan efficiency and product development. This measure will make health plan rate-making practices more transparent and minimize the over-pricing and under-pricing of insurance products. Ensuring that rates are fair and not excessive will facilitate competition and increase the affordability and availability of health care in Hawaii.

Your Committee on Conference has amended this measure by:

- (1) Amending the definition of "rate" to exclude fees and fee schedules paid by the insurer to providers of services covered under the Act; and
- (2) Providing that the Act shall be repealed on June 30, 2006.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1761, 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. 1761, H.D. 1, S.D. 2, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Menor, Matsuura, Taniguchi, Fukunaga, Matsunaga.
Managers on the part of the Senate.
Ayes, 4. Noes, none. Excused, 1 (Matsunaga).

Representatives Hiraki, Arakaki, Takamine, Saiki, Auwae, Whalen.
Managers on the part of the House.
Ayes, 5. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 163 on S.B. No. 2179

The purposes of this measure are to increase efficiency in the use of the State's energy resources.

In particular, this measure improves energy efficiency in state facilities and imposes price caps on gasoline, which your Committee finds to be an energy resource.

With respect to state facilities, this measure requires the State of Hawaii government to significantly improve its energy management in state facilities in order to save taxpayer dollars and reduce emissions that contribute to air pollution and global climate change.

With respect to gasoline, this measure requires the Department of Business, Economic Development, and Tourism to determine the maximum wholesale price of gasoline, on a quarterly basis, based on certain criteria, including the cost of a barrel of site-specific crude oil, and prohibits petroleum manufacturers and jobbers from selling gasoline to a dealer operated retail service station for more than the maximum wholesale price. In addition, this measure allows a manufacturer or jobber to petition the department to readjust the maximum wholesale price of gasoline in the event of an abrupt change in crude oil prices in the world market, and provides for substantial penalties for violations by manufacturers or jobbers.

Your Committee finds that state agencies are among Hawaii's largest energy consumers, spending hundreds of millions of dollars annually on products and services. As such a large consumer, the State should promote energy efficiency, water conservation, the use of renewable energy products, help foster markets for emerging technologies, and create local employment and economic development opportunities. Government should also lead Hawaii in energy efficient building design, construction, and operation.

Your Committee further finds that government should lead by example by mandating a reduction in energy use in state facilities and the use of renewable energy for much of the remaining energy demand. This will significantly reduce the use of fossil fuels in state facilities as well as provide guidance to other government and private sector individuals and organizations.

Your Committee further finds that there is a need to lower gasoline prices for Hawaii's consumers. The recently concluded antitrust litigation against the major oil companies doing business in Hawaii has demonstrated the limited competition among those companies and the extraordinarily high profitability of the Hawaii petroleum products markets. Your Committee finds that, in view of the lack of competition in these markets, the imposition of price caps on gasoline is necessary to provide relief to Hawaii's consumers.

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

- (1) Amending the provisions relating to a gasoline price cap as follows:
 - (A) Requiring the Public Utilities Commission, rather than the Department of Business, Economic Development, and Tourism, to establish gasoline price caps;
 - (B) Specifying that price caps are to be established for both the pre-tax wholesale and retail prices of gasoline on a weekly basis, rather than only for the wholesale price of gasoline on a quarterly basis;
 - (C) Changing the methodology to establish the maximum pre-tax wholesale and retail prices of gasoline, including the establishment of a location adjustment factor, a marketing margin factor, and a neighbor island wholesale adjustment factor;
 - (D) Using spot daily prices for various West Coast markets, as reported and published by the Oil Price Information Service, in formulating a baseline price for regular unleaded gasoline for Oahu, rather than the cost of a barrel of site-specific crude oil as a benchmark;
 - (E) Imposing civil penalties for violations equal to three times the overcharge, or \$250,000, whichever is greater; authorizing civil actions for violations by the Public Utilities Commission; and authorizing referrals to the attorney general as appropriate;
 - (F) Prohibiting petroleum manufacturers, wholesalers, or jobbers from selling regular unleaded gasoline to a dealer operated retail service station, an independent retail station, or to another jobber or wholesaler for more than the maximum pre-tax wholesale price;
 - (G) Prohibiting retail stations from selling gasoline to the public for more than the maximum pre-tax retail price for regular unleaded gasoline sold on a self-serve basis;
 - (H) Giving the governor the power to suspend the operation of the pre-tax wholesale and retail gasoline price caps;
 - (I) Changing the procedure to adjust maximum pre-tax wholesale and retail gasoline prices;
 - (J) Allowing manufacturers, wholesalers, or jobbers to petition the Public Utilities Commission to adjust the maximum pre-tax wholesale price in the event of a change in the value of the baseline price for regular unleaded gasoline, the location adjustment factor, the marketing margin factor, or the neighbor island wholesale adjustment factor;
 - (K) Allowing retail stations to petition the Commission to adjust the maximum pre-tax retail price in the event of a change in the maximum pre-tax wholesale price for regular unleaded gasoline, or the value of the retail marketing margin factor;
 - (L) Maintaining the lease rent cap for dealer operated retail stations; and
 - (M) Delaying the implementation of the pre-tax wholesale and retail gasoline price caps until July 1, 2003;
- (2) Adding amendments to the Petroleum Industry Reporting Act to:

- (A) Require, rather than allow, the Department of Business, Economic Development, and Tourism to monitor the oil industry's profit margins in Hawaii and conduct random or periodic audits and inspections of oil suppliers;
 - (B) Substantially increase civil penalties for noncompliance;
 - (C) Require the Department to refer intentional violations to the Attorney General, who may exercise appropriate legal or equitable remedies available to the State; and
 - (D) Change references to the Department and the Director of Business, Economic Development, and Tourism in the Petroleum Industry Reporting Act to the "petroleum commissioner", who is to be the administrator of the Department's Energy, Resources, and Technology Division;
- (3) Requiring the Department of Business, Economic Development, and Tourism to:
- (A) Review and analyze the unsealed documents in Anzai v. Chevron et al. (the recently settled gasoline antitrust litigation) and other appropriate materials;
 - (B) Gather and analyze empirical data to determine whether the Oil Price Information Service index or other appropriate benchmarks are applicable to Hawaii's markets;
 - (C) Review options available to the legislature, including wholesale and retail gasoline price caps and the potential effects of imposing price caps; and
 - (D) Report findings and recommendations to the legislature before the convening of the 2003 regular session, including proposed implementing legislation, as appropriate;
- (4) Requiring the Attorney General and the Legislative Reference Bureau to assist the Department of Business, Economic Development, and Tourism by conducting legal and policy analyses, as appropriate, and in drafting legislation;
- (5) Appropriating \$250,000 out of the public utilities commission special fund to the general fund, and appropriating the same amount to the Department of Business, Economic Development, and Tourism, to allow the Department, without regard to the Public Procurement Code, to contract with one or more petroleum experts to assist the Department; and
- (6) Making technical nonsubstantive changes for the purposes of clarity and consistency.

In addition, your Committee recognizes the concerns of the Department of Business, Economic Development, and Tourism, which has a quasi-regulatory function and also serves as an energy advocate, particularly with respect to the Department's role as the "petroleum commissioner" under this measure, which may potentially conflict with the Department's functions.

However, your Committee finds, however, that despite these concerns, the Department is clearly in the best position to conduct a review of relevant petroleum industry materials in the context of its existing statutory role under the Petroleum Industry Reporting Act, and that the Department in this context is serving as a neutral party, rather than as an advocate, in gathering and analyzing data for the Legislature.

Moreover, your Committee finds that under this measure, the Department may contract with other neutral parties having expertise in petroleum issues for assistance in its review of petroleum data, such as the National Conference of State Legislatures Energy Project, which assists states in this critical policy area. Your Committee finds that the assistance of the NCSL energy project, or a similar neutral energy program, will be of value to the Department and the Legislature in providing assistance in assisting the Department to examine these issues in the broader context of state energy planning.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2179, 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. 2179, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Kawamoto, Fukunaga, Inouye, Menor, Taniguchi, Chun Oakland, Hemmings.

Managers on the part of the Senate.

Ayes, 4. Noes, 3 (Inouye, Kawamoto, Hemmings). Excused, none.

Representatives Morita, Hiraki, Saiki, Schatz, Rath, Whalen.

Managers on the part of the House.

Ayes, 5. Noes, none. Excused, 1 (Rath).

Conf. Com. Rep. No. 164 on H.B. No. 2300

The purpose of this bill is to appropriate funds for the operating and capital improvement costs of the judicial branch for the fiscal year July 1, 2002, through June 30, 2003.

Your Committee on Conference has carefully considered and analyzed each funding adjustment requested by the Judiciary and amended the Judiciary budget accordingly.

In light of the current status of Hawaii's economy, your Committee has increased the Judiciary biennium budget by \$522,792 in general funds and \$1,983,523 in special funds for fiscal year 2002-2003.

For fiscal year 2002-2003, your Committee has appropriated to the Judiciary general funds as follows:

- (1) \$138,200 for the Hawaii State Law Library System to provide patrons access to the most current legal information;
- (2) \$30,000 for renovations to the Waianae District Court to provide a facility that more accurately reflects the needs of the community;
- (3) \$68,000 for the relocation of the Adult Probation Division due to the termination of its lease;
- (4) \$48,000 for domestic violence intervention services to better treat, educate, and support those involved in domestic violence;
- (5) \$200,000 for guardian ad litem and attorney's fees for service as advocates for children who are victims of child abuse or neglect; and
- (6) \$38,592 for increased risk management costs.

In the area of personnel, your Committee on Conference has provided an increase of 4.5 permanent positions in the first and third Judicial circuits.

Your Committee on Conference has also appropriated to the Judiciary from the Computer System Special Fund as follows:

- (1) \$162,054 for equipment to create a local area/wide area network at the Kaneohe District Court to increase operational efficiency;
- (2) \$48,689 for a permanent webmaster position to develop and maintain the Judiciary's internet website, to keep the information on the website current and accurate, and to make the website more user-friendly for public access to the courts;
- (3) \$472,780 to replace the outdated financial management and accounting system, which is unable to comply with the latest requirements of the Governmental Accounting Standards Board; and
- (4) \$1,300,000 to implement phase 1 of the Judiciary Information Management System, which is to build a new statewide traffic case management system.

In the area of capital improvements, your Committee on Conference has appropriated an additional \$34,020,000, in fiscal year 2002-2003 for the construction of new facilities and renovations to existing ones. Of this amount:

- (1) \$30,000,000 is for the development of a new courthouse complex on Hilo;
- (2) \$2,900,000 is for the Kauai judiciary complex;
- (3) \$1,100,000 is for roof renovations to Kaahumanu Hale on Oahu; and
- (4) \$20,000 is for wiring and cabling at the Kaneohe District Court.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2300, 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. 2300, H.D. 2, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Buen, Chun, Chun Oakland, English, Hanabusa, Ige, Inouye, Kanno, Kawamoto, Kim, Kokubun, Sakamoto, Tam, Hemmings, Slom.

Managers on the part of the Senate.

Ayes, 10. Noes, none. Excused, 6 (Ige, Kanno, Kawamoto, Kim, Hemmings, Slom).

Representatives Takamine, Cabrerros, Espero, Hamakawa, Kawakami, Magaoay, Nakasone, Saiki, Suzuki, Yonamine, Davis, Djou, Leong, Moses.

Managers on the part of the House.

Ayes, 13. Noes, none. Excused, 1 (Djou).

Conf. Com. Rep. No. 165 on H.B. No. 1800

The Changing Economy

In the second half of the year 2000, economic growth decelerated sharply, nationwide. Manufacturing production declined, the Nation's payrolls grew marginally, and the unemployment rate was rising. In response to this slowing economy, the Federal Reserve reduced the federal funds rate by 2-3/4 percentage points during the first half of 2001, the largest reduction in such a short period since

1984. Federal fiscal policy also shifted to stimulate the demand. In June, the President signed the Economic Growth and Tax Relief Reconciliation Act of 2001, which reduced personal income taxes by \$44 billion during the second half of the year, the first installment in a multi-year permanent reduction in income tax liabilities.

Although the nation's economy slowed during the 2001 Regular Session, Hawaii was finally experiencing its long-anticipated economic rebound from a decade of recession. General revenues from tax collections toward the end of the third quarter of fiscal year (FY) 2000-2001 increased at a rate of 7.8 percent, exceeding the Council on Revenues' (COR) projection of a 6.0 percent increase. The lowered Federal Reserve rates encouraged growth in mortgage lending, mortgage refinancing, and construction activities. Airline flights were full, hotel occupancy, as well as, visitor spending was on the rise. These positive economic indicators were balanced against the fact that eastbound tourism remained unchanged, as Japan remained in recession. Economic indicators pointed to the strength and resilience of Hawaii's economic recovery. Factors that precipitated this situation are the enactment of tax law changes, including lowering of the individual income tax rate, de-pyramiding of the General Excise Tax and granting of hotel renovation construction tax credits.

The Legislature recognized its newfound additional resources and made education its top priority. For the first time in many years, the Legislature had the ability to make wide-range improvements to the public education system. The Legislature provided fair wage increases to public school teachers and university professors, understanding that first-class instruction deserves first-class compensation. In addition, the Legislature provided much needed resources for additional teachers, textbooks, and equipment for both existing and new facilities of the Department of Education. Furthermore, the University of Hawaii got a tremendous boost with a \$6 million, one-year lump-sum appropriation. Finally, as it set out to literally "fix the schools", the Legislature approved over \$180 million in new construction projects to repair, upgrade, and improve public school facilities. It also provided \$80 million for construction costs to improve and expand facilities of the University of Hawaii system.

While Hawaii's economy was on the rise, the Legislature proceeded with caution. Demand for resources, whether in the form of direct services or costs for providing such services, was also on the rise. Until State government could demonstrate long-term fiscal integrity, the 2001 Legislature made sure to keep a watchful eye on the future. As such, the Legislature took bold, yet controversial steps to ensure that rising fixed costs could be contained. For example, the Legislature set out to investigate the use of public funds for the Felix Consent Decree mandate and created the Employer-Union Trust to administer the provision of health insurance to all government employees and retirees equitably.

With these fiscal policy debates taking center stage throughout the session, the 2001 Legislature closed amid a mixed sense of accomplishment and apprehension.

Tragedy

Although the 2001 Legislature planned Hawaii's economic recovery, the normal channels of transmission linking economic policy and economic performance never had the chance to operate. The terrorist attacks of September 11th temporarily shattered consumer and business confidence. Faced with a highly uncertain and increasingly risky economic environment, consumers, businesses, and investors for a brief time became much less willing to undertake the purchases and investments that are needed to achieve sustainable growth.

At the start of 2001, hardly any forecaster expected that the State economy would slip into recession within a few months. None did, or could, anticipate the shock to the economy from the terrorist attacks later in the year. Consequently, the Council on Revenues' September 5, 2001 growth forecast was well above the actual outcome.

After the attacks, Hawaii's economy immediately fell into rapid decline. Tourism activity declined swiftly, as did our retail and restaurant businesses. There was a sudden 26.1 percent drop in international visitors—a major component of the tourism industry. Unemployment rates increased as businesses either closed or reduced the level of their service, resulting in both small business and large corporate lay offs. The ripple effect of the attacks was both immense and immediate and sent our State and our Nation into disarray.

The Legislature immediately responded in an emergency Special Session by passing measures to address the most immediate and pressing needs of Hawaii's citizens. Emergency food and housing assistance, extended unemployment benefits, and temporary health insurance were provided to assist individuals and families. Tax relief and waivers of assessments were made available to businesses suffering from the effects of September 11th. Emergency powers were given to the Governor to provide businesses and private citizens with a broad-range of financial relief. In addition, funds were appropriated to stimulate economic growth by increasing government capital improvements program (CIP) project spending and promoting Hawaii as a visitor destination.

On November 14th, the Council on Revenues reduced its September 5th estimate of general fund revenues from 4.1 percent growth for FY 2001-2002, to a 0.7 percent decline in the same period, a reduction of almost 5 percent. Based on models derived from the State's economic reaction to the Gulf War and Hurricane Iniki, coupled with the State's pre-event trajectory, the Council believed that the economy would react with a sharp decline, but follow with a quick and strong rebound. This led the Council to revise its forecast to reflect a sizable reduction in revenue for the remainder of fiscal year 2001-2002, a 0.7 percent decrease instead of a 4.1 percent increase. However, it retained a strong forecast for the ensuing five fiscal years. On March 14th the Council on Revenues reaffirmed its November projection and held to the strong out-year growth estimates.

The effects of that projection on planned State spending were tremendous. In terms of dollars, this amounted to a revenue shortfall of \$315 million over the two years of the fiscal biennium--\$150 million for fiscal year 2002 and \$165 million for fiscal year 2003.

With these new projections, the Governor was forced to take quick action. He immediately imposed a 1 percent spending reduction on the discretionary budgets of all departments including for the first time in many years, the Department of Education (DOE) and the

University of Hawaii (UH). All executive departments were then instructed to revise their budgetary plans for the remainder of the fiscal biennium. All departmental discretionary funding was to be reduced by 2 percent, and once again, the DOE and UH were not spared, as the Governor proposed to cut a combined \$20 million from their budgets.

While these options appeared unpalatable, it was well noted that Hawaii was clearly not alone in facing tough budget decisions. This current fiscal year has at least 40 states facing a total budget shortfall of \$27 billion. Whereas some states may have large "rainy day" funds as a result of the prosperous economic times in the 1990s, many others like Hawaii were forced to look at a combination of tax changes and cuts to essential services.

Budget Strategy

It is important to keep in mind the balancing act between revenues and expenditures that exists in any budget. With the projected \$315 million reduction in revenues, other sources of revenues were identified and expenditure reductions were also considered. On the revenue side, many options were presented to and considered by your Conference Committee: the Governor's proposal to use the Hawaii Hurricane Relief Fund and increase the liquor tax; the transfer of excess non-general fund balances to the State general fund; the Senate President's proposal to balance the budget; transferring a portion of the Emergency Budget and Reserve Fund, or "rainy day" fund; and increasing the cigarette tax. With regard to expenditures, numerous strategies were examined, including attrition; across the board reductions; consolidation of departments; and removal of deputy director positions. In weighing the various options and strategies, your Conference Committee carefully scrutinized all government services to ascertain essentiality to the public.

From Opening Day of the 2002 Regular Session, public sentiment continued to be generally opposed to the Governor's proposals to increase State revenues. Your Conference Committee therefore believed that the public sentiment was to reduce government spending. However, the magnitude of these reductions must be put into perspective. To cover the expected revenue shortfall, it would take the complete elimination of the 12 smallest departments (of a total of 19) to generate a savings of \$160 million a year. In another scenario, if the entire revenue shortfall were to be covered by across the board cuts to each department, it would require 7 percent budget cuts, resulting in a \$50 million cut to the Department of Education, and a \$20 million cut to the University of Hawaii.

Your Conference Committee dedicated considerable effort to reallocate resources to fund high priority items while reducing the overall budget. Toward this end, your Conference Committee seriously entertained the policy of attrition – that is, the elimination of vacant positions and funding and redistribution of the workload to the remaining employees. From 1994 to 2001, however, the Executive workforce decreased by 2,277 positions to 43,327. Despite the overall reduction, the Department of Education's workforce increased by 3,106 due to mandated needs. These numbers demonstrate that responsibilities within Executive departments have already been redistributed at higher levels than ever to remaining employees and continue to be redistributed each year with the imposition of vacancy and turnover savings.

Although your Conference Committee may have disagreed with prior fiscal initiatives of the Governor, we believe that his cautious approach to trimming expenditures is an appropriate course of action. Specifically, we agree that budget reductions that result in lost jobs should be avoided as much as possible. While we acknowledge that the private sector has had to reduce its workforce recently, your Conference Committee believes that elimination of government positions will only exacerbate our economic situation, as reducing the number of public workers directly affects the delivery of public services.

The assumption that large budget cuts can be made by eliminating vacant positions is flawed. The State already budgets its payroll under the assumption that all positions will not be filled all the time, and implements this assumption through the budget. Payroll for all general funded positions is currently under budgeted by \$49 million to account for vacancies that inevitably occur throughout the course of the fiscal year. Over the years, the level of under funding has increased with vacancy or turnover "savings" imposed by the Legislature. This budget imposes another \$5.9 million for "vacancy savings", which will force agencies to further delay the filling of positions in FY 2002-2003.

Your Conference Committee's review of general funded vacancies indicates that a large percentage exists in the core programs in the Departments of Education (DOE), Health, Human Services, Public Safety, and the University of Hawaii (UH). Moreover, many of these positions are not being filled in order to meet turnover savings assessments, unbudgeted accrued vacation payouts, unbudgeted payroll for workers' compensation claimants, as well as filling of essential positions with emergency hires until qualified applicants can be found.

Your Conference Committee used a combination of revenue generators and expenditure reductions to create this supplemental budget. Your Conference Committee agreed with the Governor's two percent across the board reduction and exercised ten percent vacancy savings in many departments. While this supplemental budget represents a general fund reduction to all executive expenditures by \$96 million, your Conference Committee believes that sufficient resources have been appropriated to allow departments to continue to provide required levels of needed services. Your Conference Committee cautions however, that the demand for services and the corresponding funding level commitments have reached a critical point. No longer will departments be able to absorb across the board reductions. Your Conference Committee stresses that if funding to departments is to be reduced below the levels recommended in this budget, then this Legislature must also reduce the responsibilities placed on those departments.

In addition to these savings, your Conference Committee also investigated various new sources of revenues to compensate for the current budget shortfall. A four-bill approach was undertaken to balance the State financial plan. The most controversial of these bills is SB 706, CD 1, which transfers \$29 million to the general fund from the Hawaii Hurricane Relief Fund in order to provide for essential services that will otherwise be significantly reduced or deleted. Beyond providing essential financial support, this bill also outlines economic incentives to homeowners to reinforce their homes before the next hurricane. The second bill integral to the state financial plan is HB 2827, CD 1, which transfers \$140 million in excess funds from various non-general funds to the general fund. The third bill is HB 2741, CD1, which raises the cigarette tax by one cent in 2003 and an additional half-cent in both 2004 and 2005. Finally, HB 1245, CD 1, transfers \$10 million from the "Rainy Day" Fund to the General Fund specifically to provide for our health

and public safety. The passage of these bills provides approximately \$185 million of critical funding to maintain essential services. With these three bills, in conjunction with the expenditure reductions taken in this measure, your Conference Committee is confident that the State can maintain our essential services despite the \$315 million budget shortfall.

Throughout its deliberations, your Conference Committee's priority has been to develop a fiscally responsible balanced budget and financial plan that protects the most vulnerable and fragile of our population, while still paying heed to the current economic plight.

Fixed Costs

Debt service represents the amount the State owes as a result of issuing bonds for capital improvement projects. Just as an individual may have mortgage, rent, or car payments, the State must make payments on capital it has borrowed. The total debt service payment for fiscal year 2003 will be \$432.2 million. This represents approximately 12 percent of the entire general fund budget for the State. Your Conference Committee understands the importance of capital improvement projects, but urges caution, as bond issuances do not come without some type of cost.

To illustrate how debt service costs can build up, your Conference Committee needs only to discuss the executive's \$900 million CIP supplemental request. This request would result in an additional \$1.593 billion in total debt service. Combined with the \$600 million already appropriated by this legislature last year in its Regular Session and Third Special Session, the total debt service for this biennium would total in excess of \$2.6 billion. Your Conference Committee believes that judicious use of construction projects is the prudent solution for short-term gain without creating a long-term burden for future generations.

Other mandatory costs include health fund premiums for State employees. These costs are the portion owed by the State as the employer of all State employees. Total health fund premium payments for fiscal year 2003 will be almost \$280 million, or about eight percent of the entire general fund budget for the State. Reducing this amount would decrease the benefits received by State employees and their families, which would result in making civil service positions in State government less attractive.

The State also must provide for the retirement of its workers. For fiscal year 2003, the State's portion for pension accumulation is \$157 million and social security payments are \$139 million, totaling \$296 million. Social security is a requirement of the federal government and must be paid. Not paying into the Employees' Retirement System (ERS) would greatly reduce the amount of pensions that would be available to future retirees and could potentially endanger current retirees' pensions.

The preceding three items alone total more than \$1 billion, or nearly a third of the State's general budget. Your Conference Committee wishes to comment that these are non-discretionary expenditures. The State has little choice than to pay its debts and provide mandated costs for its workers. Once these mandatory costs were taken care of, your Conference Committee began to examine the services the State provides.

Lower Education

Education remains the State's top priority, but the State's current fiscal crisis demands that your Conference Committee carefully scrutinize the Department of Education's (DOE) FY 03 budget to ensure accountability as well as the judicious use of available funding and resources.

Your Conference Committee followed two paths in its evaluation of the Department's budget. The first path taken by your Conference Committee, via this measure combined with revenue generating measures such as S.B. No. 706, H.D. 1, S.D. 1 C.D. 1, was to fund critical needs of the DOE by restoring very important and needed educational programs targeted for reduction, as well as appropriate additional funding for Board of Education (BOE)-approved initiatives that failed to receive Executive approval.

The second path taken by your Conference Committee was to provide sufficient resources to cover all major fixed costs, to facilitate compliance with all legal mandates, and provide funding for additional critical educational programs. While the funding for mandated costs is viewed as critical, the requirements of special needs students and regular education students have been treated equally.

Critical needs of the DOE

Your Conference Committee continues to recognize the need for sufficient school-level resources and has approved an addition of approximately \$700,000 for equipment and textbooks for new special and regular education facilities for five schools. Additionally, your Conference Committee has added approximately \$6.1 million in funding for New Century Charter Schools, which takes into consideration the per pupil allocation amount as determined and amended (memorandum dated March 27, 2002) by the Auditor.

Although your Conference Committee had preferred to rely entirely on other additional revenue generating legislation, your Conference Committee has determined that reductions to the Department's FY 03 biennium budget base can not be avoided. Your Conference Committee notes that its budget includes a majority of the Governor's two percent and additional department-dictated percentage-based budget reductions.

Your Conference Committee agonized over almost every program reduction, each of which was individually reviewed and evaluated for its projected impacts to students, faculty, school, and ultimately, to the public at large. With much reluctance and after intensive deliberation, your Conference Committee agreed to numerous educational program reductions, which may appear to be benign, but in most instances, will negatively impact some child, teacher, school, and/or community. Examples of these hard-to-cut programs targeted for reductions include:

- Ⓜ Computer Education (approximately \$3.6 million)
- Ⓜ Marine and Aquaculture Education Programs (\$32,802)

- Ⓡ Summer School Programs (approximately \$1.2 million)
- Ⓡ Student Enrichment Programs (\$328,557)
- Ⓡ Instructional Material for Regular Education (approximately \$1 million)
- Ⓡ Instruction Development-Administrative Services Programs (\$127,171)
- Ⓡ Hawaii Content and performance Standards Assessment (\$69,015)
- Ⓡ Statewide Administration (\$149,336)

These base budget reductions total approximately \$29 million. However, your Conference Committee, through the passage of various new revenue generating bills, such as S.B. No. 706, H.D. 1, S.D. 1 C.D. 1, has provided additional revenues which allows not only the restoration of approximately \$15 million of the reductions reflected in your Conference Committee's budget, but also adds approximately \$1.2 million in additional DOE-related priorities. Critical educational programs that have been subsequently restored include:

- Ⓡ After-school Plus (A+) Program (approximately \$470,000);
- Ⓡ Vocational Programs (approximately \$3.1 million);
- Ⓡ Curriculum Development (approximately \$1.1 million);
- Ⓡ Preventative Educational Programs (approximately \$1.4 million);
- Ⓡ Hawaiian Language and Culture Education Programs (approximately \$1.9 million);
- Ⓡ Alternative Learning Programs (\$665,699);
- Ⓡ Equipment for Science Education (\$96,800);
- Ⓡ Athletic Programs (\$907,098);
- Ⓡ Community-Based Programs (approximately \$1.1 million);
- Ⓡ Instructional Development and Leadership Programs (\$273,434); and
- Ⓡ Hawaii Content and Performance Standards (\$172,234)

Additionally, your Conference Committee has funded important BOE-approved requests that were denied by the Governor. These requests include:

- Ⓡ Multi-track schools (15.0 positions and approximately \$1 million);
- Ⓡ Junior Reserve Officer Training Corps for Waiakea High School (\$56,500); and
- Ⓡ Grant-in-Aid to Read to Me International (\$150,000)

In its consideration of revenue saving strategies, your Conference Committee determined that reducing the Department's vacancy savings by 10 percent would free up funding not being used to pay employee salaries in a manner that would not devastate critical programs and/or interfere with the Department's ability to provide essential educational services. By reducing the Department's vacancy savings by 10 percent, your Conference Committee has succeeded in creating a budget windfall of approximately \$3 million.

To ensure that the children of Hawaii receive the best education possible, your Conference Committee granted various requests by the DOE for supplemental funding. Your Conference Committee approved \$15 million that will provide new reading trainers, replace old science equipment, replenish science materials, accommodate growth in the Hawaiian language immersion programs, and also support and maintain Multi-track schools.

Your Conference Committee also considered the critical needs of our Hawaii State Public Library System and its patrons and has provided 5 permanent positions and approximately \$270,000 in funding to staff and operate the Kapolei Library in Kapolei, Oahu. Library patrons on the Leeward side have long anticipated the opening and use of the Kapolei Library; therefore, your Conference Committee believes that it is appropriate and timely that operating funds and staff be approved for this library at this time.

With regards to the overall budget of the Hawaii State Public Library System (HSPLS), your Conference Committee was again placed in an exceedingly difficult position. Your Conference Committee is convinced that our public libraries provide sought-after and needed services. However, your Conference Committee, especially in light of the State's current financial situation, must equally ensure fiscal restraint on the part of the HSPLS. As such your Conference Committee has reluctantly reduced HSPLS's budget by two percent, or \$424,504, and has taken an additional \$12,390, which reflects a 10 percent vacancy savings. Your Conference Committee believes that the approved reduction of HSPLS's budget will not interfere with the libraries' ability to provide essential services to the public. Most importantly, critical library functions such as children's and young adult programs will be retained, library services to correctional and long-term care facilities will continue, bookmobile services will continue, and access to library facilities, books, and materials will remain generally unaffected.

During the 2001 Regular Session, special emphasis was placed on improving public school facilities, and \$60 million was appropriated for the general repair and maintenance of public school facilities, while an additional \$120 million was appropriated for various improvements to the public school system including:

- Ⓡ Telecommunication and power infrastructure upgrades
- Ⓡ Renovation of buildings and school sites
- Ⓡ Health and safety improvements
- Ⓡ Heat and noise abatement
- Ⓡ New classroom buildings
- Ⓡ Playground equipment

The Legislature again showed its commitment to the State's public education system by providing an additional \$75 million during the Third Special Session of 2001. With this new appropriation for the repair and maintenance of public schools, the Legislature brought funding for the improvement of the public school system to \$255 million over the fiscal biennium.

Your Conference Committee has sustained this commitment to education by providing an additional \$110 million for the repair and maintenance of public schools for fiscal year 2003. Another \$100 million has been provided for various improvements to public education facilities. These new authorizations bring total funding of public education construction projects to over \$465 million, representing an unparalleled commitment to the State's public education system.

Teacher Positions

Your Conference Committee has carefully deliberated on the Governor's request to reduce regular and special education teacher, as well as educational assistant, positions. The Governor requested a reduction in 162 regular education teacher positions, 63 special education (SPED) teacher positions and 63 educational assistant (EA) positions. Determined that the number of teacher and educational assistant positions should be based on actual workload and need, your Conference Committee intently evaluated the Department's re-assessment of the number of teacher and EA positions proposed for reduction.

The Department recalculated and determined that 79 regular education teacher positions, 52 SPED teacher positions, and 24 SPED EA positions could be eliminated for fiscal year 2003 without compromising service. Your Conference Committee accepted the Department's determination and, accordingly, trimmed the number of teacher and EA positions to reflect the department's re-assessment. By imposing the aforementioned teacher and educational assistant position reductions, your Conference Committee has generated a departmental budget savings of approximately \$4.5 million, without impacting the Department's ability to provide instructional services to its students.

Felix Consent Decree and the Contempt Order

For approximately eight years, the State has been subject to the Felix Consent Decree, which requires the State to provide adequate services for special needs children through the Department of Health and the Department of Education.

Felix costs-Department of Education

Consistent with the legacy of the Joint Senate-House Investigative Committee to Investigate the State's Compliance with the Felix Consent Decree (Felix), your Conference Committee reviewed the Department's Felix and Special Education-related requests with an eye toward greater cost-effectiveness and accountability, while continuing to adequately meet the needs of special needs children. The Governor requested approximately \$8.1 million to supplement the \$65 million appropriated for the DOE's Felix Response Plan (FRP) and School Based Behavioral Health (SBBH) services in each year of FB 01-03. Additionally, the Governor requested permanent FTE status for the 1,686.50 temporary employees currently employed by the Department to implement the court-mandated FRP priorities and SBBH services.

Your Conference Committee carefully evaluated the Governor's requests for \$8.1 million in additional funding and 1,686.50 permanent positions for the FRP and SBBH programs and determined, based on the information provided by the DOE, that the additional funding and permanent positions could not be justified. Your Conference Committee decided that there was insufficient information to accurately determine the appropriate number and type of positions needed within the FRP and SBBH programs to meet student needs. As such, your Conference Committee contacted the Department and notified the Superintendent of the Conference Committee's pre-determination not to provide the additional funding nor grant permanent status to its 1,686.50 temporary FRP and SBBH employees and requested additional input from the Department. In two meetings with the Superintendent and other Department staff, the Superintendent acknowledged that the Department could not justify the additional funding and agreed that providing 1,686.50 permanent positions within the evolving FRP and SBBH programs would be premature.

Your Conference Committee applauds the forthrightness of the Superintendent regarding the Department's inability to currently justify the requested increase in funding and permanent positions for the FRP and SBBH programs within EDN 150. The Department's newfound openness and transparency has certainly been underscored by the Superintendent's recent response to the Legislature, which has resulted in the denial of all the Department's supplemental requests for Felix-related costs as well as all of EDN 150. The Department's demonstrated transparency is a result of increased legislative scrutiny of the Department's execution of Felix and other court-mandated services and professes increased cooperation between the Legislature and the Department with regard to the substantial public education budget.

Although your Conference Committee has exercised increased scrutiny over the Department's Felix and special education related costs, your Conference Committee is equally committed to providing sufficient funding and resources to meet the U.S. District Court's Felix-related benchmarks. Your Conference Committee has approved the appropriation of approximately \$223 million in general funds to support the Department's efforts to comply with special education requirements and specific court mandates. Your Conference Committee believes that current special education funding is sufficient to provide adequate services to special needs children.

However, your Conference Committee and the Legislature, as a whole, is open to evaluation of requests for additional resources needed to meet these special needs. For example, despite disapproval of the requested 1,686.50 permanent position counts due to insufficient information, your Conference Committee is mindful that future court decisions relating to the Felix Consent Decree, could substantively affect current Department estimates. Therefore, your Conference Committee has included a budget proviso directing the DOE to complete a comprehensive assessment of its efforts to meet and maintain compliance with the Felix Consent Decree and associated federal statutes.

In the same vein, your Conference Committee has also evaluated a late Governor's request to provide approximately \$9.2 million for autism services. In its evaluation, your Conference Committee has been informed that, at the time of this writing, the DOE and DOH continue to disagree on the total amount of funds that are necessary to provide services to autistic students, the high-end students. Although DOE staff maintain that the entire \$9.2 million would be needed to provide autism services, the Superintendent, during her recent meeting with Conference Committee members, stated that the DOE may be able to provide autism services for a lesser amount and could possibly absorb some of the autism costs within the DOE's current FY 03 base budget. In view of the uncertainty that currently shrouds the projected costs of providing care for autistic students within DOE's organizational structure, which have been projected to be as high as \$22 million, your Conference Committee has chosen to take a cautious approach to the Governor's request for increased funding for autistic services. Your Conference Committee has therefore decided not to approve the Governor's requested supplemental funding. However, your Conference Committee certainly encourages the DOE, if it discovers that additional funding is required to adequately meet the needs of autistic students, to again request the Legislature to provide the needed, additional funding.

Funding for the Felix and Special Education-related programs in the Department of Education generally has been maintained. Concurrently, your Conference Committee has chosen to reduce or eliminate those appropriations that are no longer necessary. FRP fiscal year 2003 appropriations were reduced by \$250,000, which targets unnecessary expenses for the Felix Court Monitor.

Your Conference Committee believes that the approved fiscal year 2003 budget for Felix Consent Decree and special education services and administration, which incorporates the Conference Committee's directive to maintain temporary FRP and SBBH positions, strikes a close balance between the need for fiscal accountability while providing sufficient resources to comply with the State's Felix and special education mandates.

Felix Costs-Department of Health

Your Conference Committee acknowledges the recent progress made by the Department of Health's Child & Adolescent Mental Health Division (CAMHD) in improving mental health services for the Felix-class children so as to comply with the Felix Consent Decree. While the supplemental \$10.06 million request was withdrawn by the CAMHD, your Conference Committee remains unclear as to how the CAMHD will offset its multi-million dollar estimated shortfall by reviewing its current expenditure patterns and programmatic strategies to control costs.

By the end of this current fiscal year, CAMHD expects to serve approximately 2,143 registered children and youth. This represents a decrease of over 81 percent from CAMHD's previous population of 11,479 youth registered with CAMHD prior to the November 2001 transition to School Based Behavioral Health (SBBH) services in the DOE. As such, your Conference Committee, after reviewing CAMHD's 100 administrative positions, reduced the number of administrative positions within CAMHD by 10 percent. This represents a more acceptable level given CAMHD's adjusted number of Felix youths requiring mental health services through the Department of Health.

Health

Your Conference Committee acknowledges the Department of Health's efforts over the past several years to "right size" government by restructuring various programs internally to become more effective and cost efficient. This entailed abolishing various administrations within the Department of Health (DOH) and merging the functions within remaining administrations.

Prior to the 2002 Regular session, the only programs showing increases in the DOH over the last few years are those under a settlement agreement or court order. So with these increases, come the growing concerns that more legislative scrutiny is required to ensure proper accountability for the use of public funds for these mandated costs. Your Conference Committee carefully reviewed the department's supplemental request for mandated services and provided for only the necessary funds to maintain essential services for the Adult Mental Health Division.

Your Conference Committee is also cognizant that outside of these court mandates, there is a need to maintain essential services to benefit the people of Hawaii. In regard to maintaining the health and safety of the public, your Conference Committee has provided funds to meet the needs of the Emergency Medical Services (EMS) ambulance services by providing collective bargaining increases totaling \$1.64 million for the City and County of Honolulu and for the counties of Hawaii, Kauai, and Maui.

Your Conference Committee further realizes that the scope of the Health Insurance Portability & Accountability Act (HIPAA) compliance activities is expansive and has appropriated \$178,250 to support the DOH's intent on meeting the initial compliance deadline of October 2002.

Finally, your Conference Committee commends the Developmental Disabilities Division for making strides in taking individuals out of institutional settings and moving them into community programs with more self-directed goals.

Department of Justice Settlement Agreement and the Adult Mental Health Division

In 1991, the United States government filed an action in the United District Court for the District of Hawaii against the State of Hawaii based on the Civil Rights of Institutionalized Persons Act, 42 U.S.C. Section 1997 et seq., regarding the deprivation of rights of persons residing at the Hawaii State Hospital (*United States v. State of Hawaii, et al., Civil No. 91-00137 DAE-KSC*). The State entered into a Settlement Agreement with the United States Department of Justice which was incorporated into a Stipulation and Order filed on September 19, 1991. This and subsequent Stipulations and Orders issued in 1996, 1997, 1998, and 2000, document the State's obligations to enhance the existing array of community services and related supports, to ensure the timely and effective discharge of patients from the Hawaii State Hospital, and to prevent the hospitalization or rehospitalization of individuals.

Your Conference Committee affirms its full support of and commitment to the seriously mentally ill population residing in Hawaii by appropriating \$3.55 million for outpatient community-based services. Your Conference Committee is keenly aware that the original supplemental request for fiscal year 2003 included an additional \$8.4 million for outpatient community-based services and infrastructure support for the AMHD. The additional funding was not provided as your Conference Committee had concerns as to how the AMHD justified its requests for the purchase of outpatient community-based services as well as the need for the additional division infrastructure. As such, your Conference Committee provided partial funding of the total supplemental request pending AMHD's review of its actual expenditures.

Your Conference Committee is concerned that the AMHD's basis for all its funding and expenditure requests is tied to two reports; namely, the "Implementation Plan for Service Development (IPSD) for Fiscal Years 2002-2005 dated March 15, 2001" and the "Hawaii Needs Assessment Project" report dated November 2000. While there is nothing intrinsically wrong with adhering to these reports, your Conference Committee is concerned by the absence of explanations and details as to how the requested amounts were calculated. Moreover, what further concerns your Conference Committee is whether the IPSD is in effect a "court accepted" plan.

Repeated requests during the legislative session by your Conference Committee for specific answers relating to outpatient community-based services were returned with responses that referenced these two reports as the basis of its funding requirements. In responding to the Legislature's various written inquiries, the AMHD's justification for requesting funds were based on the notion that the "Settlement Agreement requires such expenditures..." and "If the supplemental budget request for community-based services was not approved, the Special Master may view this as an indication that the State is unwilling to fully commit to developing a system of services...."

Your Conference Committee assures the Special Master that the State is and has been committed to the plight of the mentally ill population residing in Hawaii. This is clearly evidenced by the fact that the Legislature has provided for the mentally ill population over the last few fiscal years resulting in an on-going annual base appropriation of over \$91.41 million (including funding for administrative support positions) for the AMHD.

Since all of AMHD's requests are tied to the IPSD, the logic that follows is that all requests for funds, including infrastructure support, are based on these projections rather than on actual caseloads. Noteworthy is the fact that in a recent presentation made by the various AMHD administrators and managers, as late as last week, the numbers used to further justify its supplemental funding requests for fiscal year 2003 were still based on and tied to projected numbers of the mentally ill population to be served rather than actual caseloads.

Your Conference Committee directs AMHD to look at actual caseloads and compare them with the projected numbers in order to validate whether they are "on target" with projections before submitting further requests for funding. Based on its current projections and assumptions found in the IPSD, your Conference Committee is further concerned that over-budgeting may occur as a result of the methodology used whereby the focus is on the most severe population case scenario. As such, the funding request for the seriously mentally ill may be based on these higher cost estimates.

Your Conference Committee is also unclear as to how the IPSD's \$122 million amount (over a four-year period) was derived. Your Conference Committee contends that the basis for AMHD calculations to justify its requests thus far is based on "backing into" the numbers found in the IPSD. To place this in proper context, if your Conference Committee agreed to the AMHD's request for funding in the next fiscal biennium, the funding requirement would require a total of an additional \$64 million (including an administrative infrastructure support base to support the community-based services) over and above its current base appropriation of \$91.41 million for a total of \$155.41 million annually.

Your Conference Committee was also unable to determine the basis for assumptions of the 22.5 percent used to calculate the amount needed for administrative infrastructure. The current division-wide infrastructure includes over 166 vacancies, yet the AMHD has requested an additional 22 temporary positions in fiscal year 2003 for administrative infrastructure support based on the IPSD report. Your Conference Committee therefore directs that the AMHD evaluate its existing vacant positions to address current and future needs before requesting for additional infrastructure support.

Your Conference Committee further questions whether there are adequate service providers available to provide the services (also known as the "capacity issue"). Your Conference Committee does not want to see a "culture of profit" by private providers and contractors as was evident under the Felix Consent Decree, however, the AMHD has failed to provide assurances that the current services provided are effective or efficient.

Your Conference Committee is gratified that U.S. Magistrate Kevin Chang was appointed on May 17, 2001, by U. S. District Court Judge Ezra as Special Master to oversee the State's compliance with the Settlement Agreement. Your Conference Committee is confident that the Special Master is providing the AMHD with sorely needed guidance, and that the AMHD will soon be able to provide the Legislature with clear articulation of its activities and justification for its expenditures pursuant to the Settlement Agreement.

Your Conference Committee reassures the people of Hawaii that the Legislature remains fully committed to ensuring that individuals suffering from serious mental illness are provided with the required quality care that they deserve.

Higher Education

Your Conference Committee is aware that the John A. Burns School of Medicine has lost 30 full time equivalent positions due to budget cuts in the 1990's. To create a world-class research intensive medical school that can help to diversify the economy through biomedical research and biotechnology at the new Kaka'ako campus, your Conference Committee has granted six full-time positions and \$983,900.

Furthermore, your Conference Committee recognizes that the Institute for Astronomy (IfA) in Hilo is the premier establishment for the research and development of advanced technology in the areas of telescopes, large-format semiconductor detectors and instrumentation. Your Conference Committee also realizes the potential to obtain extramural funding in these areas is enormous and that the IfA has already secured more than \$25 million in research funding over the next 3 to 5 years. To continue the excellent work being done at the IfA, your Conference Committee has approved four full-time positions and \$410,561.

In addition, your Conference Committee has provided seven full-time positions and over \$1 million to the Office of Mauna Kea Management to continue the implementation of the Mauna Kea Science Reserve Master Plan. The Master Plan being implemented is a comprehensive guide for the overall management of Mauna Kea, mandated by the Board of Regents and approved by the Governor.

Your Conference Committee understands the major role that the Community College faculty plays in the educational scheme of the State of Hawaii. Therefore, \$1 million has been provided for lecturer replacement funds to provide assigned time for Community College faculty to engage in non-instructional activities.

Human Services

Your Conference Committee recognizes the efforts of the Department of Human Services (DHS), to provide services to those least able to provide for themselves. It is especially in these tough times that these services are needed the most. Your Conference Committee sought to balance additional services desired by the Department with the fiscal constraints present in all State departments.

In recognizing the needs of the Child Welfare Services Division, your Conference Committee appropriated over \$450,000 for a centralized statewide intake unit and a Title IV-E Eligibility Determination Unit. The centralized statewide intake unit will allow Child Welfare Services to better serve the approximately 20,000 calls per year it receives. With the creation of a stable and well-trained staff, and the use of a single telephone number for 24-hour statewide coverage, your Conference Committee feels that the Department will be able to better allocate its resources to handle these cases of child abuse and neglect. The Foster Care – Income Maintenance Title IV-E Eligibility Determination Unit will help the Department maximize federal reimbursements to the State of Hawaii as it handles complicated foster care regulations.

The Health Insurance Portability and Accountability Act of 1996 requires health care providers to meet stringent federal regulations regarding privacy, security, and transactions and code sets. Your Conference Committee, in recognizing the importance of meeting federal deadlines, has provided for a department-wide HIPAA coordinator for the Department of Human Services. Previous State legislatures have provided for compliance for the different divisions of the Department, but there has been no department-wide oversight for HIPAA compliance. Your Conference Committee believes that oversight on a departmental level is critical to ensure that resources are allocated properly and that the department as a whole achieves compliance.

Child placement board and related payments is once again a cause of great concern for your Conference Committee. Costs are continuing to rise even faster than projected amounts. The Department can not control the number of child abuse cases that are reported, necessitating action on the part of the Department. Not providing for payments for those who care for foster and adopted children would be callous, however, in light of the current economic situation, careful scrutiny of any rising costs is warranted. Your Conference Committee is especially concerned with the increasing additional average monthly costs for difficulty of care payments. In spite of this, your Conference Committee appropriated an additional \$3.125 million across all means of financing for these increasing payments.

The Department of Human Services provides benefits and services to disadvantaged individuals throughout the State, and your Conference Committee recognizes the importance of these services and acknowledges the role of government as a provider. Although it may appear easy to find excess in the DHS's billion dollar budget, your Conference Committee found that reductions to the Department's budget would either reduce payment levels themselves or reduce the positions that serve to administer these benefits. Accordingly, the reductions made are those that have minimal impact directly to the Department itself and indirectly to the thousands of people it serves.

Public Safety

The Federal Aviation Administration has mandated increased security requirements at Honolulu International Airport (HIA) as a result of the fatal events of September 11th. To comply with these new requirements, and to keep one of the nation's busiest airports and key point of entry for visitors to our islands protected, your Conference Committee has provided an additional 36 deputy sheriffs to operate eight new posts at HIA.

Your Conference Committee has noted that it has taken nearly 15 years to obtain compliance with the Spear consent decree, which obligates the State to maintain prison facilities in accordance with federal incarceration standards. To maintain the State's accreditation with the National Commission on Correctional Healthcare and avoid further legal entanglements your Conference Committee has provided over \$3.2 million to route an additional 150 inmates to out-of-state incarceration facilities.

Your Conference Committee is impressed with the results of the Department of Public Safety's sex offender treatment program and has approved \$215,498 to identify problem offenders who should not be released on parole and ready those inmates whose success in treatment may significantly reduce their likelihood to re-offend after release. Since 1988, the number of sex offenders paroled from prison has doubled to an average of 58, while the number returning to prison on new sex crime convictions has steadily decreased to a recidivism rate of zero in the past three years.

Defense

Your Conference Committee has provided for new positions at the Department of Defense to coordinate and plan State anti-terrorism activities and oversee Civil Defense communication systems. Your Conference Committee also provided funds to maintain the Department of Defense's funding of Civil Defense, Hawaii Air National Guard, and the Hawaii Army National Guard at the appropriate levels.

Agriculture

Your Conference Committee in consideration of the Department of Agriculture's general fund reductions has restored and preserved essential programs. Understanding that the agricultural community has suffered significant reduction in operating funds, your Conference Committee is committed towards supporting the State's agricultural economy by preserving vital agricultural programs.

Recognizing the importance of diversifying Hawaii's agriculture industry, your Conference Committee has appropriated over \$2.3 million for agricultural development and research. Increased funding for the Hawaii Agricultural Business Corporation Revolving Fund will generate additional revenue for the State and aid Kauai's economy by using agricultural lands and irrigation resources vacated with the closure of sugar plantations. Your Conference Committee also provided additional resources for vital improvements to the infrastructure in the Hamakua subdivision to strengthen the agricultural industry of the island of Hawaii.

Realizing the importance protecting Hawaii's consumers and private industries, your Conference Committee restored funds for the measurement and standards program that will protect our consumers, businesses, and manufacturers from unfair practices from the use of inaccurate commercial measurement devices. The use of accurate commercial measuring devices ensures that the public and businesses are protected from incorrect pricing and saves millions of dollars for the people and businesses in Hawaii.

Land and Natural Resources

Your Conference Committee believes that further reductions to the land and natural resource programs will seriously impact natural resources held in trust by the State. Accordingly, your Conference Committee has appropriated funds necessary to ensure that these resources are conserved and protected. To protect and enhance Hawaii's forest watershed and unique native plant and animal species, your Conference Committee has appropriated over \$5 million in state and federal funds to support the natural area partnership, watershed management, youth conservation corps, and endangered species programs. These programs will protect and improve the condition of forests that benefit Hawaii's water supply as well as enhance the ecosystem of Hawaii's threatened and endangered species.

Your Conference Committee encourages the economic development of commercial fisheries and an environmentally responsible aquaculture industry by providing an additional \$150,000. These funds will benefit the people of Hawaii by conducting research on the restricted fish areas for bottomfish species and a survey on the impacts of shoreline fishing on marine sea turtles. Your Conference Committee further provides an additional \$250,000 for the detection and eradication of invasive species to prevent future economic and ecological damage to Hawaii.

Your Conference Committee understands that our State parks are a vital resource for residents and visitors alike, offering educational opportunities, as well as a diverse coastal and inland experiences. Your Conference Committee believes it prudent to reinvest in and maintain the State park system. To this end, your Conference Committee restored over \$600,000 to maintain and preserve these vital resources for the present and future generations of the people of Hawaii.

Transportation

Following the events of September 11th, one of the greatest areas of concern became our airports and air safety. Your Conference Committee understands the importance of security and has appropriated an additional \$17.7 million to the Department of Transportation to assist in addressing security concerns at airports statewide. Maintaining safety on our State's runways is a paramount concern to your Conference Committee, which has appropriated \$3 million in all means of financing for specialized fire trucks to replace the current aging fleet. This will ensure compliance with federal regulations to keep our airports open for travel.

While your Conference Committee recognizes the service Vanpool Hawaii provides to the citizens of Hawaii, it expresses grave concerns over accountability and responsibility for the program. The Vanpool Hawaii program was started in 1994 with the understanding that the State would provide funding for only a few years, after which the counties would pick up the local cost. However, it is now 2002 and the Department of Transportation is still using State highway funds to subsidize the program. Your Conference Committee has provided funding for the continued use of Vanpool Hawaii for one final year and demands that the State Department of Transportation obtain county funding for this program. In addition, your Conference Committee requests the Department of Transportation to provide performance indicators for the Vanpool Hawaii program.

Attorney General

In response to the need for information technology support personnel in the Department of the Attorney General, your Conference Committee has allowed for the more efficient use of existing personnel with the transfer of personnel and resources for the purposes of a Data Processing User Support Technician and an Information Accuracy Analyst.

Your Conference Committee recognizes the need to combat healthcare fraud and has provided funds for the continuation of efforts towards the prevention and prosecution of fraudulent and abusive billing practices that contribute to the expanding cost of not only the State Medicaid program, but other health care insurance programs.

Labor and Industrial Relations

The Department's Office of Community Services (OCS) utilizes contracts that provide basic assistance to those most in need in our society – particularly the economically disadvantaged, the immigrants and the refugees. Your Conference Committee has made a conscious effort to maintain funding of these contracts at the uppermost levels and deflect any reductions that would adversely affect the Office of Community Services (OCS).

Taxation

Your Conference Committee recognizes the importance of generating revenues to offset decreases in expenditures and has appropriated \$25,000 to allow two teams of three senior auditors to be sent to the mainland to perform audits. Your Conference Committee anticipates a minimum of an additional \$3.5 million in projected revenue from audits performed.

Accounting and General Services

For the Department of Accounting and General Services (DAGS), your Conference Committee has sought to facilitate the efficient use of State resources, focusing on core programs and activities, and providing only basic needs and services. Consequently, this supplemental budget contains a minimal number of new appropriations for high priority programs and services.

In this light, your Conference Committee has provided for the care and upkeep of the historic No. 1 Capitol District Building, allowed for grounds maintenance personnel and supplies from the Department of Land and Natural Resources to be transferred into DAGS, and also allowed for the payment of maintenance and custodial costs to DAGS from the Department of Commerce and Consumer Affairs.

Your Conference Committee has allowed for the payment for services provided by the Information and Communication Services Division to maintain and service the licensing system for the Professional, Vocational, and Licensing Division of the Department of Commerce and Consumer Affairs.

Your Conference Committee believes in protecting the State's assets and has accordingly authorized an additional \$2.7 million ceiling for risk management mitigation services to provide protection to the State from catastrophic losses. This enables the purchase of property, crime, and liability insurance for the State, and the continued coordination of loss control measures to minimize the cost and reduce losses to the State.

Your Conference Committee has also sought to provide the best fit of program resources in transferring funding for the Hawaii Disability Rights Center to the Office of Community Services.

Capital Improvements Program

During the Regular Session of 2001, the Legislature appropriated \$500 million for various construction projects, and another \$100 million was appropriated during the Third Special Session of 2001, bringing the total amount of general obligation bond funded projects authorized for the fiscal biennium to \$600 million.

In addressing the Governor's additional \$900 million dollar CIP request, your Conference Committee considered the impacts that a potential \$1.5 billion in new construction projects may have on the State's economy. Expending too large an amount in capital improvements at one time has the potential to saddle the State with too much debt, as well as create artificially high demand, which may in turn cause project bids to increase. Your Conference Committee also gave careful consideration to the correlation between the construction of new facilities and increases in operating costs.

While public funded construction may serve as a means to stimulate economic growth, there are some indications that privately funded construction projects are on the rise. Providing additional tax credits as incentives for such projects may be the more appropriate method to stimulate growth in this sector. However, your Conference Committee recognizes that opportunities exist where it makes sense to invest in the State's physical infrastructure. As such, your Conference Committee finds it reasonable to authorize an additional \$475 million in new expenditures on construction. Your Conference Committee views any stimulative effect this additional authorization of construction may have on the economy as an added benefit of sensible investment in the State's infrastructure.

Over half of the additional construction expenditures your Conference Committee authorizes invest directly in the State's educational infrastructure. Your Conference Committee sets aside \$210 million for the repair, maintenance, and improvement of our State's public schools. An additional \$56 million is also provided by your Conference Committee for the repair and upgrade of University of Hawaii facilities. Much of the remaining new construction expenditures your Conference Committee provides are for the health and safety needs of various facilities and institutions statewide.

Conclusion

The nation-wide recession and world-wide sense of fear and apprehension, which arose from the September 11th terrorist attack, contributed to the decline of Hawaii's economy and brought about a predicted \$315 million decline in revenues for fiscal years 2002 and 2003.

Faced with the predicted two-year revenue shortfall, your Conference Committee, as well as the rest of the State Legislature, considered numerous revenue generating alternatives and cost-cutting options in order to ensure a balanced State budget. Your Conference Committee was instrumental in the movement of various revenue generating legislation, which included an increase in the tobacco tax, the transfer to the General Fund of interest generated in the Hawaii Hurricane Relief Fund, and the conveyance of approximately \$140 million to the General Fund from various special and revolving funds.

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Your Conference Committee recognizes that government cannot be all things to all people, but has crafted a budget that, although not comprehensive, will provide sufficient resources to allow State agencies to maintain essential public services. In light of the State's financial situation, your Conference Committee respectfully submits this budget with guarded optimism, as it believes that the worst is behind us. Your Conference Committee believes that this budget will balance the State's revenues and expenditures for the present until the expected upswing of the State's economy in the upcoming years.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1800, 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. 1800, H.D. 1, S.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Taniguchi, Buen, Chun, Chun Oakland, English, Hanabusa, Ige, Inouye, Kawamoto, Kim, Kokubun, Sakamoto, Tam, Hemmings.

Managers on the part of the Senate.

Ayes, 13. Noes, none. Excused, 1 (Kim).

Representatives Takamine, Cabrerros, Espero, Kawakami, Magaoay, Nakasone, Saiki, Suzuki, Yonamine, Davis, Gomes, Leong, Meyer, Moses.

Managers on the part of the House.

Ayes, 13. Noes, 1 (Gomes). Excused, none.

STANDING COMMITTEE REPORTS

SCRep. 2001 Ways and Means on H.B. No. 1

The purpose of this measure is to authorize funds for the current expenses of the legislature up to and including June 30, 2003, and to provide funds for the expenses of the legislative service agencies during the 2002-2003 fiscal year.

Your Committee finds that the total appropriation for all legislative agencies has been reduced by 2.4 per cent from last year's appropriation, and believes that the attached budget can adequately finance the expenses of the legislature for the coming fiscal year.

Your Committee notes that the appropriation made to the legislative reference bureau includes the sum of \$72,562, which reflects the amount of the annual dues of the state legislature payable to the Council of State Governments.

Finally, your Committee agrees with the amendment to this bill made by the House of Representatives to extend the appropriation, from June 30, 2002, to June 30, 2003, for the purpose of meeting costs and expenses related to Felix v. Cayetano consent decree studies.

As affirmed by the record of votes of the members 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 Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Ige, Kawamoto, Kim, Sakamoto, Slom).

SCRep. 2002 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 1

Recommending that the Senate advise and consent to the nomination of the following:

COMPTROLLER

GLENN M. OKIMOTO, Ph.D., for a term to expire December 02, 2002,

Upon review of the testimony and statements submitted by the nominee, as well as your Committee's past experience in working with Mr. Okimoto, your Committee finds that he has the necessary character, experience, and qualifications to serve as Comptroller of the State of Hawaii.

Your Committee received nearly sixty letters of testimony in support of Mr. Okimoto's nomination, and none in opposition. Among those testifying in support of the nominee were the United States Congressman from the First District, the Lieutenant Governor, the heads of fourteen state departments, numerous other state employees, eighteen private business associations and unions, and twelve private citizens. Your Committee is impressed with the level of widespread support for Mr. Okimoto's nomination.

Your Committee finds that Mr. Okimoto has an impeccable academic background, which he followed with a dedicated career of public service in Hawaii. He has worked with the Department of Transportation since 1981 as an economist, a program evaluation analyst manager, and as deputy director. Mr. Okimoto was educated at the University of Hawaii, where he earned his Bachelor's and Master's degrees, and later, his Doctorate in Philosophy.

All who have worked with Mr. Okimoto praise his intellectual and analytical ability, his even-handedness, his focus, and most of all, his integrity. Your Committee carefully reviewed the statements submitted by Mr. Okimoto and questioned him regarding his vision for the Department of Accounting and General Services.

Based upon this review, your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to improve Hawaii through his service as Comptroller.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2003 Health and Human Services on S.B. No. 2023

The purpose of this measure is to allow the Executive Office on Aging to provide family caregiver support programs and training by making grants to counties and private entities to supplement the federal program.

Your Committee received testimony in support of the measure from the Executive Office on Aging and the State Planning Council on Developmental Disabilities.

Your Committee finds that family care giving is a significant issue and is a vital piece in the long-term care services puzzle. The Family Caregiver Alliance estimates that caregivers provide approximately \$200 billion nationally in informal services to family members, friends, and neighbors annually. Without the countless hours of service that family caregivers provide, the nation's long-term care system will collapse.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2023 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Buen, Nakata).

SCRep. 2004 Health and Human Services on S.B. No. 2026

The purpose of this measure is to provide an appropriation to increase Medicaid and QUEST reimbursements to hospitals and physicians.

Your Committee received testimony in support of the measure from the Hawaii Primary Care Association, Hawaii Medical Service Association, Hawaii Medical Association, and Healthcare Association of Hawaii. Your Committee received testimony against the measure from the Department of Human Services.

Your Committee finds that there is a financial crisis in the health care industry. Health care in Hawaii is financed primarily by Medicare, Medicaid, and health care insurance. In the health care community, it is common knowledge that Medicare and Medicaid payments typically do not cover the actual costs of care. The Medicare Payment Advisory Commission recently recommended an increase in Medicare payments to most providers, saying that cutting payments or keeping them at current levels could jeopardize access to care for the elderly and disabled. This measure in seeking to cover the actual cost of medical services, promotes such access to care.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2026 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Buen, Nakata).

SCRep. 2005 Health and Human Services on S.B. No. 2040

The purpose of this measure is to establish guidelines for the court in determining whether or not release of information is warranted in cases involving a missing child.

Testimony in support of this measure was presented by the Department of Human Services, Hawaii State Commission on the Status of Women, and Volunteer Legal Services Hawaii.

Your Committee finds that this bill is necessary to protect children in Hawaii who are missing and to put the missing child's needs above all others. The Hawaii Supreme Court's decision in Kema v. Gaddis, 91 Haw. 200, 982 p.2d 334(1999), invalidated a Family Court order which authorized release of information and granted access to the media to a redacted file. Finding that the file inextricably involved several other children, the court held that such release and access were not in the best interest of those children.

Your Committee further finds that the physical, emotional, and social well being of a missing child should be a top priority. When a child is missing, it is unknown whether the child is hurt, being mistreated, or is dead. Although the best interest of a child is a priority, having no guidelines to follow in a situation involving multiple children, one of whom is missing, the court thus ruled in the best interest of all the children collectively. This bill provides guidelines for the court to consider in such cases. It establishes two rebuttable presumptions which place the needs of the missing child before family member confidentiality and potentially harmful effects of other family members.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2040 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Kokubun, Nakata).

SCRep. 2006 Health and Human Services on S.B. No. 2052

The purpose of this measure is to authorize special purpose revenue bonds to finance health care facilities for Hawaii Pacific Health.

Your Committee received testimony in support of the measure from Hawaii Pacific Health.

Your Committee finds that Hawaii Pacific Health is a new health system formed by the recent merger of Kapiolani Hospitals, Straub Hospital and Clinic, and Wilcox Hospital. As a result of the merger, Hawaii Pacific Health is now the largest healthcare delivery system in the State, consisting of four hospitals, twenty-three clinics, and thirty outreach programs. This measure will enable Hawaii

Pacific Health to secure much-needed capital at a low, tax-exempt cost to pay for renovation of aging facilities and acquisition of new equipment and technology in order to continue providing the high quality of healthcare our communities expect and deserve.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Buen, Nakata).

SCRep. 2007 Health and Human Services on S.B. No. 2045

The purpose of this measure is to make technical, clarifying amendments to Act 233, Session Laws of Hawaii, 2001, by replacing the requirement that the court issue expungement orders for certain cases where the arrest was incurred when the adult was a minor with a requirement that the court consult with the prosecuting attorney before expunging an arrest record that was never referred to the court.

Your Committee heard testimony in favor of the measure from the State Attorney General, Department of Human Services Office of Youth Services, City and County of Honolulu Department of the Prosecuting Attorney, Juvenile Justice Information Committee, and Honolulu Police Department. The Office of the Public Defender offered comments on the measure.

Your Committee finds that the need for judicial discretion in cases where requests are received for expungement of a juvenile arrest record is consistent with findings already made by the Juvenile Justice Information Committee, a body composed of the four County police chiefs, the four prosecuting attorneys, the four administrative directors of the Family Court, two Family Court judges, and the executive director of the Office of Youth Services.

Your Committee notes, however, the Public Defender's concern that the measure makes an artificial distinction between informal adjustments of juvenile arrest records and court adjudicated adjustments and unfairly penalizes the individual who may have had only one contact with law enforcement while rewarding the person who had a case dismissed because of an unavailable witness or other non-substantive reason. Your Committee urges the Judiciary Committee to work with the Public Defender and other juvenile advocates to address this concern.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2045 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Kokubun, Nakata).

SCRep. 2008 Education on S.C.R. No. 1

The purpose of this measure is to continue the Joint Senate-House Investigative Committee to investigate the State's efforts to comply with the Felix Consent Decree ("Investigative Committee").

Your Committee received testimony in support of this measure from the Hawaii State Teachers Association.

Your Committee finds that the work of the Investigative Committee from June, 2001, to the present has been productive in revealing problems, as well as possible solutions, relating to the State's efforts to comply with the Felix Consent Decree. However, your Committee finds that the work of the Investigative Committee is not complete. Several investigative and information gathering efforts have not concluded and important issues require further investigation to ensure the State is providing efficient and effective educational services to Hawaii's exceptional children and is in compliance with federal and state laws.

As affirmed by the records of votes of the members of your Committee on Education that are attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 1 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Ige, Menor).

SCRep. 2009 Health and Human Services on S.B. No. 2021

The purpose of this measure, as received, is to create a finders fee of \$80 to associations who enrolls a child into the states children's health insurance program.

Testimony in opposition to this measure was submitted by the Department of Human Services.

Your Committee finds that there are not enough children enrolling in the State's children's health insurance program. This measure provides a creative way to increase enrollment, however, the incentive program would be too costly. Therefore, your Committee has amended this measure by deleting its contents and replacing it with the requirement that the Department of Human Services work with the Department of Education to develop an application form to be included in the free lunch application. Your Committee believes that this would be a more cost-effective approach because many of those who qualify for the free lunch will also qualify for the State's children's health insurance program.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2021, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2021, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Kokubun, Nakata).

SCRep. 2010 Health and Human Services on S.B. No. 2039

The purpose of this measure is to allow a sibling to file an action in family court requesting reasonable visitation, if the sibling is of full legal age and capacity, or if not, then by the sibling's spouse, parent, custodian, or guardian. It also provides that in every adoption case, the court's determination that a child is an orphan raises a rebuttable presumption that reasonable visitation by the child's sibling is in the best interest of the child.

Testimony in support of this measure was received by the Department of Human Services, Keiki Injury Prevention Coalition, Hawaii Foster Youth Coalition, Volunteer Legal Services Hawaii, and five individuals. The Judiciary submitted comments on the measure.

Your Committee finds that it is important that siblings maintain continuing relationships with one another after they are removed from their parents' custody to allow them to better adjust to their new circumstances. The Legislature established rights of grandparents in statutes over a decade ago, holding that it was in the best interest of the child to maintain that relationship. Surely, a sibling relationship deserves similar treatment.

The Judiciary raised concerns regarding whose best interest is being protected under the measure--the child who is the subject of the visitation petition, or the sibling who files the petition. Upon further consideration, your Committee has amended this measure by defining "child" to clarify that it is the child who is the subject of the petition whose best interests are to be protected, and by deleting the rebuttable presumption that reasonable visitation by the child's siblings is in the best interests of a child who has been declared an orphan by the court.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2039, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2039, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Kokubun, Nakata).

SCRep. 2011 Health and Human Services on S.B. No. 2086

The purpose of this measure, as referred to your Committee, was to require the insurance commissioner, rather than the prepaid health care advisory council, to render advice to the director of labor and industrial relations regarding the prepaid health care Act.

Your Committee received testimony in support of this measure from the Hawaii Medical Association. The department of labor and industrial relations submitted testimony in opposition to this measure, and the insurance division of the department of commerce and consumer affairs submitted comments.

Your Committee finds that the prepaid health care advisory council, which advises the director of labor and industrial relations regarding the prepaid health care Act, is slow to approve new health plans seeking entry in Hawaii. As a result, there is a lack of competition in the marketplace for prepaid health care plans.

Your Committee believes that involving the insurance commissioner in the approval process will exacerbate the problem rather than speed up the process. Given the large number of residents lacking adequate health care coverage, your Committee believes that the State should do everything possible to streamline the approval process for new entrants in the health care market, while maintaining stringent requirements to ensure that only qualified entities are admitted.

Therefore, your Committee amended this measure to require that no member of the insurance industry is involved with the prepaid health care advisory council. Your Committee finds that it is inappropriate to include the insurance commissioner on the council.

In addition, your Committee amended this measure to create a temporary prepaid health care plan legislative commission. This commission, which shall exist until June 30, 2003, shall include nine members to be appointed by the Governor. The commission will develop legislation to be submitted to the United States Congress for federal consideration, regarding several aspects of the prepaid health care system. The commission will report to the legislature, including submission of its draft legislation, prior to the 2003 regular session.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2086, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2086, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2012 Health and Human Services on S.B. No. 2089

The purpose of this measure, as received, is to create a controlled substance panel within the Department of Health to regulate prescriptive authority.

Testimony in support of this measure was submitted by the Department of Health, Hawaii Medical Association, and Department of Public Safety. Testimony in opposition to this measure was submitted by the Hawaii Nurses' Association, University of Hawaii, John A. Burns School of Medicine, and three private individuals. The Hawaii Dental Association submitted comments on this measure.

Your Committee finds that there is a mechanism needed to assure that expansion of prescriptive authority is given only when the benefit to the population is clear and a detailed assessment on the impact has been made. Your Committee further finds that expansion of prescriptive authority is a complex issue, and careful consideration is needed to assure public safety. Therefore, your Committee has amended this measure by deleting its contents and replacing it with a requirement that the Legislative Reference Bureau conduct an impact assessment report before prescriptive authority can be expanded.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2089, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2013 Health and Human Services on S.B. No. 2091

The purpose of this measure is to repeal the sunset date of chapter 431M, Hawaii Revised Statutes (HRS), relating to mental health and alcohol and drug abuse treatment insurance benefits.

Testimony in favor of this measure was submitted by the Department of Health (DOH), HGEA-AFSCME, Hawaii Psychological Association, Equal Insurance Coalition, Mental Health Association in Hawaii, Hawaii Medical Association, National Association of Social Workers, Hawai'i Nurses' Association, Hawaii Psychiatric Medical Association, and NAMI Oahu.

Chapter 431M, HRS, is currently set to be repealed on July 1, 2002, pursuant to Act 78, Session Laws of Hawaii (SLH) 1998. Your Committee has heard testimony over the past several years in support of insurance benefits for mental health and alcohol and drug abuse. Although originally enacted by Act 202, SLH 1988, as temporary coverage due to questions about efficacy and insurance costs, those doubts have since been resolved favorably. These coverages have proven to provide therapeutically effective treatment and do not raise premiums appreciably. Your Committee believes that insurance benefits should be made permanent.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2091 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2014 (Majority) Health and Human Services on S.B. No. 2092

The purpose of this measure is to require the Insurance Commissioner to develop standardized medical claim forms. It further requires health insurers to use the newly developed claim forms.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs. Testimony in opposition was submitted by Hawaii Medical Service Association. Comments on this measure was submitted by Royal State National Insurance Co., Ltd.

Your Committee finds that it is difficult for health care providers to continuously train employees on how to properly complete a myriad of forms to obtain payment for services rendered. If standard forms were required by all insurers, completing these forms would be less confusing, and there would be less paperwork and delays in payment, resulting in lower administrative cost. Your Committee, however, is concerned that this effort may be duplicative or superseded by requirements for standardized formats under the federal Health Insurance Portability and Accountability Act. Accordingly, your Committee requests the Insurance Commissioner to address this concern when the measure is heard in the Committee on Commerce, Consumer Protection and Housing.

Your Committee has amended this measure by inserting a repeal date of June 30, 2004.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2092, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2092, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 1 (Hogue). Excused, 1 (Nakata).

SCRep. 2015 Health and Human Services on S.B. No. 2351

The purpose of this measure is to establish a nursing loan program and appropriate funds to provide loans to nursing school candidates in the State.

Testimony in support of the measure was received from the Hawaii Government Employees Association, the Healthcare Association of Hawaii, the Hawaii Nurses' Association, and an advanced practice registered nurse. The Department of Health and the University of Hawaii at Manoa School of Nursing and Dental Hygiene supported the intent of the measure.

Your Committee finds that the measure would offset tuition and related fee costs associated with attending nursing school for qualified resident applicants. If the applicant successfully completes nursing school and works in the State as a registered nurse, for each year the applicant does so, twenty per cent of the loan will be forgiven. If the applicant works for five years in this capacity, the entire loan amount will be forgiven.

The measure also requires the Department of Health to administer the program and provides for loan repayments in circumstances such as noncompletion of a nursing program and penalties for misuse or misappropriation of loan funds.

Your Committee has amended the measure by:

- (1) Replacing the Department of Health with the University of Hawaii as the agency in charge of administering the program;
- (2) Clarifying residency requirements of loan applicants;
- (3) Adding a provision that ensures equity in the distribution of loans granted under this program among all accredited nursing education programs in the State; and
- (4) Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2351, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2351, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2016 Health and Human Services on S.B. No. 2140

The purpose of this measure is to provide presumptive eligibility Medicaid or QUEST coverage to pregnant women for prenatal care and other medically indicated services.

Testimony in favor of this measure was submitted by the Hawaii Commission on the Status of Women, Hawai'i Primary Care Association, Hawai'i Nurses' Association, Hawaii Island Rural Health Association, Inc., Blueprint for Change, Ka'u Rural Health Community Association, Inc., March of Dimes, Healthy Mothers, Healthy Babies, Waianae Coast Comprehensive Health Center, Mothers Care for Tomorrow's Children, Maui Family Support Services, Inc., Kahuku Hospital, Kokua Kalihi Valley, and three private citizens. Testimony in opposition to this measure was submitted by the Department of Human Services (DHS).

This measure would require the DHS to provide presumptive Medicaid or QUEST coverage to pregnant women for prenatal and other medically indicated services, if applicants show proof of pregnancy and meet income qualifications. This measure also provides that infants of women presumptively covered under QUEST are deemed eligible for medical services, and would be processed for the State Children's Health Insurance Program (SCHIP).

Prior to the DHS's QUEST program in 1994, pregnant women were presumed eligible for prenatal care under Medicaid. However, that presumption was not carried over to the QUEST program, with the consequence that pregnant women had to undergo a lengthy application process to qualify under QUEST. Although the DHS has made good faith efforts to address the delays, the current wait time averages four to six weeks. The legislature finds that this period of delay is unacceptable.

Early and continuous prenatal care for pregnant women is the primary cost-effective method for preventing low birthweight and poor birth outcomes. Low birthweight has been determined to be one of the top three most expensive reasons for hospital stays.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2140 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2017 Health and Human Services on S.B. No. 2041

The purpose of this measure is to expand the:

- (1) Membership of the child protective review panel to include two community members who are active in the systemic reform of the child protection system; and
- (2) Definition of "serious abuse" to include cases of missing children.

Your Committee heard testimony in favor of the measure from the Department of Human Services, Volunteer Legal Services, and four private individuals.

Your Committee finds it unclear whether or not the Child Protective Review Panel has succeeded in reducing the recurrence of abuse within families. In light of this ambiguity, it is necessary to expand the public's oversight over the panel. However, since the current statute already provides the Department of Human Services with the authority to appoint members of the panel in addition to those specifically enumerated by statute, your Committee urges the Department of Human Services to appoint new members who are active in systemic reform of the child protective system.

Your Committee further finds that a statutory presumption that abused children who are missing have suffered serious abuse would help to reduce the recurrence of abuse within families as such cases will be subject to the review of the Child Protective Review Panel.

Your Committee has amended the measure by deleting the provision that would have added two members active in systematic reform of the child protective system to the Child Protective Review Panel.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2041, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Kokubun, Nakata).

SCRep. 2018 (Majority) Health and Human Services on S.B. No. 2044

The purpose of this measure is to provide minors with the right to request and choose their own legal representation if they feel there is a conflict between themselves and the parent, guardian, guardian ad litem, or legal custodian.

Testimony in support of this measure was submitted by Volunteer Legal Services Hawaii, Hawaii Foster Youth Coalition, and three individuals. Testimony in opposition to this measure was submitted by the Department of Human Services. The Judiciary submitted comments on this measure.

Your Committee finds that there are instances where a child's best interest are not being advocated in the selection of an attorney. For example, the legal guardian selecting the attorney could be the alleged abuser of the child or representing multiple siblings with differing interests, or a guardian ad litem may fail to inform the court of conflicting points of view. Your Committee believes that this measure is needed so that a child's interest can be correctly communicated to the court and the presiding judge can make informed decisions.

Your Committee has amended this measure by:

- (1) Stating in the purpose section that this measure also establishes a mechanism to facilitate pro bono legal representation of minors; and
- (2) Providing that a spouse, parent, custodian, or guardian of the minor will not be liable for the legal obligation resulting from the furnishing of legal counsel.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2044, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, 1 (Hogue). Excused, 3 (Buen, Kokubun, Nakata).

SCRep. 2019 Health and Human Services on S.B. No. 2094

The purpose of this measure is to make permanent section 431:13-108, Hawaii Revised Statutes, relating to reimbursement of health insurance benefits, which is scheduled for repeal on July 1, 2002.

Testimony in favor of this measure was submitted by Insurance Division, Hawaii Psychiatric Medical Association, and Hawaii Medical Association.

This measure also repeals the requirement of notification by an entity to a provider for a contested or denied claim, and limits the requirement of paying interest accruals of at least two dollars.

The reimbursement of health insurance benefits statute was enacted by Act 99, Session Laws of Hawaii 1999, to regulate the claim relations between providers of medical services and health insurers, mutual benefit societies, and health maintenance organizations.

Your Committee agrees with the testimony of the State Insurance Commissioner that the statute should be made permanent in order to ensure that health plans pay claims properly. Your Committee is aware of the often difficult experiences that providers have had in obtaining payment from insurers. Indeed, it was against this backdrop that the statute was enacted.

Your Committee has amended this measure by:

- (1) Retaining the requirement that the entity notify the provider of a contested or denied claim, and adding an exception to the requirement if the entity provides the provider at least monthly with a reimbursement report containing the required information;
- (2) Changing from seven to fifteen days the time limit for paying the claim after receiving additional information;
- (3) Clarifying the definition of "claim" to add using the entity's standard claim form; and
- (4) Adding a definition of "clean claim".

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kokubun, Nakata).

SCRep. 2020 Health and Human Services on S.B. No. 2106

The purpose of this measure is to extend the repeal date of chapter 451J, Hawaii Revised Statutes (HRS), relating to marriage and family therapists, from December 31, 2002, to June 30, 2004.

Testimony in opposition to this measure was submitted by the Department of Commerce and Consumer Affairs (DCCA), Chaminade University of Honolulu, The Salvation Army Addiction Treatment Services, Hawaii Association for Marriage and Family Therapy, Argosy University, Damien Memorial High School, National Association of Social Workers, and eighteen private citizens.

Your Committee notes that, with the exception of the DCCA, all testifiers were in favor of making permanent chapter 451J, HRS, rather than extending the sunset date.

Your Committee finds that the modern day proliferation of marriage and family therapists warrants permanent regulation of that specialty. Your Committee accordingly has amended this measure by replacing its contents with the contents of S.B. No. 2496, that:

- (1) Provides reciprocity with other states that have similar licensure requirements;
- (2) Deletes the exemption for persons doing work within the scope of practice or duties of their profession that overlaps with the practice of marriage and family therapy;
- (3) Deletes provisions (1) clarifying that certain licensed professions are not prevented from doing or advertising that they assist or treat individuals, couples, or families in the course of practicing their profession; and (2) providing that no one may use the title of marriage and family therapist without being licensed as such;
- (4) Deletes violation of recognized ethical standards as grounds for denial, revocation, suspension, or condition of a license; and
- (5) Deletes the sunset date of December 31, 2002, for chapter 451J, HRS, relating to marriage and family therapists.

Your Committee believes that this measure, as amended, provides more comprehensive changes that are needed, in addition to making the regulation permanent.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2106, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2106, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2021 Health and Human Services on S.B. No. 2234

The purpose of this measure is to prohibit the commercial sexual exploitation of minors and activities consisting of exotic or nude dancing, escort services, and erotic or nude massage services.

Testimony in favor of this measure was submitted by the Honolulu Police Department, Hawaii Family Forum, Hawaii Youth Services Network, Sisters Offering Support, Palama Settlement, Hale Kipa, Inc., and seven private citizens. Testimony in opposition was submitted by the Public Defender. The Honolulu Prosecuting Attorney submitted comments on the measure.

Your Committee agrees with the testimony of Sisters Offering Support, that federal research has found that nude dancing, lap dancing, nude modeling, escort and nude massage services, and similar sexually provocative activities are used to lure girls into prostitution. One of the most common pathways is stripping. These activities are common in Hawaii. By the time the child is graduated into prostitution or pornography, it is often too late because the emotional, physical, and sexual damage has been done and the minor is fearful of testifying against the perpetrator.

Your Committee has amended this measure by:

- (1) Substituting reference to “money or nonmonetary” consideration with “money or property”;
- (2) Deleting reference to escort services;
- (3) Defining “minor” and “property”; and
- (4) Clarifying the definition of “nude” as including sheer or see-through clothes.

Your Committee has doubts about whether a criminal case can be sufficiently proven against an escort service under the intent of this measure. Your Committee defers to the Committee on Judiciary to determine whether escort services should be included in this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2234, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2022 (Joint) Health and Human Services and Education on S.B. No. 2457

The purpose of this measure is to fund mouse embryonic stem cell research at the University of Hawaii.

Two individuals testified in support of this measure.

Currently, the University of Hawaii is at the forefront of mouse embryonic stem cell research, having one of only three laboratories in the world proficient in the cloning of mice from somatic cells and having recently been issued a patent for its cloning technique. The stem cell research being conducted by the University may someday lead to the development of regenerative therapies for the treatment of incurable conditions such as diabetes and Parkinson’s disease.

While the University’s Institute for Biogenesis Research aspires to be self-supporting through grant funding and has submitted applications for federal grants, the process of achieving self sufficiency is an ongoing and lengthy one. In the meantime, existing funds to support the University’s cloning research will be exhausted at the end of this fiscal year. If the University is to maintain its technological edge in the field of biomedical research, continue to attract scholars and scientists from around the world, and make scientific advances that may someday result in medical breakthroughs, it is critical that funding be secured to continue its research programs. Therefore, this measure appropriates funds to the University’s Department of Anatomy and Molecular Biology for mouse embryonic stem cell research.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2457 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Matsunaga, Menor, Nakata, Tam).

SCRep. 2023 (Joint) Health and Human Services and Labor on S.B. No. 2438

The purpose of this measure is to prohibit employer discrimination against actual or perceived victims of domestic or sexual violence but also recognize legitimate employer interests related to the safety of all persons in the workplace.

Your Committees received testimony in favor of this measure from the Hawaii State Commission on the Status of Women, the Domestic Violence Clearinghouse and Legal Hotline, the Hawaii State Coalition Against Domestic Violence, the Na Keiki Law Center/Volunteer Legal Services Hawaii, a member of the Hawaii State Battered and Formerly Battered Women’s Caucus, and three private citizens.

The Hawaii Civil Rights Commission supported the intent of the measure.

Testimony in opposition to the measure was received from the Department of Taxation. The Department of Labor and Industrial Relations had concerns with the impact the measure might have on the receipt of federal funds and the Tax Foundation submitted comments.

Your Committees find that the measure:

- (1) Enables a victim of domestic or sexual violence to take paid or unpaid leave, seek medical treatment, obtain abuse-related services, counseling, relocate, or take legal action;
- (2) Upholds the provisions of collective bargaining agreements or employment agreements that contain equal or better benefits or rights regarding protection from domestic or sexual abuse;
- (3) Prohibits an employer from discriminating against an employee who is a victim of domestic or sexual abuse;
- (4) Enables a victim of domestic or sexual abuse to obtain unemployment insurance benefits if the victim suffers a loss of employment status as a consequence of the abuse;
- (5) Provides training for unemployment insurance claims reviewers and hearings officers to understand and recognize symptoms and patterns of domestic or sexual abuse; and
- (6) Establishes a workplace safety tax credit of up to forty per cent of the costs associated with domestic and sexual violence safety and education training as an incentive for employers to help prevent domestic and sexual abuse.

Your Committees find that domestic violence crimes account for approximately fifteen per cent of total crime costs in the United States each year. Violence against women has been reported to be the leading cause of physical injury, having a devastating impact on women's physical and emotional health and financial security.

Employees in the United States who have been victims of domestic violence, dating violence, sexual assault, or stalking too often also suffer associated adverse consequences in the workplace as a result of their victimization. In fact, seventy-four per cent of harassment of women in the work place is because of domestic violence.

According to a 1998 report of the U.S. General Accounting Office, between one-fourth and one-half of domestic violence victims surveyed in three studies reported that the victims lost a job due, at least in part, to domestic violence. Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, suffer from health problems affecting their employability and job performance, report lower personal income, and rely on welfare. Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners. More than one-half of women receiving welfare have been victims of domestic violence as adults and between one-fourth and one-third reported being abused in the last year.

Ninety-four per cent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern. Forty-nine per cent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, forty-seven per cent said domestic violence negatively affects attendance, and forty-four per cent said domestic violence increases health care costs. Employees, including individuals participating in welfare to work programs, may need to take time during business hours to obtain orders of protection, seek medical or legal assistance, counseling, other services, or look for housing in order to escape from domestic violence.

Your Committees are aware of the concerns raised by the Department of Labor and Industrial Relations regarding the issue of whether the federal government would allow unemployment benefits, which are funded by moneys provided under a state and federal partnership, to be paid to victims of domestic or sexual abuse. Your Committees are also aware that the Department of Labor and Industrial Relations is currently seeking clarification on this issue and would like to keep this measure moving in the legislative process to ensure that a legislative vehicle will be available if federal approval is granted.

Your Committees have amended the measure by making the workplace safety tax credit nonrefundable and by making a technical, nonsubstantive amendment for the purpose of style.

Your Committees hope that although this measure's passage has been expedited in order to ensure that ample time is provided to make the internal lateral deadline, subsequent committees will heed the concerns of all parties and a legislative product that is amenable to all concerned parties will result.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2438, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2438, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 8, Noes, none. Excused, 6 (Chumbley, English, Hanabusa, Kanno, Sakamoto, Hogue).

SCRep. 2024 (Majority) Education on S.B. No. 2206

The purpose of this measure is to allow the Department of Education to utilize and hire attorneys other than the attorney general.

Your Committee received testimony in favor of this measure from the Hawaii Government Employees Association and the Department of Education. Testimony opposing this measure was received from the Attorney General and the State Librarian.

Your Committee finds that the current requirement of utilizing the Attorney General's office precludes timely advice and assistance for the Department. The Department deals with legal issues on a daily basis and this measure would serve to assist the Department in responding in an efficient and 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. 2206 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, 1 (Chumbley). Excused, 4 (English, Matsunaga, Menor, Tam).

SCRep. 2025 Agriculture on S.B. No. 2131

The purpose of this measure is to appropriate funds for fiscal year 2002-2003 to make various improvements to the Molokai Irrigation System.

Testimony in support of this measure was received from the Department of Agriculture, Department of Hawaiian Home Lands, and the Molokai Farm Bureau. Comments were submitted by the University of Hawaii Environmental Center.

Your Committee finds that Molokai's agriculture industry has been struggling due to drought conditions on the island. The Molokai Irrigation System, which is the primary source of irrigation water, is in a state of severe disrepair. Improvements are required to eliminate waste, to improve efficiency of the system, and to stabilize and expand Molokai's agriculture industry.

In the General Appropriations Act of 2001, the Legislature appropriated funds for plans for the identification of new sources for the Molokai Irrigation System and improvements to address long-term needs and expansion. Since the appropriation, specific necessary improvements to the Molokai Irrigation System have been identified without expending the appropriated funds. Your Committee finds that those funds should be expended for these already identified needed improvements.

Therefore, your Committee has amended this measure by replacing its contents with provisions that amend the General Appropriations Act of 2001 to reappropriate \$200,000 for the following Molokai Irrigation System improvements:

- (1) New telemetry system;
- (2) New maters at reservoir (2);
- (3) Replacement of isolation valves (4);
- (4) Purchase of a BobCat; and
- (5) Purchase of 4x4 vehicles (2).

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2131, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2026 Agriculture on S.B. No. 2345

The purpose of this measure is to appropriate funds for research on diseases and other problems with taro throughout the State, to be performed by the University of Hawaii College of Tropical Agriculture and Human Resources.

Your Committee received testimony in support of this measure from the University of Hawaii College of Tropical Agriculture and Human Resources (CTAHR) and one individual.

Your Committee finds that taro farming in Hawaii is a valuable activity that is treasured for its place in Hawaiian culture and tradition and represents a significant portion of the State's agriculture economy. Despite the tremendous demand for taro in Hawaii and throughout the world, actual yields of Hawaii's taro industry have been declining. The decline in yields have been attributed to damaging taro diseases and the environmental ramifications of Hurricane Iniki in 1992.

Testimony received indicated that CTAHR, in 1997, began researching ways to assist the taro industry by determining the cause of the decline in taro yields. Although progress has been made, additional funding is necessary to continue the research. Your Committee finds that the appropriation made by this measure is necessary to stabilize Hawaii's taro industry.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2345 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2027 Agriculture on S.B. No. 2481

The purpose of this measure is to include theft of a goat as constituting the offense of theft of livestock.

Testimony in support of this measure was received from the Department of Agriculture.

Your Committee finds that livestock theft is a significant problem that causes severe economic losses to livestock farmers. Current law only covers the theft of animals of the bovine, equine, swine, and sheep species. However, in today's diversified agricultural industry several other valuable species of livestock are raised for commercial and household use.

Your Committee finds that current law should reflect the progressive and diverse nature of Hawaii's livestock industry. Therefore, your Committee amended this measure by including the theft of any species of animal farmed for commercial or household use as constituting the offense of theft of livestock.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2481, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2481, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2028 Agriculture on S.B. No. 2482

The purpose of this measure is to appropriate funds for the establishment of an agricultural theft abatement task force.

Testimony in support of this measure was received from the Hawaii Farm Bureau Federation, North Shore Farms, Waialua Farmers Corporation, and one individual. Testimony opposing this measure was submitted by the Department of Agriculture.

Your Committee finds that farmers whose agricultural commodities are stolen incur substantial economic losses that threaten the sustainability of their businesses. During the 2001 legislative interim, this Committee conducted statewide hearings on agriculture theft and confirmed that agriculture theft was a serious problem that jeopardized farming enterprises throughout the State.

Your Committee further finds that combating agricultural theft is a complicated endeavor. It requires coordination among Hawaii's agricultural industry, law enforcement, and various state agencies. Therefore, your Committee finds that the interagency approach provided by this measure will advance efforts to develop strategies to abate agricultural theft.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2482 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2029 Agriculture on S.B. No. 2490

The purpose of this measure is to expand mandatory labeling requirements by requiring all Hawaii-grown coffee to be labeled with its origin.

Testimony in support of this measure was received from the Department of Agriculture, Hawaii Farm Bureau, Big Island Farm Bureau, Coffee Creations, Inc., Bad Ass Coffee, Co., Honaunau Coffee Company, Kona Coffee Council, Petersen Marketing, Schooler Farms of Hawaii, Hawaii Agriculture Research Center, Maui Oma Coffee Roasting Co. Inc., Hawaii Coffee Association, Dragons Lair Kona Coffee Farm, Kauai Coffee Company, Inc., Kimo Bean Coffee Company Hawaii, Fike Farms of Hawaii, Ueshima Coffee Corp., Greenwell Farms, Inc., Mountain Thunder Coffee Plantation, Kona Farmers Alliance, and Hawaii Coffee Company.

Your Committee finds that Hawaii-grown coffee is world renown for its unique characteristics and flavors. Hawaii's coffee growers have established Hawaii-grown coffee as a premiere category in the coffee industry through large investments in technology, intelligent marketing, and utilization of Hawaii's talented work force. Moreover, strict labeling requirements for Kona Coffee have also contributed to protecting the uniqueness of Hawaii-grown coffee.

As the coffee market grows, additional Hawaii-grown coffee makers are establishing strong geographic brands similar to Kona Coffee. This measure further promotes Hawaii's coffee industry by protecting the unique identity of all Hawaii-grown coffee regardless of geographic origin.

Your Committee has amended this measure by making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 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 Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2030 Education on S.B. No. 2283

The purpose of this short form bill is to amend the law relating to education.

Your Committee has amended this bill by inserting language relating to the efforts of the Good Beginnings Alliance to develop policy recommendations concerning all aspects of a coordinated early childhood education and care system. A key element of this effort is the adoption by statute of a definition of "school readiness" as young children "ready to have successful learning experiences in school when there is a positive interaction among the child's developmental characteristics, school practices, and family and community support." The amended measure also calls for a joint report from the interdepartmental council created by and the private nonprofit corporation discussed in Act 77, Session Laws of Hawaii 1997, on progress in improving Hawaii's system of early education and care.

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. 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 recommitted to your Committee on Education for further consideration.

Signed by the Vice Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Menor, Tam).

SCRep. 2031 Labor on S.B. No. 2183

The purpose of this measure is to allow applicants for police officer positions to be non-residents of Hawaii at the time of their application.

Your Committee finds that state residency requirements deter prospective police officer applicants at a time when the State suffers from serious shortages in public safety positions.

During your Committee's discussion of this measure, the senator representing the sixth senatorial district stated that the residency requirement severely limits the pool of police officer applicants and consequently makes it very difficult to fill police officer positions on Maui.

Your Committee believes that removing the residency requirement for police officer applicants is prudent and will enable police departments to select qualified police officers from a larger pool of applicants.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2183 and recommends that it pass Second Reading and be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Kanno, Matsuura, Sakamoto).

SCRep. 2032 Labor on S.B. No. 2789

The purpose of this measure is to clarify Act 6, Third Special Session Laws of Hawaii 2001, regarding reimbursement of payments to provide that the expenditure of money appropriated shall be for a specific period of time or when the money runs out.

Testimony in support of the measure was received from the Department of Labor and Industrial Relations and the Department of Commerce and Consumer Affairs' Insurance Division.

Your Committee finds that the terrorist attacks of September 11, 2001, sent devastating shockwaves through Hawaii's economy. The downturn in the tourism industry caused a ripple effect in all sectors of the State's economy, subjecting many workers to furloughs, layoffs, and reduced work hours. Although many of these workers qualify for relief through unemployment insurance benefits, in some cases, they are not able to continue their health insurance coverage due to their financial situation.

To this end, your Committee finds that Act 6, Third Special Session Laws of Hawaii, 2001, was enacted to provide temporary health insurance for unemployed persons who lost their health insurance on or after September 11, 2001, or who cannot afford to pay for continued coverage. The clarifications to Act 6 that are contained in this measure will enable the State to effectively administer the temporary health insurance program and consequently ensure the continuation or provision of health insurance coverage to dislocated workers of the State.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2789 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Kanno, Matsuura, Sakamoto).

SCRep. 2033 (Majority) Labor on S.B. No. 2973

The purpose of this measure is to repeal the prohibition on picketing in front of a private residence or dwelling.

Testimony in support of the measure was received from the Hawaii State AFL-CIO and Common Cause Hawaii.

Your Committee finds that repealing the prohibition against picketing someone's home will increase opportunities for free expression and enable peaceful protesters to visibly demonstrate their support for a cause.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2973 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 4 (Hanabusa, Kanno, Matsuura, Sakamoto).

SCRep. 2034 Health and Human Services on S.B. No. 1399

The purpose of this measure is to appropriate funds for emergency ambulance service in the Hawaiian Ocean View Estates area on the island of Hawaii.

Your Committee received testimony in support of the intent of this measure from the Department of Health.

Your Committee finds that in the Hawaiian Ocean View Estates area of the island of Hawaii there are unacceptably long delays in emergency ambulance service. There is a shortage of ambulances on the Big Island, and when the Kau ambulance is already on call, only emergency medical technicians (EMT) are available to respond to medical emergencies.

Although EMTs are qualified to provide basic life support, your Committee finds that it is critical that funds be made available for an additional life support ambulance for the Hawaiian Ocean View Estates area. Therefore, your Committee supports the intent of this measure.

Your Committee amended this measure to insert the correct fiscal year for the appropriation. The appropriation amount has been left blank for determination by your Committee on Ways and Means.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1399, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1399, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2035 Health and Human Services on S.B. No. 2075

The purpose of this measure, as received, is to increase the availability of licensed dental hygienists to provide oral services by enabling them to perform under general supervision of a licensed dentist.

Testimony in support of this measure was submitted by the Hawaii Dental Hygienists' Association, Hawaii Primary Care Association, Kona Krafts, Healthy Start, Mobile Care Health Project, and twenty-five individuals. Testimony in opposition to this measure was submitted by Honolulu Periodontics and thirty-two individuals. Comments were submitted by the Board of Dental Examiners.

Your Committee finds that licensed dental hygienists are highly trained individuals and are capable of performing a variety of needed services. Your Committee further finds that under this measure, the determination as to whether a hygienist may perform expanded services is left to the discretion of the dentist under whose supervision the hygienist will practice. However, your Committee is concerned that dentists and hygienists may not agree on such determinations.

Therefore, your Committee has amended this measure by providing that the dental hygienists may only practice under general supervision in a public health setting. Your Committee has also amended this measure by requesting that the Board of Dental Examiners evaluate the amendments to section 447-3, Hawaii Revised Statutes, and report its findings as well as any proposed legislation to the 2007 legislature.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2075, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2075, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Kokubun, Nakata).

SCRep. 2036 (Joint) Health and Human Services and Education on S.B. No. 2145

The purpose of this measure is to appropriate funds to establish additional Families for Resources for Early Access to Learning (R.E.A.L.) programs and to conduct a longitudinal study of the program.

The Department of Education testified in support of the measure.

The Families for R.E.A.L. program, developed from a Minnesota family education model, is based on the premise that parents serve as their children's first and most important teachers and, therefore, have the opportunity to positively influence their children's learning experiences and development. Under the program, parents attend classes with their children, learn parenting and teaching skills, and network with other parents. Teachers report that children from participating families enter school better prepared to learn than children from families who have not undergone the program.

There are currently three Families for R.E.A.L. programs operating in the State and hundreds of families on their waiting lists. The funds appropriated by this measure would enable the establishment of additional programs in the Honolulu, Central, Kauai, and Hawaii school districts. Additionally, funds are required to undertake a longitudinal study of the program's effectiveness on student achievement.

Your Committees have amended this measure by deleting specific appropriation amounts.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2145, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2145, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair and Vice Chair on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Matsunaga, Menor, Nakata, Tam).

SCRep. 2037 Health and Human Services on S.B. No. 2147

The purposes of this measure are to dedicate an unspecified portion of the tobacco settlement moneys for the treatment of intrafamilial child sexual abuse and to make an appropriation to provide sex abuse treatment, including psychological treatment and case management services for child victims of intrafamilial sexual abuse and their families who are not a part of the child protective services system.

Testimony in support of this measure was received from the Judiciary, Department of Human Services, Department of Prosecuting Attorney City and County of Honolulu, Friends of the Children's Justice Center of Oahu, Inc., Catholic Charities, Child Welfare Services State Advisory Council, and Volunteer Legal Services Hawaii. The Department of Health submitted testimony in opposition.

Your Committee finds that the psychological and emotional scars suffered by those who have experienced sexual abuse are deep and long lasting, particularly for those who are sexually abused in childhood. When the perpetrator is a family member, the tragedy of the sexual abuse is magnified by the betrayal experienced by the child.

Your Committee further finds that treatment for these children is expensive and unless the child or the family is under Child Protective Services supervision, free treatment services are not always available.

Your Committee has also heard that the Department of Health's allocation of tobacco settlement moneys is fully engaged in the implementation and ongoing activities of The Healthy Hawaii Initiative. This comprehensive statewide health promotion initiative is an integrated, coordinated approach to improving the health of Hawaii's population through school-based health, community-based health planning and interventions, public and professional education and awareness, and research, assessment and evaluation.

Your Committee finds that the appropriation contained in this measure is essential. Your Committee has amended this measure to delete the dedication of tobacco settlement moneys for the treatment of intrafamilial child sexual abuse, and to make technical amendments.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2147, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2147, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2038 Health and Human Services on S.B. No. 2227

The purpose of this measure is to appropriate moneys to the Department of Health, district health offices, to provide dental care in the counties of Kauai, Hawaii, and Maui.

Your Committee received testimony in support of the measure from the State Health Planning and Development Agency, State Planning Council on Developmental Disabilities, Hawai'i Primary Care Association, Kauai Dental Health Task Force, Mental Health Association in Hawai'i, and two individuals. Your Committee received testimony opposing the measure from the Department of Health.

Your Committee finds that the neighbor islands experience many challenges in getting adequate and appropriate dental services. In addition to their isolated geographic rural locations, the low proportion of available dentists and high proportion of uninsured

individuals compounds the need for people to get necessary dental care. The funds appropriated to the counties will not take care of all oral health needs, however, it will begin to address current disparities and access to dental care services.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2227 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2039 Health and Human Services on S.B. No. 2275

The purpose of this measure is to appropriate moneys to the Department of Human Services for the Maui Adult Day Care Center.

Your Committee received testimony in favor of this measure from the Department of Human Services, the Maui County Council Chair and two Council members.

Your Committee finds that the number of elders in the State continues to increase and adult day care service is a valuable resource to prevent premature institutionalization for this segment of the population. The Maui Adult Day Care Center provides relief for working families, structured activities for its clients, and is affordable.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2275 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2040 (Majority) Health and Human Services on S.B. No. 2290

The purpose of this measure is to expand the types of credentials that may be substituted for domiciliary, experiential, educational, and examination requirements by an applicant for independent bill reviewer licensing.

Your Committee received testimony in favor of this measure from the Hawaii Health Information Corporation, Straub Clinic & Hospital, and Health Information Management Association of Hawaii (47 signed form letters). Your Committee received testimony opposing the measure from the Department of Commerce and Consumer Affairs.

Your Committee finds that under section 431:9-243, Hawaii Revised Statutes, only individuals holding the certified professional coder credential offered by the American Academy of Professional Coders are allowed to substitute their credentials for domiciliary, experiential, and examination requirements. The failure to recognize the existence of other qualified coding and health information management professionals gives an unfair advantage to one group of credentialed coders and unnecessarily denies those performing healthcare audits and reviews the freedom to choose. This measure addresses these inequities by according the same substitution option to certified professional coders credentialed by the American Health Information Management Association who seek a bill reviewer's license.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2290 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Hogue). Excused, 2 (Fukunaga, Nakata).

SCRep. 2041 Health and Human Services on S.B. No. 2432

The purpose of this measure is to appropriate \$750,000 for fiscal year 2002-2003 for emergency services at Waianae Coast Comprehensive Health Center.

The Department of Health and Waianae Coast Comprehensive Health Center testified in support of this measure.

Your Committee finds that maintaining emergency room service at the Center is critical for the 40,000 residents of the Waianae area, and that the next closest emergency center is twenty miles away. In addition, the emergency room is one of the most heavily utilized on Oahu, serving over 8,700 patients from July 1, 2000, to June 30, 2001.

Your Committee supports the continuation of these essential health services for the people of the Waianae area.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2432 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2042 Health and Human Services on S.B. No. 2461

The purpose of this measure is to require the Department of Health to provide case management services for the developmentally disabled population using only private sector providers.

Testimony in support of this measure was received from the Disability and Communication Access Board, Opportunities for the Retarded, Research Center of Hawaii Special Needs Network, and Brantley Center, Inc. Testimony in opposition was received from the Department of Health (DOH), Planning Council on Developmental Disabilities, HGEA-AFSCME, and a private citizen.

Your Committee finds that persons with developmental disabilities often require lifelong support services to successfully access available opportunities. Adequate, consistent, and continuous case management services over the lifetime of the recipient helps to ensure that services are adequate, proper, and of quality. Independent private providers would help in meeting these goals by ensuring minimum conflict of interest between the service provider agency and the client so that services are not compromised.

Your Committee heard testimony of anecdotal incidences in which current case managers who are employees of the State, rarely visit the day programs and know very little about the clients whom they serve.

Your Committee is cognizant of the DOH's efforts and compliments the DOH in making significant progress in developing a comprehensive system of supports and services to persons with developmental disabilities and mental retardation. The DOH admits in its testimony that success can come only with accountability as measured by strict standards regarding conflict of interest. Your Committee believes that it would be easier to avoid a conflict if case management services are provided by private sector service providers.

Your Committee has amended this measure by requiring that the private sector providers hire independent social workers.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2043 Health and Human Services on S.B. No. 2500

The purpose of this measure, as received, is to increase the personal needs allowance from \$20 to \$30 plus additional changes yearly based on the cost of living allowance increases.

Testimony in support of this measure was received by the Executive Office on Aging, the Hawaii Disability Rights Center, and nine private individuals. Testimony in opposition to this measure was submitted by the Department of Human Services.

Upon further consideration, your Committee amended this measure by replacing its contents with three appropriations which could potentially save this State millions of taxpayer dollars by providing for:

- (1) The adoption of special needs children;
- (2) Federal Supplemental Security Income for disabled children; and
- (3) A federal Medicare advocacy project to increase collection of federal funds and avoid cost avoidance from the Federal Medicare Program.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2500, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2500, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2044 Health and Human Services on S.B. No. 2528

The purpose of this measure is to authorize the court to consider an extended term of imprisonment for perpetrators of crimes against family or household members that result in serious or substantial bodily injury.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii State Coalition Against Domestic Violence, the Domestic Violence Clearinghouse and Legal Hotline, and four concerned citizens. The Office of the Public Defender submitted testimony in opposition to this measure.

Your Committee finds that domestic abuse is one of the most reprehensible crimes perpetrated in our State today. To make matters worse, these types of crimes are often the most difficult to prosecute successfully, because the perpetrator generally uses the victim's easy availability, love for their abuser, and financial dependence as a means both to facilitate the abuse and to deter cooperation with prosecution efforts.

Therefore, your Committee fully supports the intent of this measure, to authorize a court to consider extended sentences for perpetrators of these heinous crimes.

Based on the recommendation of the Honolulu Department of the Prosecuting Attorney, your Committee amended this measure so that only section 706-622, Hawaii Revised Statutes (HRS), is amended, and not sections 706-606 and 706-661, HRS.

As amended, this measure has the same effect as it did when originally introduced.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2528, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2528, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2045 Health and Human Services on S.B. No. 2593

The purpose of this measure, as received, is to establish a state-funded assistance program for income qualified immigrant children and immigrants 65 years of age and older ineligible under federal law for food stamps.

Testimony in support of this measure was submitted by the was submitted by Na Loio–Immigrant Rights and Public Interest Legal Center. Testimony in opposition to this measure was submitted by the Department of Human Services.

Your Committee finds that this benefit used to be provided through the federal government, and at the urging of many states Congress is currently considering the restoration of these benefits. Thus, passage of legislation on this issue may be premature at this time. Therefore, your Committee has amended this measure by replacing its contents with an appropriation of \$50,000 to the Hawaii Health Foundation for the purpose of performing health outreach.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2593, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2593, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2046 Health and Human Services on S.B. No. 2096

The purpose of this measure is to allow health insurers to directly reimburse health care providers who do not participate in the health insurer's plan, when the nonparticipating provider has treated an insured.

Your Committee received testimony in support of this measure, with proposed amendments, from the Hawaii Medical Association. Testimony in opposition was submitted by the Hawaii Medical Service Association, the Hawaii Association of Health Plans, and the Royal State National Insurance Co., Ltd.

Your Committee finds that the paperwork involved with settling a payment claim for medical services rendered is staggering and beyond the realm of understanding for most patients.

Therefore, your Committee supports this measure, which will streamline the process somewhat by allowing health insurers to directly reimburse nonparticipating providers for medical services rendered to a person covered by that health insurer.

However, your Committee is concerned that physicians may start to balance bills and charge their patients excessive charges. Therefore, your Committee amended this measure to require the nonparticipating provider to disclose to the patient, prior to treatment, that the provider does not participate in the patient's insurance plan, that the provider's nonparticipation deprives the patient of some of the benefits and protections of the health plan, and that the out-of-pocket expenses of the patient may be higher as a result.

Your Committee believes that these amendments strike the appropriate balance between making the payment process more efficient and protecting the rights of the insured.

Your Committee heard concerns that direct payment to providers may result in higher charges. Accordingly, your Committee urges the Committee on Commerce and Consumer Affairs to consider a cap on provider charges, perhaps 150 per cent of Medicare eligible charges, to mitigate cost increases to consumers.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2047 Health and Human Services on S.B. No. 2498

The purpose of this measure is to establish a three tier licensing system for social workers.

Testimony in support of this measure was received from the National Association of Social Workers (NASW), Clinical Social Work Society of Hawaii, and thirty-two private citizens. Testimony in opposition was received from the Department of Commerce and Consumer Affairs (DCCA). The Department of Health deferred to the DCCA and provided comments.

This measure also:

- (1) Adds to the definition of the practice of social work: mediation services, advocacy services, and education of individuals, groups, couples, and families; casework intervention, administration and development of social service programs; research into social work programs, social systems, and social policies; psychological assessment, diagnostic impressions, treatment, prevention of psychosocial dysfunction, disability, or impairment; and evaluation of practice effectiveness;
- (2) Clarifies the usage of "social worker" and the use of "licensed";
- (3) Adds licensing exemptions;
- (4) Clarifies licensing qualifications and examination requirements for each of the three tiers;
- (5) Clarifies prohibited practices relating to licensure;
- (6) Deletes the repeal date of Act 202, Session Laws of Hawaii (SLH) 1988, relating to enactment of chapter 431M, Hawaii Revised Statutes (HRS), relating to mental and alcohol and drug abuse treatment insurance benefits; and
- (7) Deletes the repeal and reenactment of certain sections of Act 243, SLH 2000, relating to insurance coverages.

Your Committee finds that the practice of social work is a professional practice affecting the public health, safety, and welfare of the people of Hawaii and it is in the best interest of the public that this profession be regulated, and that only qualified persons be permitted to engage in the practice of social work.

Establishing a three tier system of licensure for social workers recognizes the fact that social workers have various degrees of education, training, and competency. It is in the public interest in licensing to recognize these variances, to protect the public health, safety, and welfare.

According to testimony of the NASW, thirty-seven other states have enacted laws to regulate bachelor degree social workers. The three tier system under this measure includes bachelor degree holders.

Your Committee is aware of the report of the Legislative Reference Bureau, "Social Work in Hawaii: An Examination of Some Regulatory Issues", 2000, that concluded that there is little evidence that increasing the number of Hawaii's social worker licensing levels will better protect the public from receiving treatment at the hands of less competent social workers (p. 103). The LRB report also referred to a 1986 Auditor's sunrise study rejecting regulation of even a single tier of clinical social workers. Both reports rested on the argument that there is no documentation and no actual evidence of harm occurring to consumers. However, your Committee believes that the one-on-one nature of social worker practice, particularly clinical counseling, is difficult to evaluate and assess in terms of harm to the patient or client. The testimony of the DOH noted the importance of quality social work services and the fact that social workers represent the largest, most accessible and least costly group of mental health providers. In passing this measure, your Committee prefers to act out of an overabundance of caution and prevention in the interests of safeguarding the public.

Your Committee has amended this measure on the recommendation of the DOH by:

- (1) Deleting reference to "addiction services" in the definition of practice of social work; and
- (2) Deleting the amendments to Act 202, SLH 2001, and Act 243, SLH 2000.

Your Committee has also amended this measure by:

- (1) Extending the repeal date of Act 229, SLH 2001, which made certain revisions to chapter 467E, HRS, relating to regulation of social workers, from January 1, 2003, to June 30, 2003; and
- (2) Making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2498, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2048 Health and Human Services on S.B. No. 2553

The purpose of this measure is to appropriate funds for outreach services for the homeless on Oahu.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism (DBEDT), Hawaii State Commission on the Status of Women, Special Assistant to the Governor for Housing, Institute for Human Services, Inc., Parents and Children Together, Mental Health Association in Hawai'i, Hawaii Psychiatric Medical Association, Volunteer Legal Services Hawai'i, Moilili Community Center, Affordable Housing and Homeless Alliance, and three private citizens.

Your Committee finds that the dynamic of homelessness is beyond simple solutions and expedient remedies. Building shelters is one part of a much larger scheme of providing comprehensive social services, because homelessness is often a symptom of poverty and mental illness. In order to remedy this problem, outreach social workers are necessary to identify the homeless, make contact with them, assess their needs, advise them of help, and persuade them to seek assistance and shelter. This measure is intended to provide funding to hire more outreach workers.

To allow greater latitude and reach of the funding, your Committee has amended this measure on the recommendation of DBEDT to provide that the funds are for "outreach services throughout the State" not only for two workers on Oahu.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2553, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2049 Health and Human Services on S.B. No. 2568

The purpose of this measure is to appropriate \$60,000 to create a commission on language access. It also appropriates an unspecified amount for the Department of Health and the Department of Human Services to develop and implement a system by which limited English speaking people can access services, activities, and programs within each department.

Testimony in support of this measure was submitted by the Department of Second Language Studies, University of Hawaii at Manoa, Hawaii Civil Rights Commission, Catholic Charities, Na Loio-Immigrant Rights and Public Interest Legal Center, and the Inter-Agency Council for Immigrant Services.

Your Committee finds that this measure is a well conceived plan for providing essential services for immigrants with limited English proficiency through the use of translation, interpretation, and informational literature in native languages. Your Committee further finds that this measure provides for the collaboration among experts and service providers essential for a comprehensive and long-term language access plan. This measure offers an excellent opportunity to rectify the lack of access to services currently experienced by immigrants and further assist service providers in fulfilling their occupational and legal responsibilities. It generally provides an exemplary statewide program that will insure ongoing necessary services for the residents of Hawaii.

Your Committee has amended this measure by providing that the commission will dissolve at the end of the 2004 regular session and by making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2568, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2568, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2050 Labor on S.B. No. 2120

The purpose of this measure is to enable persons who have suffered a work-related injury and who have exhausted all workers' compensation benefits to collect temporary partial disability benefits for the time spent receiving treatment for the injury.

The Department of Labor and Industrial Relations, the ILWU Local 142, and the Hawaii Insurers' Council all submitted testimony that supported passage of the measure with amendments. The Chamber of Commerce of Hawaii testified in opposition to the measure.

Your Committee finds that this measure addresses a real problem that faces many workers who have suffered a work-related injury – their ability to obtain medical treatment for the injury without suffering a loss in pay. Your Committee also finds that although an employee who has suffered a work-related injury may return to work or accept a new position, that employee may still require additional medical care or therapy to ensure maximum medical improvement or recovery, or to ensure that the employee's condition does not deteriorate. Your Committee further finds that in these cases, employees are not entitled to workers' compensation benefits. Your Committee believes that an employee who has suffered a work-related injury should not have to choose between obtaining treatment for a work-related injury and suffering a loss in pay.

Your Committee has amended the measure by:

- (1) Removing the requirement that the injured employee exhaust all workers' compensation benefits to be eligible to receive the temporary partial disability benefits provided under this measure and requiring instead that the employee be one who has not waived any workers' compensation benefit rights; and
- (2) Restricting the availability of the benefits provided under the measure to only those treatments for the work-related injury which could not be obtained outside of the employee's normal working hours.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2120, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2120, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Kanno, Matsuura, Sakamoto).

SCRep. 2051 Labor on S.B. No. 2624

The purpose of this measure is to repeal the requirement that an applicant for the position of the Judiciary's administrator of the courts be a resident of the State of Hawaii for at least three years.

The Judiciary testified in support of the measure.

Your Committee finds that repealing the three-year residency requirement will provide the Judiciary with a larger pool of applicants for the position of administrator of the courts from which to choose.

Your Committee has amended the measure by making a technical amendment that deletes a reference to a chapter in the Hawaii Revised Statutes that will be repealed on July 1, 2002, and changed the effective date of the bill to July 1, 2002, to ensure conformity.

As affirmed by the record of votes of the members of your Committee on Labor 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 referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Kanno, Matsuura, Sakamoto).

SCRep. 2052 (Joint) Health and Human Services and Agriculture on S.B. No. 2133

The purpose of this measure is to appropriate funds to establish the Hawaii farmers' market nutrition program and to require the department of health to submit to the 2003 and 2004 regular sessions program progress reports.

Testimony in support of this measure was received from the Department of Health, Hawaii Farm Bureau Federation, Big Island Farm Bureau, Hawaii Macadamia Nut Association, ALU LIKE, Inc., and Full Plate, Inc.

Your Committees find that the consumption of fresh produce in the amounts recommended by the United States Department of Agriculture is vital to ensuring good health. Unfortunately, low income individuals, particularly women, children, and infants, are likely to not consume the recommended servings of fresh fruits and vegetables due to lack of awareness.

This measure appropriates state matching funds to implement a Farmers' Market Nutrition Program in Hawaii under the guidelines established by the United States Department of Agriculture. Your Committees find the benefits of this measure to be two-fold. First, it assists the dissemination of important nutritional information and education to low-income individuals. Second, it promotes Hawaii's agriculture industry. To further promote good health and Hawaii agriculture, your Committees are interested in promoting the consumption of Hawaii macadamia nuts for nutritional and health benefits. Thus, your Committees have requested the Department of Health to determine whether promoting the consumption of Hawaii macadamia nuts within the education program will be consistent with United States Department of Agriculture guidelines.

Your Committees have amended this measure by leaving the amount of the appropriation blank for it to be determined by your Committee on Ways and Means and by making technical nonsubstantive changes for clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2133, as amended herein, and recommend 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 Chairs on behalf of the Committees.
Ayes, 6. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Kawamoto, Hogue).

SCRep. 2053 Health and Human Services on S.B. No. 2453

The purpose of this measure, as received, is to require an audit of residential care homes to assure that they are appropriately dispersing personal needs funds.

Testimony in support of this measure was submitted by the Executive Office on Aging, the Hawaii Disability Rights Center, and three private citizens. Testimony in opposition to this measure was submitted by the Department of Human Services, Alliance of Residential Care Administrators, and a private citizen.

Your Committee finds that the audit proposed in this measure will be problematic because while the statutes specify a total payment amount, it does not specify how much should be spent on personal needs. The Department generally recommends \$30 for personal needs, but there is no requirement that the client be given the \$30, nor is there a standard imposed on the provider in meeting personal needs.

Your Committee further finds that the Department of Health regularly audits the accounting of residents funds in all residential care homes. Therefore, upon further consideration, your Committee has replaced the contents of this measure with the contents of a modified version of S.B. No. 2500 that provides an increase in the personal needs allowance based on the supplemental security income cost of living allowance increase.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2453, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2054 Water, Land, Energy, and Environment on S.B. No. 2006

The purpose of this measure is to require that beginning July 1, 2002, all acquisitions by the state motor pool shall meet fuel efficiency standards as determined by the comptroller, with preference in acquisitions given to vehicles using nonpetroleum based fuels or a combination of petroleum and nonpetroleum based fuels.

Testimony in support of this measure was received from The Gas Company, Sierra Club Hawai'i Chapter, and Honolulu Clean Cities. The Department of Accounting and General Services testified in opposition.

Your Committee finds that alternate fuel vehicles benefit the State's economy by decreasing dependence on imported petroleum products and ensuring more efficient use of the oil brought into the State. In addition, wider use of alternate fuel vehicles will help reduce air pollution.

Your Committee is supportive of this measure as a means of promoting greater efficiency of government resources, while providing enhanced protection for Hawaii's natural environment.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2006 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Matsunaga).

SCRep. 2055 Water, Land, Energy, and Environment on S.B. No. 2177

The purposes of this measure are to appropriate \$400,000 for additional research and bench scale testing of material dredged from the Ala Wai Canal and other waterways statewide and to authorize issuance of \$1,750,000 in general obligation bonds for design and construction of a pilot bioremediation facility.

Testimony in support of this measure was received from the United States Navy, Department of Land and Natural Resources, Office of Environmental Quality Control, College of Tropical Agriculture and Human Resources, Pacific International Center for High Technology Research, Life of the Land, Hawaii Water Environment Association, and Diamond Head/Kapahulu/St. Louis Heights Neighborhood Board No. 5.

Your Committee finds that Hawaii's environmental science and technology industry and the University of Hawaii have made significant strides in increasing the education and technical competence and capacity for the bioremediation industry. Major projects in the State have been successful in demonstrating the efficacy of bioremediation in treating municipal and industrial wastewater, pesticide contaminated soils and water, and petroleum contaminated soils and water.

Your Committee also finds, however, that nearly all of the contaminated soils in Hawaii are placed in containers and shipped to the mainland for processing and disposal at a very high cost to Hawaii businesses. There has been wide interest in the development of resource recovery activities in the State to minimize ocean disposal and land filling of solid waste materials, as well as an economic development opportunity through the beneficial use of remediated materials.

Your Committee is supportive of further research and incentives if it will provide for the formal development of a bioremediation facility in Hawaii.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2177 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Matsunaga).

SCRep. 2056 Water, Land, Energy, and Environment on S.B. No. 2567

The purpose of this measure is to increase criminal littering penalties to a class C felony for any item of litter weighing at least fifty pounds; provided that establishing a violation does not require testimony by a police officer, but may rely on other relevant evidence, such as photographic evidence or testimony of other witnesses.

Testimony in support of this measure was received from the Department of Health, Honolulu Police Department, Sierra Club Hawai'i Chapter, Na Leo Pohai, The Lani-Kailua Outdoor Circle, and three individuals.

Your Committee finds that the dumping of cars and bulky items in areas such as beach parks and forest reserves has plagued our State for years. Adding a provision that would make criminal littering a felony in certain situations would provide a deterrent to offenders who otherwise would not care about committing a petty misdemeanor.

Your Committee further finds that eliminating the necessity for police officers to testify in court for such violations would also enhance the efficiency of the court proceedings in litter cases.

Your Committee is supportive of this effort to protect and preserve Hawaii's natural beauty, for its residents and visitors alike.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2567 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Matsunaga).

SCRep. 2057 Water, Land, Energy, and Environment on S.B. No. 2713

The purpose of this measure is to establish a brownfields cleanup revolving loan fund for low-cost loans to public and private entities for the cleanup of contaminated sites.

Testimony in support of this measure was received from the Department of Health and the Office of Planning, Department of Business, Economic Development, and Tourism.

Your Committee finds that the State has applied for a United States Environmental Protection Agency (EPA) grant that would provide seed money to provide financing for the cleanup of brownfields sites to facilitate their redevelopment and reuse. Brownfield sites are defined by the EPA as "abandoned, idled, or underused industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination." The Kakaako Waterfront Park and the Home Depot store are examples of sites that have been successfully redeveloped.

Your Committee further finds that interest in such redevelopment is hampered by the costs associated with cleanup and perceived liability for future cleanups. The EPA's Brownfields Economic Redevelopment Initiative, of which the cleanup revolving loan fund is one component, aims at addressing market barriers to the reuse of abandoned or contaminated sites.

Your Committee is supportive of this measure and has made technical, nonsubstantive amendments to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Nakata).

SCRep. 2058 Water, Land, Energy, and Environment on S.B. No. 2794

The purpose of this measure is to amend Act 85, Session Laws of Hawaii 1999, to remove the sunset provision.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR).

Your Committee finds that Act 85 essentially removed much of the existing statutory language regulating the taking of marine life, such as through minimum sizes for sale, catch limits, and closed seasons, allowing DLNR through rulemaking and community outreach, to review and update these rules. The change was temporary and the statutes are to return to their original language on June 30, 2002.

Your Committee has heard that DLNR is currently conducting a comprehensive review and updating of all fishing regulations. The minimum size revisions currently underway in Hawaii Administrative Rules, Chapter 13-95, are the first step to implement these

changes. In the process, DLNR has held ten statewide public meetings to discuss these changes, with the majority of comments in support of these proposals.

Your Committee is supportive of this measure, which will allow DLNR to continue reviewing and updating fishery regulations.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2794 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Nakata).

SCRep. 2059 Water, Land, Energy, and Environment on S.B. No. 2796

The purposes of this measure are to permanently exempt the sport fish special fund from the central service fees and administrative fees, and to delete unnecessary or duplicative language regarding license requirements and fees and the disposition of revenues collected from commercial marine activities fees.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that these exemptions are required by the U.S. Fish and Wildlife Service under federal law, and that failure to provide these exemptions could result in the loss of \$2,000,000 in federal funds. In addition, the measure will clarify the fees that will continue to be deposited into the commercial fisheries special fund.

Your Committee is supportive of these efforts to bring Hawaii law into compliance with federal requirements and the clarification of current law.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2796 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Nakata).

SCRep. 2060 Water, Land, Energy, and Environment on S.B. No. 2812

The purpose of this measure is to authorize the Board of Land and Natural Resources (Board) to lease, by direct negotiation and without recourse to public auction, state submerged lands for private nonresidential noncommercial piers.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR) and the YWCA of O'ahu.

Your Committee finds that Act 261, Session Laws of Hawaii 2000, authorized the Board to lease by direct negotiation and without regard to public auction, state submerged lands for private residential noncommercial piers to the owners of unauthorized piers on state waters, and Kaneohe Bay in particular.

Your Committee further finds that the problem of illegal piers in Kaneohe Bay has persisted for decades, and in 1998, the Board approved a plan to provide owners of illegal piers with the required permits to achieve compliance with state land use laws. The Board subsequently approved the Conservation District Use Application for the plan in July 2001, and the disposition of pier leases in August 2001. However upon notifying the pier owners of these actions, DLNR discovered there were a few piers that do not clearly fall under the category of "residential", but do meet the "noncommercial" criterion in Act 261. The piers identified belong to the Kokokahi YWCA, Habilitat Inc., and the Kaneohe Yacht Club.

Your Committee is supportive of this measure, which will amend Act 261 to resolve these remaining issues.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2812 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Kokubun, Nakata).

SCRep. 2061 (Joint) Labor and Health and Human Services on S.B. No. 941

The purpose of this measure is to make compensable, services rendered for work-related injuries by occupational therapists and certified occupational therapists under the State's workers' compensation law.

Testimony in support of the measure was received from the Occupational Therapy Association of Hawaii, the Hawaii Chapter, American Physical Therapy Association, the Massage Therapists Association of Hawaii, Kaiser Permanente, Straub Clinic and Hospital, the Queen's Medical Center, Rehabilitation Hospital of the Pacific, and numerous occupational therapists and citizens. The Department of Labor and Industrial Relations had no objections to the measure.

Your Committees find that the measure accomplishes this purpose by including occupational therapists and certified occupational therapists within the definition of ““medical care”, “medical services”, or “medical supplies”” in the State’s workers’ compensation law.

Your Committees have amended the measure by deleting the proposed reference to “certified occupational therapist” and replacing it with the term “certified occupational therapy assistant”.

As affirmed by the records of votes of the members of your Committees on Labor and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 941, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 941, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Chumbley, English, Hanabusa, Kanno, Sakamoto, Hogue).

SCRep. 2062 Labor on S.B. No. 2757

The purpose of this measure is to expedite the effective date of Act 253, Session Laws of Hawaii 2000, otherwise known as the Civil Service Modernization Act (Act 253), for jurisdictions that are ready to implement the provisions of the Act.

Testimony in support of the measure was received from the Department of Human Resources Development. The City and County of Honolulu voiced concern over the possibility that the measure may be construed as requiring all jurisdictions to adhere to the new effective date.

Your Committee finds that the measure would enable the Department of Human Resources Development, which is ready to implement all the provisions of Act 253, to start its civil service modernization sooner than July 1, 2002...the date upon which the major provisions of Act 253 take effect.

Your Committee has amended the measure by:

- (1) Making a technical amendment in section 1 of the measure to correctly reflect existing statutes;
- (2) Deleting the version of Act 253’s section 152 (the effective date section) that is contained in the measure as received by your Committee, which is the version that was in existence prior to the enactment of Act 123, Session Laws of Hawaii 2001; and
- (3) Inserting therefor, the correct version of Act 253’s section 152 and conforming the amendment to that version.

In order to allay the concerns of the City and County of Honolulu, the Department of Human Resources Development assured your Committee that the measure will only effect the jurisdictions in which the director of human resources certifies that the jurisdiction is ready to be in compliance with the provisions of Act 253.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2757, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2063 Labor on S.B. No. 2759

The purpose of this measure is to allow the State to meet its fiscal obligation to provide for the health and welfare of state employees.

Testimony in support of the measure was received from the Department of Human Resources Development (department).

Specifically, the measure amends Act 259, Session Laws of Hawaii 2001, by transferring \$1 million into the Department of Human Resources Development’s workforce attraction, selection, classification and effectiveness fiscal year 2001-2002 appropriation (HRD 102) (section 82 of Act 259), from the department’s fiscal year 2001-2002 appropriation for unemployment compensation claims of former state employees (section 83 of Act 259).

Your Committee finds that a critical funding emergency exists. The State Workers’ Compensation Fund will be exhausted by approximately March 31, 2002, and the department will not be able to meet its fiscal obligation to provide for the health and welfare of state employees.

The department testified that the transfer of funds from the unemployment compensation claims allocation should not adversely impact the State’s ability to pay unemployment compensation claims to its former employees.

Your Committee has amended the measure by making numerous technical amendments for the purposes of clarity and style and to correctly reflect existing session law.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2759, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2759, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2064 Labor on S.B. No. 2786

The purpose of this measure is to administratively attach the Hoisting Machine Operators Advisory Board (Board) to the Department of Labor and Industrial Relations and to authorize the Board to hire a half-time executive director.

Testimony in support of the measure was received from the Department of Labor and Industrial Relations and the Hoisting Machine Operators Advisory Board.

Your Committee finds that section 6 of Article V of the Constitution of the State of Hawaii requires that an advisory board be administratively attached to a principal department. Since the Board is not administratively attached to any department of the State, any decisions or actions of the Board could be held as invalid.

Your Committee also finds that the Board is in need of an executive director to schedule meetings, receive and review certification applications, disseminate application materials, and to perform a variety of ministerial functions to support the Board's actions.

Your Committee has amended the measure 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 Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2786, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2786, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2065 Health and Human Services on S.B. No. 2497

The purpose of this measure, as received, is to license hypnotherapists and establish a board of hypnotherapy in the Department of Commerce and Consumer Affairs.

Testimony in support of this measure was submitted by the Hawaii Psychiatric Medical Association and a private citizen. Comments on this measure was submitted by the Department of Commerce and Consumer Affairs and the Hawaii Nurses' Association.

Your Committee finds that hypnotherapy can have a considerable impact on the overall mental health of consumers utilizing the services of a hypnotherapist. Your Committee finds that some protection should be provided regarding the services of a hypnotherapist, but there is little, if any, reason to regulate the practice of hypnotherapy at this time.

Thus, your Committee is deleting the contents of this measure and replacing it with a new chapter that requires certification of hypnotherapists by the American Society of Clinical Hypnosis. The director of the office of consumer protection is provided with the power to enjoin and levy fines for violations of the chapter. Your Committee finds that this will protect consumers without licensing and regulating hypnotherapists.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2497, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2497, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2066 Commerce, Consumer Protection and Housing on S.B. No. 2703

The purpose of this measure is to increase affordable housing opportunities for elderly households by allowing persons who are at least 55 years of age to reside in state-funded elderly public housing projects and privately owned projects that are assisted with state or federal resources by the HCDCH, provided that at least one person in the household is 62 years of age or older.

Your Committee heard testimony in support of the measure from the Housing and Community Development Corporation of Hawaii of the Department of Business, Economic Development, and Tourism (HCDCH), Department of Hawaiian Homelands, Pacific Housing Assistance Corporation, and Catholic Charities of the Diocese of Honolulu.

Your Committee finds that the HCDCH is able to lease units solely to persons who are sixty-two years of age. This age restriction precludes elderly households with "younger" spouses or co-tenants and impacts an owner's ability to fill vacancies. With this measure, HCDCH will be able to increase elderly housing opportunities and facilitate the leasing of units in elderly projects by increasing the pool of applicants who are at least fifty-five years of age. Additionally, this measure will also allow live-in aides to reside in elderly

housing units, subject to verification by the corporation, if the aide meets certain criteria and is necessary to provide essential support services to an elderly person in the unit.

Your Committee has amended this measure to:

- (1) Clarify in section 1 that the purpose of the measure is to expand affordable rental housing opportunities for the elderly;
- (2) Add to the definition of "elder or elderly household" the requirement that the spouse or partner has attained the age of majority; and

Make technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2703, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2703, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2067 Commerce, Consumer Protection and Housing on S.B. No. 2705

The purpose of this measure is to make the requirement for transmission of a record on appeal in public housing cases consistent with the requirement for appeals from other administrative proceedings.

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

Under chapter 201G, Hawaii Revised Statutes, where an appeal has been taken from an administrative hearing decision in public hearing cases, the HCDCH is allowed up to fifteen days after determination of the record on appeal to transmit the record to the reviewing court. This requirement conflicts with section 91-14(d), Hawaii Revised Statutes, which imposes a general twenty-day requirement upon administrative agencies. By increasing the time period for transmission of the record by HCDCH from fifteen to twenty days, this measure establishes consistency in the laws governing judicial review.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2705 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2068 Commerce, Consumer Protection and Housing on S.B. No. 2722

The purpose of this measure is to clarify the Division's authority to employ or retain the services of professional, technical, and other support personnel.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs Insurance Division.

Your Committee finds that the insurance fraud branch has several insurance fraud cases that require consultation with professional or technical experts. While nothing prohibits the hiring and retention of either a professional or technical expert within the current statute, this measure strengthens the Department's ability to maintain attorneys, medical providers, and others on retainer to utilize their expertise as needed or may be necessary for the successful prosecution and prevention of insurance fraud.

Your Committee made a nonsubstantive, technical amendment to delete the reference to chapter 77, Hawaii Revised Statutes, since that chapter will be repealed on July 1, 2002, as provided in Act 253, Session Laws of Hawaii 2000.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2722, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2722, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2069 Commerce, Consumer Protection and Housing on S.B. No. 2723

The purpose of this measure is to merge the Insurance Regulation Fund into the Compliance Resolution Fund.

Your Committee received testimony in favor of this measure from the Department of Commerce and Consumer Affairs Insurance Division and Director's Office.

Your Committee finds that the merger would provide a greater efficiency in the administration of departmental funds while not adversely affecting the Department's regulatory role or authority.

Your Committee has amended this measure by making nonsubstantive, technical amendments.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2070 Commerce, Consumer Protection and Housing on S.B. No. 2724

The purpose of this measure is to:

- (1) Reduce regulatory requirements for limited-equity housing cooperatives;
- (2) Revise the licensure requirements for out-of-state real estate licensees who have previously met equivalent precicensing requirements by authorizing the Commission to enter into formal license reciprocity or recognition agreements;
- (3) Allow principle brokers to delegate management and supervision duties; and
- (4) Streamline regulatory requirements for condominium managing agents.

Your Committee received testimony in support of the measure from the Real Estate Commission of the Department of Commerce and Consumer Affairs and Hawaii Association of Realtors.

Your Committee finds that this measure makes appropriate and positive changes, including deletions, to current law to streamline and eliminate duplicative regulatory requirements.

These clarifications will foster greater consumer protection by enhancing the public's ability to understand the laws.

Your Committee has made technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2071 Commerce, Consumer Protection and Housing on S.B. No. 2729

The purpose of this measure is to correct statutory references throughout the Hawaii Revised Statutes relating to the business corporation and nonprofit corporation laws.

The Commissioner of Securities testified in support of this measure.

Effective July 1, 2001, the Hawaii Business Corporation Act, codified in chapter 415, Hawaii Revised Statutes (HRS), was repealed and replaced by a new business corporations law codified in chapter 414, HRS. Similarly, effective July 1, 2002, the Hawaii Nonprofit Corporation Act, codified in chapter 415B, HRS, will be repealed and replaced by a new nonprofit corporations law codified in chapter 414D, HRS.

Various provisions throughout the Hawaii Revised Statutes still contain references to the repealed and soon-to-be repealed provisions. Therefore, this measure replaces these obsolete references with references to the appropriate current or to-be-effective law. Additionally, this measure updates the law that allows agencies to implement fee modifications without rulemaking and subject to the governor's approval, by including therein references to the laws governing business entities.

Your Committee has amended this measure by making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2072 Commerce, Consumer Protection and Housing on S.B. No. 2730

The purpose of this measure is to expand and clarify the State's business merger laws.

The Commissioner of Securities testified in support of this measure.

Currently, state law restricts mergers among various types of business entities and is unclear as to the requirements for mergers between certain entities. This measure, which is based on Delaware law, allows registered business entities to merge freely with other registered entities. Additionally, this measure clarifies the procedures for approval of a merger by shareholders and the filing of articles of merger. Your Committee finds that providing for greater flexibility in the State's merger laws will facilitate business and commercial activity in Hawaii.

Your Committee has amended this measure by making technical changes to reflect preferred drafting style and to replace statutory references to repealed provisions with references to the appropriate new provisions proposed herein.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2073 Commerce, Consumer Protection and Housing on S.B. No. 2731

The purpose of this measure is to clarify and update the State's securities laws.

The Commissioner of Securities (Commissioner) testified in support of this measure.

This measure:

- (1) Provides that foreign securities approved for margin by the Board of Governors of the Federal Reserve System are exempt from certain requirements relating to filing, registration, and advertising;
- (2) Re-establishes the Commissioner's authority to exempt transactions from the above requirements pursuant to rule, to rectify an inadvertent repeal of this authority by Act 16, Session Laws of Hawaii 2000, and additionally, makes other clarifications in the exempt transactions law;
- (3) Repeals the unnecessary requirement that investment advisers obtain errors and omission coverage, thereby making Hawaii's law consistent with the laws of the other states; and
- (4) Repeals specific bonding requirements for investment advisers to allow the establishment of these requirements by administrative rule.

Your Committee finds that these changes will facilitate securities transactions in this State and the oversight of these transactions by the Commissioner.

Your Committee has amended this measure by making technical changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2074 Commerce, Consumer Protection and Housing on S.B. No. 2732

The purpose of this measure is to update and clarify Hawaii's business registration laws to reflect modern business practices and Department of Commerce and Consumer Affairs (DCCA) filing procedures, and to make it more desirable for existing Hawaii business entities to remain in the State and for new businesses to form in the State.

Your Committee received testimony in support of this measure from DCCA, from the President, Executive Director, Registered Lobbyist and three members of Unity House, Inc., and from a member of the Business Law Section of the Hawaii State Bar Association.

Your Committee finds that several gaps exist in Hawaii's business registration laws, both in the Hawaii Nonprofit Corporation Act, which was enacted in 2001, and in other business registration laws that have been on the books for years.

Your Committee further finds that this voluminous measure contains three broad groups of amendments. The first group involves dissolved corporations and how to dispose of the property of the dissolved corporation.

The second group of amendments addresses the issue of electronic means of communication, which is not specifically contemplated by Hawaii's existing business registration laws.

The third major group of amendments clarifies that the board of directors of a Hawaii corporation may utilize its power to issue rights and options to adopt a plan to thwart a hostile corporate takeover by shareholders who have amassed a large block of stock for that sole purpose.

This measure also contains numerous amendments to chapter 414D, the Hawaii Nonprofit Corporations Act, primarily to correct technical errors.

Your Committee supports this measure and applauds the efforts of the Business Registration Division of DCCA, along with the Business Law and Real Estate sections of the Hawaii State Bar Association, who drafted this administration measure through a collaborative effort.

Your Committee amended this measure to incorporate amendments proposed by Unity House, Inc. Unity House recommended four amendments to chapter 414D to avoid conflict with federal law, ease the process of voting by proxy, and ensure the privacy of a member's information. Specifically, sections 414D-109(b), 414D-113(b), 414D-302(b)(3), and 414D-305, Hawaii Revised Statutes, have been amended to accomplish this purpose.

Your Committee finds that the amendments proposed by Unity House, along with the amendments contained in the measure as introduced, strike an appropriate balance by easing some of the unnecessary burdens on business entities in Hawaii, while at the same time ensuring that shareholders and members are protected.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2732, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2075 Commerce, Consumer Protection and Housing on S.B. No. 2743

The purpose of this measure is to delete from the list of funds exempt from central service assessment the Compliance Resolution Fund (CRF) and the Insurance Regulation Fund (IRF).

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs Insurance Division and Director's Office.

Your Committee finds that this measure requires the CRF and the IRF to pay the five per cent central service assessment which the Department feels is fair in exchange for services the Department receives from State agencies. Those services are a cost for the Department to provide services to the public.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2076 Health and Human Services on S.B. No. 2139

The purpose of this measure is to appropriate funds to increase the number of child care subsidies given through the Preschools Open Doors Program, to pay administrative expenses, and to provide parent workshops to recipients of child care subsidies in each county.

Testimony in support of this measure was received from the Office of the Lieutenant Governor, Department of Human Services, Blueprint for Change, and Good Beginnings Alliance.

Your Committee finds that improving the educational abilities of Hawaii's children is a paramount goal of the Legislature. The preschool experience has long-term benefits on a child's ability to learn and achieve. The Preschools Open Doors Program increases the ability of parents, especially low-income families, to place their child in childcare and programs that enhance and enrich the minds of children. Your Committee finds that this measure provides an important investment toward developing the minds of Hawaii's children.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2139 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Nakata, Hogue).

SCRep. 2077 Health and Human Services on S.B. No. 2690

The purpose of this measure is to remove the authority of the Office of Child Support Hearings (OCSH) to issue administrative orders for the direct payment of child support.

Your Committee received testimony in support of this measure from the Attorney General and an individual.

Your Committee finds that this measure is essential to ensure that OCSH continues to receive its share of federal funding. The receipt of these federal funds is conditioned upon the OCSH performing only those functions that are federally approved under Title IV-D of the Social Security Act. Because the issuance of administrative orders for the direct payment of child support is not a federally approved function, this measure clarifies that OCSH does not have such authority to issue orders for direct payments and hence protects its federal moneys.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2690 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2078 Health and Human Services on S.B. No. 2691

The purpose of this measure is to enable the Child Support Enforcement Agency (CSEA) to notify employers of the amount of child support automatically withheld from an employee's paycheck by way of notice, as opposed to requiring a certified court order being served on the affected employer. Further, it allows the CSEA to levy fines against individuals and entities not responding to its requests for information, and clarifies that spousal support can only be enforced when child support is being enforced and that all child support records are confidential.

Your Committee received testimony in favor of this measure from the Attorney General.

Your Committee finds that this measure works to comply with federal statutory requirements and streamlines the child support enforcement process.

Your Committee has made nonsubstantive, technical amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2691, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2691, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2079 Health and Human Services on S.B. No. 2692

The purpose of this measure is to require the use of the National Medical Support Notice form whenever a parent is ordered to provide medical insurance coverage for a child.

Your Committee heard testimony in support of the measure from the Office of the Attorney General.

Your Committee finds that the use of the National Medical Support Notice form is a federally-mandated requirement under Title IV-D of the Social Security Act. This measure provides the authority for the Child Support Enforcement Agency to utilize this form in order to comply with the federal requirements and remain eligible to receive federal welfare funding and federal funding of the child support enforcement programs.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2692 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2080 Health and Human Services on S.B. No. 2693

The purpose of this measure is to:

- (1) Repeal provisions that create a public assistance debt against a responsible parent for public assistance provided to a child;
- (2) Require a payment of child support to the Department of Human Services for periods when public assistance is paid for the benefit of the child; and

- (3) Allow an order or judgment from a state other than Hawaii regarding child support to be recorded in the bureau of conveyances.

Testimony supporting this measure was received from the Attorney General.

Your Committee finds that the formula for calculating the repayment obligations under this measure is consistent with federal law. In addition, allowing the recordation of out-of-state orders and judgments regarding child support is a federal requirement. This measure brings Hawaii state law into compliance with federal law.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2693 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2081 Health and Human Services on S.B. No. 2698

The purpose of this measure is to amend provisions of Hawaii's sex offender registration and notification laws to comply with the State Supreme Court's ruling in State of Hawaii v. Eto Bani, in which Hawaii's previous law was struck down.

Your Committee received testimony in support of this measure from the Department of the Attorney General, the Department of Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Honolulu City and County Police Department, and Volunteer Legal Services Hawaii.

Your Committee finds that Hawaii's sex offender registration and notification law, chapter 846E, Hawaii Revised Statutes, was invalidated by the Hawaii Supreme Court in November, 2001, on the grounds that it violated a person's right to due process under the state and federal Constitutions.

This measure seeks to remedy the statutory problems identified by the Hawaii Supreme Court by establishing a mechanism that would balance the State's substantial interest in requiring sex offender registration with the offender's interest in protecting against the erroneous deprivation of his or her liberty. This measure limits the public's access to registration information regarding convicted sex offenders to only those offenders deemed a high risk after a court hearing.

Your Committee supports this measure and finds that it strikes an appropriate balance between the need to protect residents of the State, and the need to ensure that our residents are afforded all of their rights under the Constitution.

Your Committee made numerous amendments to this measure throughout, to correct incorrect references, inaccuracies, and other technical and drafting errors.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2698, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2698, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2082 Health and Human Services on S.B. No. 2753

The purpose of this measure is to appropriate funds for the Department of Human Services (DHS) to comply with state and federal program mandates to care for children who are removed from their family homes due to abuse or neglect.

Your Committee received testimony in support of this measure from DHS and from Blueprint for Change.

Your Committee finds that increasing demands have been placed on the entire DHS child protection system. Payments for room and board, permanency assistance, adoption assistance, and difficulty-of-care allowances must be made to foster and adoptive parents, permanent custodians, and legal guardians of special needs children.

The number of children for whom such payments must be made has risen sharply over the past several months, and DHS is unable to cover the costs with its current appropriation levels. Additional funds are necessary if permanent homes are to be found for the children who cannot return to their family homes. State and federal law mandates such care.

Your Committee fully supports this measure, and further supports DHS' child protection system. Our children are the most vulnerable sector of our society, and the State must commit to helping every child find a safe and loving home.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2753 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2083 Health and Human Services on S.B. No. 2754

The purpose of this measure is to amend chapter 346, Hawaii Revised Statutes, to clarify that a person who provides care for two or fewer unrelated children is exempt from child care licensing and registration statutes, and to allow the Department of Human Services (DHS) to investigate possible violations of child care law.

Your Committee received testimony in support of this measure from DHS.

Your Committee finds that the amendments contained in this measure will reinstate prior law, inadvertently repealed two years ago, to the effect that a person who cares for two or fewer unrelated children is exempt from child care licensing and registration laws.

In addition, this measure gives DHS the tools necessary to effectively investigate complaints of illegal child care practices. Under existing law, DHS lacks the authority to investigate complaints taking place outside of a licensed child care facility.

Your Committee finds that complaints of violations of the State's child care laws deserve all the resources the State can muster, and therefore fully supports this important measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2754 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2084 Health and Human Services on S.B. No. 2776

The purpose of this measure is to authorize the Department of Health (DOH) to continue to assist with the implementation of a statewide poison information program, including outsourcing of poison center services.

Your Committee received testimony in support of this measure from DOH and from the Keiki Injury Prevention Coalition.

Your Committee finds that over the past two years DOH has secured federal funding to enable the Hawaii Poison Center to resume 24-hour operation, which had previously been discontinued due to lack of funding.

This measure provides statutory authority for DOH to continue to assist the Hawaii Poison Center through channeling of federal funds and distribution of poison information services statewide.

Your Committee fully supports this measure. When an individual consumes or is exposed to a poisonous substance, time is critical, as the person requires medical attention immediately to mitigate the effects of the poison.

Your Committee supports the efforts of the Hawaii Poison Center, and believes the Center should continue to operate with the assistance of DOH, including federal funds channeled through the Department.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2776 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2085 Health and Human Services on S.B. No. 2777

The purpose of this measure is to allow a person, a person's guardian, or agent, or surrogate with legal authority, to make healthcare decisions on behalf of the person to allow withholding cardiac resuscitation and artificial breathing or to revoke "comfort care only-do not resuscitate" (CCO-DNR) documents.

Your Committee received testimony in favor of this measure from the Department of Health, University of Hawaii, and Executive Office on Aging.

Your Committee finds that present statutory language specifies a physician declaration of a terminal condition as the only circumstance for implementation of the pre-hospital CCO-DNR protocols. There are several fundamental faults with mandating a diagnosis of terminal condition. It does not allow personal autonomy and self-determination. Physicians state it is difficult and they are not comfortable with diagnosing a person as being terminal, per se. This measure clarifies that it is the individual's decision and not a physician directive that determines the individual's disposition for resuscitation should the individual's heart and breathing stop.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2777 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2086 Health and Human Services on S.B. No. 2781

The purpose of this measure is to authorize the Department of Health to implement and maintain a trauma registry for the collection of information concerning the treatment of critical trauma patients at state-designated trauma centers, and administer a system for the management of that information.

Your Committee received testimony in favor of this measure from the Department of Health.

Your Committee finds that statutory authority to continue receiving trauma registry data is necessary to comply with the Federal Health Insurance Portability and Accountability Act.

A trauma registry abstracts information for continuous quality improvement of ground ambulance services, referring medical facilities, aeromedical service, and trauma centers. The trauma registry information supports injury surveillance for injury prevention control strategies. A trauma registry also allows healthcare administrators and clinicians to engage in evidence based decision making for policy development and resource allocation.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2781 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2087 Health and Human Services on S.B. No. 3054

The purpose of this measure is to create an economic incentive for pharmaceutical companies to develop a vaccine to prevent Acquired Immune Deficiency Syndrome (AIDS) by requiring health benefit plans to cover the vaccine when one becomes available.

Your Committee received testimony in support of this measure from the AIDS Community Care Team. Testimony in opposition was submitted by the Department of Health and Kaiser Permanente. The Department of Commerce and Consumer Affairs submitted comments.

Your Committee finds that AIDS is one of the most insidious and debilitating diseases in the world today. AIDS has spread to every corner of the world, infecting more than 40 million people worldwide.

Your Committee believes that the State should do everything possible to encourage research and development of an AIDS vaccine. This measure accomplishes that goal, by creating an economic incentive for an institution to develop a vaccine. Therefore, your Committee fully supports this measure.

Your Committee made a technical, nonsubstantive amendment to this measure to conform to the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3054, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Nakata).

SCRep. 2088 (Majority) Transportation, Military Affairs, and Government Operations on S.C.R. No. 28

The purpose of this measure is to request the Department of Transportation (DOT) to review several aspects of the photo traffic enforcement program.

Your Committee received testimony in support of this measure from DOT.

The photo traffic enforcement program was authorized by Act 234, Session Laws of Hawaii 1998, Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000. Through these three Acts the Legislature mandated that the Department of Transportation (DOT) contract with a private vendor to implement a photo traffic enforcement program to deter speeders, red light runners, and motorists who illegally cross longitudinal lane markings.

The DOT contracted with a private vendor, Affiliated Computer Systems (ACS), and the photo speed imaging system went into effect in January, 2002. The photo red light system and photo technology systems are not yet in place. Immediately there was a tremendous public outcry by persons both opposed to and in support of the program.

Based on the public's response, your Committee finds that it is prudent to request the DOT to review several aspects of the program, and to report its findings to the Legislature no later than the fortieth legislative day, while there is still time to act upon measures to amend the program.

Your Committee amended this measure to include two additional aspects of the program for DOT review, specifically the correlation between speeding and death, and also ways to ensure that citations do not appear on driving abstracts unless the cited driver was driving in excess of ten per cent over the speed limit.

Your Committee also amended this measure to request the DOT to immediately suspend operation of the photo traffic enforcement program until at least February 20, 2002, the day after the first cited driver will appear in court to contest the ticket. The court's ruling on February 19 may enlighten the legislature.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 28, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 28, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 3 (Buen, Taniguchi, Hemmings). Excused, 1 (Tam).

SCRep. 2089 (Majority) Transportation, Military Affairs, and Government Operations on S.R. No. 9

The purpose of this measure is to request the Department of Transportation (DOT) to review several aspects of the photo traffic enforcement program.

Your Committee received testimony in support of this measure from DOT.

The photo traffic enforcement program was authorized by Act 234, Session Laws of Hawaii 1998, Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000. Through these three Acts the Legislature mandated that the Department of Transportation (DOT) contract with a private vendor to implement a photo traffic enforcement program to deter speeders, red light runners, and motorists who illegally cross longitudinal lane markings.

The DOT contracted with a private vendor, Affiliated Computer Systems (ACS), and the photo speed imaging system went into effect in January, 2002. The photo red light system and photo technology systems are not yet in place. Immediately there was a tremendous public outcry by persons both opposed to and in support of the program.

Based on the public's response, your Committee finds that it is prudent to request the DOT to review several aspects of the program, and to report its findings to the Legislature no later than the fortieth legislative day, while there is still time to act upon measures to amend the program.

Your Committee amended this measure to include two additional aspects of the program for DOT review, specifically the correlation between speeding and death, and also ways to ensure that citations do not appear on driving abstracts unless the cited driver was driving in excess of ten per cent over the speed limit.

Your Committee also amended this measure to request the DOT to immediately suspend operation of the photo traffic enforcement program until at least February 20, 2002, the day after the first cited driver will appear in court to contest the ticket. The court's ruling on February 19 may enlighten the legislature.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 9, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 9, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 3 (Buen, Taniguchi, Hemmings). Excused, 1 (Tam).

SCRep. 2090 Commerce, Consumer Protection and Housing on S.B. No. 2582

The purpose of this measure is to make the State's premium tax structure more equitable for current and prospective captive insurance licensees while maintaining an adequate funding base to support the regulatory and development activities of the Captive Insurance Branch of the Insurance Division.

Your Committee received testimony in support of this measure from the Insurance Commissioner, Bank of Hawaii, Marsh Management Services, Inc., Becher and Carlson Risk Management, Inc., and the Hawaii Captive Insurance Council.

This measure removes the distinction between single owner captives and multiple owner captives with respect to premium tax rates, and subjects all captives to the same declining premium tax rate schedule. This equitable tax structure is comparable to that used in other major captive jurisdictions, such as the state of Vermont, and makes Hawaii a more attractive domiciliary for captives with large premium bases.

To avoid the potentially adverse effects of establishing a single tax rate for all captives, this measure also increases the minimum funding for the Captive Insurance Administration Fund from \$250,000 to \$1,500,000, to support the regulatory and promotional activities of the Captive Insurance Branch. Your Committee finds that these changes to the captive insurance law will enable the State to grow and compete as a captive insurance domiciliary.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2582 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Hogue).

SCRep. 2091 Commerce, Consumer Protection and Housing on S.B. No. 2704

The purpose of this measure is to streamline the state public housing eviction process without impairing the tenant's due process rights.

Your Committee received testimony in support of the measure from the Housing and Community Development Corporation of Hawaii (HCDCH).

Your Committee finds that this measure:

- (1) Ensures the due process rights of HCDCH tenants;
- (2) Promotes a proactive process for tenants to work with management in addressing problems early on; and
- (3) Helps the HCDCH to promptly address lease violations including delinquencies and nuisances that affect the peaceful enjoyment of the project.

Your Committee further finds that, under the HCDCH's current eviction process, up to eighteen months can elapse before a tenant is evicted from public housing, which has contributed to a tenant accounts receivable of approximately \$1.2 million. This measure would retain the grievance and eviction hearings, and appeals to Circuit Court, eliminate the appeal hearing, and add a consultation process in which HCDCH managers would meet with tenants who are violating the terms of their lease in order to address problems up-front. The modified administrative process strikes a balance between the need for a streamlined eviction process and the tenant's right to an accessible due process.

Your Committee has made technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2704, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2092 Commerce, Consumer Protection and Housing on S.B. No. 2733

The purpose of this measure is to clarify and make consistent the producer licensing laws and related insurance laws.

Testimony in support of this measure was received from the Insurance Commissioner (Commissioner), Hawaii Independent Insurance Agents Association, American Council of Life Insurance, and National Association of Insurance and Financial Advisors.

The Producer Licensing Act was enacted pursuant to Act 216, Session Laws of Hawaii (SLH) 2001, and goes into effect on July 1, 2002. This Act replaces the various regulatory schemes governing general agents, subagents, and solicitors with a single licensing scheme for insurance producers.

This measure reconciles inconsistencies in the insurance code and other insurance laws that occurred upon the adoption of the Act. This measure also reauthorizes the licensing of managing general agents as this authority was inadvertently repealed by Act 216, SLH 2001.

Your Committee has amended this measure by incorporating amendments proposed by the Commissioner that:

- (1) Authorize the denial of a license issuance or extension based upon the extent to which the license applicant's insurance sales are represented by controlled business;
- (2) Limit the number of designations that may be accepted by a licensed producer;
- (3) Reduce the penalty for late payment of a renewal fee;
- (4) Clarify a producer's authority to appoint other producers as agents and to terminate relationships with other producers;
- (5) Authorize the Commissioner to grant additional time to a licensee on extended active military duty to comply with continuing education requirements;
- (6) Clarify the Commissioner's authority to revoke or suspend the certificate of a continuing education provider for violations of the insurance code; and

- (7) Make other corrections or clarifications.

Additionally, your Committee has amended this measure by making technical changes to correct typographical errors, correctly reflect the language in the Hawaii Revised Statutes, and to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2093 (Majority) Labor on S.B. No. 2037

The purpose of this measure is to strengthen the protection provided by Hawaii's Whistleblowers' Protection Act.

Testimony in support of the measure was received from the Hawaii State Commission on the Status of Women, the Hawaii Nurses' Association, the ILWU Local 142, Common Cause Hawaii, the League of Women Voters of Hawaii, and a private citizen. The Department of Labor and Industrial Relations and the Hawaii Government Employees Association supported the strengthening of the Whistleblowers' Protection Act, but opposed the repeal of Part III of Chapter 378, Hawaii Revised Statutes, relating to the unlawful suspension or discharge of an employee. The Society of Human Resource Management – Hawaii Chapter, the Hawaii Bankers Association, the Chamber of Commerce of Hawaii, and HMSA testified in opposition to the measure.

Your Committee finds that although the measure does repeal Part III of Chapter 378, Hawaii Revised Statutes, relating to the unlawful suspension or discharge of an employee, it incorporates most of the pertinent provisions into Part V of Chapter 378, Hawaii Revised Statutes, which is the Whistleblowers' Protection Act.

Your Committee also finds that the measure strengthens the Whistleblowers' Protection Act by providing protection to employees who report to government entities or their employers violations of law or who report information demonstrating danger to the public health, safety, and welfare. The measure also increases the penalties for violations from \$500 to \$10,000 per violation, increases the duration of the statute of limitations from ninety days to two years, and provides remedies to employees who were not adequately protected under Part III of Chapter 378, Hawaii Revised Statutes.

In light of the concerns that were presented in testimony over the adverse ramifications of repealing Part III of Chapter 378, Hawaii Revised Statutes, your Committee has amended the measure by:

- (1) Deleting all references to Part III's repeal;
- (2) Deleting the provisions that were originally contained in Part III that were to be added to Part V of Chapter 378, Hawaii Revised Statutes; and
- (3) Lowering the proposed increase in the monetary penalty for violation of the Whistleblowers' Protection Act from \$10,000 to \$5,000.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2037, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 4 (Hanabusa, Kanno, Matsuura, Sakamoto).

SCRep. 2094 (Joint) Labor and Health and Human Services on S.B. No. 2114

The purpose of this measure is to allow family leave benefits to be negotiated for employees subject to collective bargaining.

Testimony in support of the measure was received from the University of Hawaii Professional Assembly. The ILWU Local 142 supported the intent of the measure but requested that it be amended so that only family leave that may be in addition to the four weeks already authorized in statute would be negotiable. The Department of Labor and Industrial Relations opposed passage of the measure.

Your Committees find that the measure is drafted in the spirit of Act 253, Session Laws of Hawaii 2000, otherwise known as the Civil Service Modernization Act, in that it enables employers and employees to negotiate more aspects of the employees' terms of employment.

Your Committees have amended the measure by adopting the ILWU's recommendation to ensure that employees' established right to a minimum of four weeks of family leave is not diminished and by making a technical amendment to conform the measure to recommended drafting procedures.

As affirmed by the records of votes of the members of your Committees on Labor and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2114, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2114, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Chumbley, English, Fukunaga, Kanno, Sakamoto).

SCRep. 2095 Agriculture on S.B. No. 2121

The purpose of this measure is to appropriate funds for papaya research.

Testimony in support of this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Kahuku Brand Matsuda Fukuyama Farms, and two individuals.

Your Committee finds that Hawaii's agriculture industry, particularly the papaya industry, requires investments in research to sustain and improve crops. Papayas have been negatively impacted by various diseases and a shrinking market. Recent papaya research has created various lines of papayas that are more resistant to disease and exhibit very desirable flavors and characteristics. This measure provides the funds necessary to complete the papaya research on these desirable papaya lines and make papaya more readily available for commercial use.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2121 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2096 Agriculture on S.B. No. 2132

The purpose of this measure is to appropriate funds for agricultural research and development to be performed by the Hawaii Agriculture Research Center.

Testimony in support of this measure was received from the Department of Agriculture, University of Hawaii College of Tropical Agriculture and Human Resources, Hawaii Farm Bureau Federation, Waialua Farmers Cooperative, Pineapple Growers Association of Hawaii, Maui County Farm Bureau, Hawaii Forest Industry Association, Hawaii Coffee Association, Agro Resources, Inc., Hawaii Agriculture Research Center, Hawaii Leeward Planning Conference, North Shore Farms, Oils of Aloha, Garst Seed Company, Hawaii Crop Improvement Association, Gay Robinson, Inc., Larry Jeffs Farm, Alluvion, Inc., Forest Solutions, Inc., Hawaii Papaya Industry Association, Hawaii Commercial and Sugar Company, Sweet Aloha Farms, LLC, Hawaii Egg Producers Cooperative, and one individual.

Your Committee finds that the Hawaii Agriculture Research Center (HARC) has made significant contributions to agricultural research relating to many of Hawaii's diversified crops including coffee, forestry, sugarcane, and papaya. HARC has established an intimate and trusting relationship with Hawaii's farmers that allows HARC to transfer its knowledge to farmers efficiently and effectively. Your Committee finds that Hawaii's farmers receive a direct benefit from the research and education provided by HARC and this measure allows HARC to continue helping Hawaii's agriculture industry improve, develop new products, and remain competitive in the global market.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2132 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2097 Agriculture on S.B. No. 2665

The purpose of this measure is to establish a five-year pilot project under the Agribusiness Development Corporation to assist farmers with marketing their produce and products.

Your Committee received testimony in favor of this measure from the Agribusiness Development Corporation, Maui County Farm Bureau, Hawaii Farm Bureau Federation, North Shore Farms, Hawaii Leeward Planning Conference, Waialua Farmers, and an individual.

Your Committee finds that the concept of a statewide marketing effort will allow farmers a mechanism to consolidate and market their produce in a cohesive manner. Marketing locally and especially overseas will help many smaller farmers compete in the world market.

Your Committee has amended this measure by omitting the reference to sugar and pineapple plantations so as not to suggest any negative connotations of the State's agricultural history. Nonsubstantive, technical amendments were made as well.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2665, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2665, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2098 Agriculture on S.B. No. 2673

The purpose of this measure is to appropriate funds to the Department of Agriculture to conduct a program to reduce by fifty per cent the total amount of imported food purchased by Hawaii residents that could be purchased from locally produced sources.

Your Committee received testimony in support of this measure from Waiialua Farmers Cooperative, North Shore Farms, Hawaii's Thousand Friends, and comments on this measure from the Board of Agriculture.

Your Committee is aware of the Department's concern of whether the fifty per cent reduction addresses the volume of food imports or the value of food imports.

Your Committee finds, however, this effort towards self-sufficiency in production of agricultural products to be a highly desirable state and national security goal. As this bill moves through the legislative process the exact measurement of the fifty per cent reduction can be determined.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2673 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2099 Agriculture on S.B. No. 2873

The purpose of this measure is to establish a temporary task force on agricultural industry development to identify ways to:

- (1) Improve the viability of agriculture in Hawaii and expand agricultural opportunities; and
- (2) Increase the role of agriculture in the diversification of Hawaii's economy.

Testimony in support of this measure was received from the Agribusiness Development Corporation, Department of Land and Natural Resources, Department of Business, Economic Development, and Tourism Office of Planning, University of Hawaii College of Tropical Agriculture and Human Resources, Hawaii Farm Bureau Federation, Waiialua Farmers Cooperative, North Shore Farms, Life of the Land, and Hawaii's Thousand Friends.

Your Committee finds that the agriculture industry is a growing sector of Hawaii's economy. Diversified agriculture enterprises are gaining momentum by creating innovative products and opening new markets for Hawaii's agricultural industry. However, to truly propel the industry forward, an assessment of current state laws and practices is necessary to identify and remove any barriers hindering agricultural enterprises. Incentives must also be identified that assist the growth of Hawaii's agriculture industry. Your Committee finds that this measure brings together the relevant stakeholders to formulate the blueprint for building a strong and dynamic agriculture industry in Hawaii.

Your Committee envisions that the agricultural industry development task force will have focused discussions on issues and solutions directly relevant to the immediate needs of Hawaii's agriculture industry, including analyzing the current permissible uses within agricultural districts and the merits of allowing community and charitable events and self-picking of fruits to take place within those districts.

Your Committee has amended this measure by specifying that the agricultural industry development task force shall consist of twenty members.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2873, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2873, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2100 Agriculture on S.B. No. 2912

The purpose of this measure is to make an appropriation to promote and market major aquaculture, algae, marine products, and research in biotechnology.

Your Committee received testimony in favor of this measure from the Natural Energy Laboratory of Hawaii Authority and an individual.

Your Committee finds that this measure will assist in providing answers and solutions to current environmental challenges to our ocean and land uses before human interaction overwhelms our State's unique and pristine resources.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2912 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2101 Agriculture on S.B. No. 2942

The purpose of this measure is to:

- (1) Clarify the meat products for which grade standards may be developed and for which grading services may be offered;
- (2) Remove the responsibility for the meat grading program from the animal industry division of the Department of Agriculture; and
- (3) Clarify and simplify the language of the law.

Your Committee received testimony in support of the measure from the Board of Agriculture.

Your Committee finds that the United States Department of Agriculture (USDA) removed the full time meat grader from Hawaii due to lack of demand for services and the inability to cover costs with the fees charged. A cooperative agreement was entered into with the USDA in early 2000, and a Quality Assurance Division staff member was trained to conduct the meat grading so that this service would be available. The regulatory clarifications provided by this measure will help guide the activities of the staff member.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2942 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2102 Agriculture on S.B. No. 2943

The purpose of this measure is to allow the Department of Agriculture to quarantine and destroy animals susceptible to any contagious, infectious, or communicable diseases, require proper disposition of hides and carcasses, and require disinfection of materials contaminated by or exposed to disease.

Testimony supporting this measure was received from the Department of Agriculture.

Your Committee finds that with the recent outbreaks of Foot and Mouth disease there is a heightened awareness of other highly contagious animal diseases. Certain national and international control measures for highly contagious animal diseases require the quarantine and destruction of animals that are susceptible to contraction of the disease. This measure allows the Department of Agriculture to implement these national and international disease control guidelines that are necessary to prevent the spreading of a contagious animal disease. Your Committee further recognizes that currently the Department of Agriculture and the federal government maintain oversight over the implementation of disease control measures, including the proper disposal of animal carcasses.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2943 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2103 Agriculture on S.B. No. 3034

The purpose of this measure is to appropriate the sum of \$200,000 to assess the economic feasibility of establishing a permanent, world-class farmers' market in Hawaii.

Your Committee received testimony in support of the measure from the Board of Agriculture, Hawaii Tourism Authority, Hawaii Community Development Authority, Maui County Farm Bureau, Hawaii Farm Bureau, North Shore Farms, Pineapple Growers Association of Hawaii, Waialua Farmers Cooperative, Hawaii Aquaculture Association, Meadow Gold Dairies, Hawaii's Thousand Friends, and Hawaii Agricultural Research Center.

Your Committee finds that the measure would help establish a premier market place to showcase Hawaii's diverse agricultural products. The proposed world-class farmers' market would facilitate increased sales and promotion of local agriculture products, and serve as a new attraction for the visitor industry. The Department of Agriculture has produced a preliminary feasibility study on such a market and has had extensive meetings with the private sector and federal government officials to explore the idea. The measure would help build on this firm foundation.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3034 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2104 Agriculture on S.B. No. 3038

The purpose of this measure is to appropriate funds for an apiculture (bee-keeping) program.

Your Committee received testimony in support of the measure from the Board of Agriculture.

Your Committee finds that apiculture is a small but promising sector of Hawaiian agriculture. State support for extension services, targeted research, low-cost access to state land for apiaries, cooperative facilities for processing of hive products, and educational activities can be expected to help catalyze a nascent industry, leverage additional private and public support, and contribute to the overall economic diversification of the State.

Your Committee has amended this measure by making the University of Hawaii, College of Tropical Agriculture and Human Resources, Cooperative Extension Service the expending agency, instead of the Department of Agriculture.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3038, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3038, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 2105 Health and Human Services on S.B. No. 2686

The purpose of this measure is to require producers of pornography to verify that their performers are not minors, and to keep documentation of this verification.

Your Committee received testimony in favor of this measure from the Honolulu Prosecuting Attorney, Attorney General, Honolulu Police Department, Public Defender, Hawaii Family Forum, and Sisters Offering Support.

Your Committee finds that law enforcement has generally had difficulties in gaining the cooperation of minor victims and witnesses in this area and thus has had problems in enforcing laws against use of minors in sex industries. The approach proposed by this measure obviates this problem by requiring persons using sexual performers to create, maintain, and affix information which can be checked by law enforcement to ascertain that minors were not used in the creation or production of the performance or material. This measure allows law enforcement to check for violations by use of records required to be kept versus having to gain the cooperation of the minors to detect, investigate, and prosecute violations.

Your Committee has amended this measure as follows:

- (1) By changing the reference of "law enforcement official" to "law enforcement officer", which is defined in section 701-118 of the Hawaii Revised Statutes;
- (2) Deleting birth certificates from the documents that may constitute age verification records, which are easily falsified;
- (3) Deleting the safe-harbor provisions relating to the use of information or evidence obtained;
- (4) Clarifying the definition of "sexual performer" by adding a definition of "sexual exploitation of a minor";
- (5) Eliminating the 24-hour time allowance for a law enforcement request to produce age verification records; and
- (6) Providing a saving provision.

Additionally, your Committee has made nonsubstantive technical amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2686, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2686, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Nakata, Hogue).

SCRep. 2106 Health and Human Services on S.B. No. 2717

The purpose of this measure is to make an emergency appropriation to the Employees' Retirement System for the employer's share of contributions to cover social security and medicare costs.

Your Committee received testimony in support of this measure from the Department of Budget and Finance (BUF).

Your Committee finds that Act 259, Session Laws of Hawaii 2001, authorized the transfer of funds to the Department of Business, Economic Development and Tourism for operations and events costs of the Hawaii Convention Center. That transfer authorization was necessary to operate the Convention Center.

Of the funds transferred to operate the Convention Center, \$10,125,000 was transferred from funds budgeted for payment of social security expenses. As a result, there is a shortfall of funds to satisfy the State's social security and medicare expense obligations. The State is required by law to fund these programs, and therefore your Committee supports this emergency measure.

Your Committee made a technical, nonsubstantive amendment to this measure for accuracy.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2717, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2717, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2107 Health and Human Services on S.B. No. 2721

The purpose of this measure is to allow the Department of Commerce and Consumer Affairs, Insurance Division to protect Hawaii's consumers from insolvent dental insurers by repealing the July 1, 2002 "drop dead" provision of Act 132, Session Laws of Hawaii, 2001.

Your Committee received testimony in favor of this measure from the Department of Commerce and Consumer Affairs and HMSA. Your Committee received testimony opposing this measure from Hawaii Dental Service.

Your Committee finds that this measure continues to allow dental insurance to be regulated in the same manner as health and accident insurance. Act 132 was an attempt to even the regulatory field among dental plans. Prior to Act 132, some of Hawaii's dental plans were regulated and some were not. All dental plan consumers should have the same assurances and protections afforded to health plan consumers.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2721 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2108 Health and Human Services on S.B. No. 2725

The purpose of this measure is to repeal outdated language regarding application procedures for the examination and modify the accrediting standards for approved naturopathic schools in order to eliminate adverse consequences on applicants for licensure.

Your Committee received testimony in favor of this measure from the Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division.

Your Committee finds that since the testing agency now has the capability to accept examination applications, the requirement that applications be submitted to the Board of Examiners in Naturopathy is no longer necessary. This measure removes that requirement and allows applicants to apply directly with the testing agency to take the examination.

Your Committee also finds that on January 16, 2001, the Council on Naturopathic Medical Education which was the only "professional" accrediting body in naturopathic medicine, lost its recognition by the United States Department of Education (USDOE). Accordingly, the reference in current law to a "professional" accrediting body recognized by the USDOE has been deleted by this measure. Without this amendment, naturopathic applicants will not be able to satisfy educational requirements therefore resulting in no new naturopathic licensees.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2109 Health and Human Services on S.B. No. 2764

The purpose of this measure is to provide a more streamline, efficient, and convenient process for registering and recording births and deaths occurring in the State.

Your Committee heard testimony in favor of the measure from the Lieutenant Governor, Department of Health, and Office of Information Practices.

Your Committee finds that the measure would allow the Department of Health to more efficiently process vital events by eliminating the formal filing of paper certificates in registration districts (counties) prior to their eventual transmittal to a central site for review and storage. Most importantly, the public would be able to obtain certified copies and verifications of vital records in a shorter period of time after registration has been completed.

Upon further consideration, your Committee has amended this measure by requiring the Department of Health to ensure adequate safeguards for its electronic records and making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2764, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2764, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2110 Health and Human Services on S.B. No. 2769

The purpose of this measure is to require accreditation and certification rather than licensing of transitional residential and semi-supervised independent living arrangements.

Your Committee received testimony in support of this measure from the Department of Health.

Your Committee finds that currently, all facilities for disabled children and adults require licensing. The licensing requirements unnecessarily restrict community based housing options for mentally ill adults residing in less restrictive levels. Current requirements restrict recovering mentally ill adults in these settings from fully resuming their self-care rehabilitation, incremental recovery, and practiced behaviors in independent lifestyles and housing. Alternatively, accreditation and certification requirements are evidenced-based best practice for recovery and community reintegration of mentally ill adults.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2769 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2111 Health and Human Services on S.B. No. 2770

The purpose of this measure is to establish the Public Health Nursing Services Special Fund for case management services in the Public Health Nursing Branch Program to receive and expend Medicaid funds for medically fragile children under the age of twenty-one with complex medical conditions.

Your Committee received testimony in favor of this measure from the University of Hawaii, Department of Health, Department of Human Services, Kapiolani Medical Center, and Hawaii Government Employees Association.

Your Committee finds that there is a critical need for comprehensive case management services for medically fragile children or children with complex medical conditions with or without technological devices. The Public Health Nursing case management services for the families of medically fragile children with complex medical conditions are tremendously vital to support and strengthen families in caring for their children at home. It empowers families, service providers, and schools to work together to meet the needs of the medically fragile child and family, and it meets the requirements of a system of care that is collaborative, coordinated, family centered, and community based.

Your Committee has made nonsubstantive, technical amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2112 Health and Human Services on S.B. No. 2775

The purpose of this measure is to appropriate \$5,000,000 in general funds for fiscal year 2001-2002 to repay funds advanced by the State, and to repay for mandated and rural healthcare costs for fiscal year 2001-2002.

Your Committee heard testimony in support of this measure from Hawaii Health systems Corporation, Chamber of Commerce of Hawaii, and the Hawaii Government Employees Association.

Your Committee finds that the Hawaii Health Systems Corporation and its facilities play an important role in providing medical services and care to the people of Hawaii, especially on the Neighbor Islands. This measure will ensure that the Hawaii Health Systems Corporation meets its fiscal obligations in providing services to members of the general public who need hospital-based services.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2775 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2113 Health and Human Services on S.B. No. 2779

The purpose of this measure is to enable the Department of Health to respond rapidly and efficiently to emerging health problems before they become catastrophic health emergencies.

Testimony in support of this measure was submitted by the Department of Health, Health Care Association of Hawaii, and Kaiser Permanente.

Your Committee finds that current law grants the Department of Health (Department) all the powers needed to deal with a health emergency which has been declared a disaster by the Governor. However, your Committee acknowledges that there are gaps in the Department's authority to deal with serious and potential catastrophic situations before they reach that stage. This measure would:

- (1) Enable the Department to form partnerships with the private sector to plan for and deliver services under circumstances where our existing resources are inadequate;
- (2) Update and reform our statute on quarantine to provide due process protections for individuals the Department might seek to isolate from the public;
- (3) Allow the Director to sequester or isolate contaminated items or material to protect the public from toxic or infectious substances; and
- (4) Enable disease investigators to obtain critical information to determine the cause and limit the impact of disease outbreak.

Furthermore, your Committee finds that in light of the September 11, 2001, attacks on the United States and the potential threat of bio-terrorism, this measure is needed to ensure the safety of our citizens.

Upon further consideration, your Committee has amended this measure by clarifying that individuals are not responsible for medical care costs which their health plans cover and pay for and by making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2779, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2779, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2114 Health and Human Services on S.B. No. 2782

The purposes of this measure are to:

- (1) Require that all hospitals be licensed by the Department of Health; and
- (2) Allow the Department of Health to establish rules that would provide for accreditation by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) would demonstrate a hospital's compliance with all state licensing requirements for the year in which such accreditation is issued.

Your Committee received testimony in support of the measure from the Department of Health, Healthcare Association of Hawaii, and Kaiser Permanente.

Your Committee finds that the Department of Health currently licenses all hospitals within the State through the authority given the department to promulgate rules. This measure would provide statutory-based authority for the department to conduct licensing activities and inspections and adopt rules. The rules would provide that accreditation by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) would demonstrate a hospital's compliance with all state licensing requirements for the year in which such accreditation is issued. This process will expedite the licensing of hospitals by relieving the department of the need to conduct an inspection in the year of accreditation, and thus effect a cost savings to the department. Most states have adopted this program, having found it to be very effective.

Furthermore, the Centers for Medicaid/Medicare Services use JCAHO accreditation to certify hospitals for Medicare/Medicaid reimbursement. In Hawaii, 22 of the 30 hospitals currently licensed are JCAHO accredited. The department would maintain its authority to conduct inspections if complaints are received regarding services.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2782 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2115 Health and Human Services on S.B. No. 2818

The purpose of this measure is to include employees of private companies working in correctional facilities in the scope of sexual offenses statutes.

Testimony in support of this measure was submitted by the Department of Public Safety, Hawaii State Commission of the Status of Women, Community Alliance on Prisons, ACLU, TJ Mahoney and Associates, and a private citizen. The Office of the Public Defender offered comments on this measure.

Your Committee finds that the current statutes could be construed to mean that only state employees working in state correctional facilities, and not employees of private companies that work in state correctional facilities, are subject to the sexual offenses statutes. Your Committee finds that these amendments would strengthen the legal protections of imprisoned persons from sexual penetration and sexual contact by any worker in a correctional facility, regardless of the employer.

Upon further consideration, your Committee has amended this measure by adding language that the private company employee receive notice, changing the word "residing" to "committed" to clarify that it does not include employees that may live at the correctional facility, and making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2818, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2116 Health and Human Services on S.B. No. 2829

The purpose of this measure is to provide the same general excise tax benefits to persons with impaired sight, hearing, or who are totally disabled regardless of the entity in which they choose to do business.

Your Committee received testimony in support of the measure from the Department of Taxation and a private individual. Your Committee received comments from the Tax Foundation of Hawaii.

Your Committee finds that certain general excise tax benefits are available to deaf, blind, and totally disabled persons. These provisions, however, may not be available depending on the entity in which impaired persons choose to do business. Currently, section 237-17, Hawaii Revised Statutes, provides a one-half per cent general excise tax rate for individuals who are blind, deaf, or totally disabled, or corporations all of whose outstanding shares are owned by individuals who are blind, deaf, or totally disabled. Similarly, section 237-24(13), Hawaii Revised Statutes, exempts from the general excise tax \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging in business. This bill recognizes the various other entities that may be formed to do business, such as partnerships of all types and limited liability companies.

Your Committee has amended the measure by making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2829, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2829, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2117 Health and Human Services on S.B. No. 2934

The purpose of this measure is to expand the definition of "special liquor district" to include areas designated for historic preservation and residential protection, and adds possible adverse effects on the community as part of the report of the inspector required for every application for a license.

Your Committee received testimony in favor of this measure from the Ala Moana/Kakaako Neighborhood Board No. 11, Waikiki Citizen's Patrol, and McCully-Moiliili Neighborhood Board No. 8.

Your Committee finds that liquor establishments have benefited to the detriment of the residential and business sectors of the community in which they are located. This measure gives residents and businesses more leverage in liquor license decisions to enable them to preserve and maintain the quality of life in their community.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2934 and recommends that it pass Second Reading and be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2118 Water, Land, Energy, and Environment on S.B. No. 2005

The purpose of this measure is to authorize the County of Hawaii to establish a three-year demonstration beverage container deposit system.

Testimony in support of this measure was received from the Department of Health, Office of Environment Quality Control, County of Hawaii, and Sierra Club Hawai'i Chapter. The Hawaii Food Industry Association and Anheuser Busch Companies testified in opposition.

Your Committee finds that the County of Hawaii is in support of a statewide beverage container deposit system that can meet the legitimate concerns being raised by the business community, and will support a statewide system if retailers and the advocates of a bottle bill can reach agreement. If not, the County is interested in serving as a demonstration site and will work with retailers and other interested parties in an effort to find an approach that would make the business community a partner in the project.

Your Committee is supportive of the County in this important effort to achieve litter control and recycling through a partnership with the business community and is passing this measure out to ensure further discussion on this issue.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2005 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2119 Water, Land, Energy, and Environment on S.B. No. 2007

The purpose of this measure is to authorize the counties to permit home occupations in the agricultural district without requiring a state special permit.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism Office of Planning, Department of Agriculture, City and County of Honolulu Department of Planning and Permitting, and County of Hawaii Planning Department. The Sierra Club Hawai'i Chapter testified in opposition.

Your Committee finds that in these difficult economic times, home occupations may help individuals and families make ends meet. The issue is how to assist Hawaii's farmers while adhering to the State's policy of keeping agricultural land affordable for farmers, ensuring that agricultural land is used for agricultural purposes, and protecting important agricultural lands.

Your Committee believes that the measure does contain safeguards, as it authorizes home occupations only within structures already allowed under Chapter 205, Hawaii Revised Statutes (HRS), the home occupation must meet standards and criteria adopted by the county, and must be limited in extent and incidental to the uses of the dwelling for residential purposes.

Your Committee has heard, however, concerns raised regarding the clarity of some of the proposed amendments. As a result, your Committee has amended this measure to:

- (1) Delete the addition of "home occupation" and the reference to "structures accessory to allowed single-family dwellings" in Section 205-2(d), HRS;
- (2) Further clarify the definition of "home occupation" in the same section; and
- (3) Add new language in Section 205-4.5, HRS, to refer to "home occupations" as provided in Section 205-2(d), HRS.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Second Reading in the form attached hereto as S.B. No. 2007, S.D. 1, and be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2120 Water, Land, Energy, and Environment on S.B. No. 2214

The purpose of this measure is to establish a three-year moratorium on the construction or installation of any one hundred thirty-eight kilovolt or greater high-voltage electric transmission lines or systems.

Testimony in support of this measure was received from the City and County of Honolulu Department of Planning and Permitting and Na Leo Pohai. The Public Utilities Commission, Consumer Advocate, and Hawaiian Electric Company, Inc., testified in opposition.

Your Committee finds that the construction and installation of high voltage electric transmission lines has generated considerable controversy in recent years. Communities are increasingly reluctant to accept these lines, particularly overhead lines in scenic areas, yet the need for a consistent power source continues to grow.

Your Committee understands that time is often helpful when dealing with the many ramifications of important issues. However, a complete moratorium may have detrimental effects on essential restoration or emergency requirements during the three-year period.

Your Committee believes the issues merit further discussion and is reporting the measure out to continue this dialogue.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2214 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2121 Water, Land, Energy, and Environment on S.B. No. 2278

The purpose of this measure is to accelerate depreciation of combined heat and power systems for tax purposes.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, The Gas Company, Life of the Land, and one individual. The Department of Taxation testified in opposition. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that combined heat and power systems are generally much more fuel-efficient than the electric utility system in meeting energy needs. This is primarily because these systems not only produce electricity on site, avoiding transmission losses, but also harness thermal energy from their exhaust for a variety of functions, including water heating, process heat, drying, space heating, or air conditioning.

Your Committee finds that increased use of combined heat and power systems supports the State's energy objectives and that this measure provides a means to encourage increased commercial deployment of combined heat and power systems. Your Committee has amended this measure to make technical, nonsubstantive amendments in conformance with the preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2122 Water, Land, Energy, and Environment on S.B. No. 2516

The purpose of this measure is to amend Act 263, Session Laws of Hawaii (SLH) 1993, and Act 135, SLH 1998, to extend the authorization to issue special purpose revenue bonds from June 30, 2003, to June 30, 2007, and to provide more flexibility in structuring the proposed business venture for Hui `Enekinia Hawai`i.

Testimony in support of this measure was received from Hui `Enekinia Hawai`i. One individual testified in opposition. The Department of Budget and Finance submitted comments.

Your Committee finds that the project is anticipated to be a waste-to-energy facility that would generate energy by combustion of refuse and wastes collected from both residential and commercial establishments on the Island of Hawaii. In addition, the thermal fluid output from the cogeneration facility would be utilized by existing and planned businesses.

Your Committee is supportive of this project and the attendant economic benefits to the surrounding communities. Your Committee has amended the measure to authorize the issuance of refunding special purpose revenue bonds and to reflect this addition the purpose section.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2516, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2123 Water, Land, Energy, and Environment on S.B. No. 2667

The purpose of this measure is to remove the "urban" restriction from public lands for historic preservation and restoration.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR) and Hawaii's Thousand Friends.

Your Committee finds that this measure would give DLNR greater flexibility in working with state owned historic projects, and would be particularly useful for fish ponds, taro lo'i lands, and historic buildings in rural areas.

Your Committee is supportive of removing unnecessary barriers to the restoration and preservation of Hawaii's public resources.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2667 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2124 Water, Land, Energy, and Environment on S.B. No. 2795

The purposes of this measure are to expand the Department of Land and Natural Resources' authority to use different types of fishing gear to manage the aquatic resources of the State, to expand the Department's authority to issue permits for non-consumptive activities relating to aquatic resources, and to clarify the Department's authority to manage the possession or use of explosives, chemicals, or electrofishing devices.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that increases in alien species infestations and the demands of efficient management of aquatic wildlife programs, as well as new developments in fishing gear technology, have highlighted the Department's limited authority to respond to these problems and opportunities.

Your Committee is in agreement that the proposed measure would expand and clarify the Department's current authority to better manage the State's aquatic resources, but members have expressed considerable concern that, as proposed, that authority is both broad and particularly troubling regarding the use of explosives for management purposes.

After discussions with the Department, your Committee has amended this measure to:

- (1) Delete the Department's authority to use explosives or to issue permits for the use of explosives;
- (2) Require the Department to consider using chemicals or electrofishing devices only when no other reasonable alternative is appropriate, and in accordance with established procedures and with proper training; and
- (3) Make technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2125 Water, Land, Energy, and Environment on S.B. No. 2804

The purpose of this measure is to authorize the Board of Land and Natural Resources (Board) to waive the requirement to obtain Board consent to subleases under public land leases.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee has heard that the current restriction on subletting all or portions of the demised premises without the approval of the Board is appropriate in most lease situations. However, where the intent is for the property to be leased to multiple subtenants (e.g., Natural Energy Laboratory of Hawaii Authority, Agribusiness Development Corporation, leases for shopping centers, strip malls, office buildings or other commercial complexes), it is appropriate for the lessor to permit the lessee to issue tenant subleases without the lessor's consent. The ability to issue subleases without the lessor's consent in these situations is critical to the lessee's ability to attract viable tenants for the property.

Your Committee is supportive of this means to provide the Board with the flexibility to determine appropriate situations in which subletting should be permitted under existing leases.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2804 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Matsunaga, Nakata).

SCRep. 2126 Water, Land, Energy, and Environment on S.B. No. 2805

The purpose of this measure is to delete the requirement that all contributions, moneys, and funding received by any soil and water conservation district be deposited into the general fund.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that Chapter 180, Hawaii Revised Statutes, authorizes the Department to govern the operations of Hawaii's soil and water conservation districts, which are cooperatives that assist in setting up soil conservation programs.

Your Committee has heard that approximately eighty per cent of the districts' funding is from non-general fund sources. Currently, they receive substantial federal, state, and county grants that are already supervised by the granting agency and are restricted to carrying out specific programs. Requiring moneys from the grants to be placed in the general fund, subject to another level of bureaucracy, will inhibit the districts' ability to do their work in a timely fashion.

Your Committee is supportive of this measure as a means of streamlining government.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2805 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Matsunaga, Nakata).

SCRep. 2127 Water, Land, Energy, and Environment on S.B. No. 2811

The purpose of this measure is to increase the amount deposited to the Bureau of Conveyance special fund from recordation fees.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that currently, \$2 of the \$25 recordation fee is deposited into the fund and the rest into the general fund. This measure will increase the amount deposited into the special fund from \$2 to \$7, allowing the Bureau to become totally self-sufficient. In addition, it will provide a direct and permanent source of funding to staff and maintain a computerized system of all land title documents, which for the first time will be accessible via the Internet.

Your Committee has heard that the Bureau generates roughly \$7,000,000 annually through the collection of the \$25 recordation fee. Based on an average of 275,000 documents recorded annually, the increase of \$5 for the special fund will generate \$1,375,000 for the Bureau's operations.

Your Committee is supportive of this means of providing a stable funding source for a vital public service.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2811 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Matsunaga, Nakata).

SCRep. 2128 Water, Land, Energy, and Environment on S.B. No. 2909

The purpose of this measure is to require the counties to establish a program for recycling food waste.

Testimony in support of this measure was received from Hawaii's Thousand Friends, Sierra Club Hawai'i Chapter, Pacific Forums, Asia Pacific Environmental Technology, and Eco-Feed, Inc. The Department of Health and County of Hawaii testified in opposition. The Hawaii Food Industry Association submitted comments.

Your Committee finds that landfills in each county are nearing capacity, and expanding existing landfills or siting new ones is challenging from both an environmental and community perspective.

Your Committee further finds that the City and County of Honolulu currently has mandatory food waste recycling, and in 2000 one recycling company alone recycled over 11,000 tons of food waste that would otherwise have gone to a landfill or been incinerated.

Your Committee has heard concerns that Neighbor Island counties currently do not have options for food waste recycling. However, your Committee believes that given the landfill shortages on these islands, programs such as this one should be pursued.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2909 and recommends that it pass Second Reading and be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2129 Water, Land, Energy, and Environment on S.B. No. 2987

The purpose of this measure is to authorize issuance of \$7,000,000 in general obligation bonds for planning, design, and construction of a landfill at Hilo, Hawaii.

Testimony in support of this measure was received from the County of Hawaii.

Your Committee finds that the South Hilo Landfill is running out of capacity and is scheduled to stop receiving refuse generated in East Hawaii by mid-2004. The County is presently updating its Integrated Solid Waste Management Plan (ISWMP), with an emphasis on immediate implementation of proposals relating to the closure of the South Hilo Landfill.

Your Committee further finds that the first priority of the ISWMP will be to replace the South Hilo Landfill with a transfer station, which will operate as a large receiving station with the capability to re-pack refuse in special trailers for transport. This facility must be sited, environmentally assessed, designed, permitted, and constructed in thirty months.

Your Committee is well aware that landfills on all of the Neighbor Islands are at or nearing capacity, and that new landfills have become a statewide issue. Your Committee believes that while this measure will not address all landfill needs, it is an important part of the process.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2987 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2130 Education on S.B. No. 2284

The purpose of this measure is to amend the Hawaii Revised Statutes to effectuate its title.

Your Committee has amended this measure by appropriating \$391,561 to the Department of Education for fiscal year 2002-2003 to continue the safety resource officer program in the central departmental school district. The purpose of the safety resource officer program is to ensure a safe school environment at elementary, middle, and high 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 action to report out S.B. No. 2284 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2284, S.D. 1, and be recommitted to the Committee on Education, for further consideration.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, Ige, Matsunaga, Menor).

SCRep. 2131 Ways and Means on H.C.R. No. 7

The purpose of this measure is to continue the joint Senate—House Investigative Committee to investigate the State's efforts to comply with the Felix consent decree, and to extend the subject matter and scope of the Committee's investigatory authority.

Specifically, this measure:

- (1) Continues the Investigative Committee through June 30, 2002; and
- (2) Extends the subject matter and scope of the Committee's investigatory authority to include:
 - (A) The misidentification of Felix class members;
 - (B) Preparation for the post-decree continuum of care for special education children;
 - (C) The transfer of a significant portion of the Felix population to school-based services and the "gap groups" that may result; and
 - (D) Determining the effectiveness of services to Felix members.

As 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. 7, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Inouye, Sakamoto, Tam).

SCRep. 2132 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on S.B. No. 2241

The purpose of this measure is to increase from thirty per cent to fifty per cent the counties' share of all royalties from geothermal resources.

Testimony in support of this measure was received from the Hawaii County Council. The Department of Land and Natural Resources testified in opposition.

Your Committees find that while geothermal energy has proven to be a viable energy resource, it has generated considerable controversy, particularly in the communities located near the State's only geothermal facility in the Puna region of the Big Island. As a result, the County of Hawaii is faced with additional costs to alleviate the societal and financial problems related to geothermal resource mining.

Your Committees are supportive of the intent of this measure to increase the counties' share of the royalties from geothermal, but believe that such geothermal-related revenues should be expended by the counties to mitigate problems specific to geothermal resource mining, and that these funds should not be spent for general or county-wide needs.

Your Committees have requested information from both the County of Hawaii and the Department of Land and Natural Resources regarding county and state expenditures specific to geothermal resource mining. Your Committees are reporting this measure out for the purposes of further discussion on the merits of the measure, as well as the additional financial information that will be forthcoming.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2241 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Ihara, Matsunaga, Nakata, Sakamoto).

SCRep. 2133 (Joint) Water, Land, Energy, and Environment, Health and Human Services and Tourism and Intergovernmental Affairs on S.B. No. 2511

The purpose of this measure is to appropriate \$800,000 as a grant-in-aid to the City and County of Honolulu to clean up Salt Lake waterway.

Testimony in support of this measure was received from the Department of Health, City and County of Honolulu Department of Environmental Services, Country Club Village Phase 2 Association of Apartment Owners, and the Chair of the Aliamanu/Salt Lake/Foster Village Neighborhood Board No. 18.

Your Committees find that the City and County of Honolulu, the Honolulu Country Club, the State Department of Health, and the community have been working to address the silting, vegetation, odor problems, and health issues in the Salt Lake waterway. Your Committees have heard that the City has recently provided some funding to clean up the waterway from its capital improvement budget, and that the City's Vision Team also has provided money.

Your Committees further find that congressional efforts are underway to obtain assistance from the federal government, as water and silt drain down from Aliamanu Military Reservation into the waterway.

Your Committees are strongly supportive of these collaborative efforts to address a long-standing problem. Given the costs, the broad scope of the project, and the importance of providing a unified message to Congress, your Committees urge the City and County of Honolulu to appropriate funds to match the \$800,000 appropriation in this measure, in order to assist fully in cleaning the Salt Lake waterway.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Health and Human Services and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2511 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 6 (Fukunaga, Ihara, Matsunaga, Nakata, Sakamoto, Hogue).

SCRep. 2134 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on S.B. No. 2653

The purpose of this measure is to add counties to the law limiting liability for land owners who make land and water areas available for recreational purposes.

Testimony in support of this measure was received from the Department of Land and Natural Resources, the County of Hawaii's Planning Department and Office of Corporation Counsel, Kauai Office of County Attorney, Maui County Council and three Members, and Hawaii State Association of Counties. The Consumer Lawyers of Hawaii testified in opposition.

Your Committees find that Act 186, Session Laws of Hawaii (SLH) 1969, and Act 272, SLH 1997, were enacted by the Legislature to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability towards persons entering for such purposes.

Your Committees have heard that extending this limitation of liability to the counties will encourage the counties to develop more public recreational areas and provide increased recreational opportunities for the public. The County of Hawaii, for example, is working to formalize and secure access in areas that may been used informally for years, such as trails to fishing sites.

Your Committees support the counties efforts to expand recreational opportunities for residents and visitors alike, and understand the importance of limitation on liabilities for the counties to succeed in this endeavor.

Your Committees have heard concerns regarding the deletion of all government-owned lands from the definition of "land", as the measure addresses only county-owned lands, and defer to the Committee on Judiciary for further amendments to clarify this change.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2653 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 4 (Ihara, Matsunaga, Nakata, Sakamoto).

SCRep. 2135 (Joint) Agriculture and Water, Land, Energy, and Environment on S.B. No. 2491

The purpose of this measure is to establish and appropriate money for the Irrigation Water Hydroelectric Power Demonstration Project to be administered by the Agribusiness Development Corporation.

Your Committees received testimony in favor of this measure from the Agribusiness Development Corporation, Hawaii Farm Bureau Federation, and Hawaii Agriculture Research Center.

Your Committees find that, if constructed and managed properly, a hydroelectric power plant can lower electricity costs and provide additional income to the State. Hydroelectric plants produce clean energy and will help reduce the State's dependency on fossil fuel.

Your Committees are aware that an environmental impact statement may be required for this project and, to achieve optimum recommendation, this project may best be extended to a multi-year project.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2491 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (English, Hanabusa, Ihara, Kawamoto, Matsunaga, Hemmings).

SCRep. 2136 (Joint) Agriculture and Water, Land, Energy, and Environment on S.B. No. 2494

The purpose of this measure is to permit current lessees of state agricultural land to petition the Department of Land and Natural Resources (DLNR) to solicit, at the lessee's expense, bidders for the land. Upon auction, if the lessee is not the highest bidder, the department shall compensate the lessee for the residual value of any improvements. In addition, if there are no interested bidders the department shall negotiate a new lease with the lessee.

Testimony in support of this measure was received from the Hawaii Farm Bureau Federation, Hawaii Cattlemen's Council, Inc., and Hawaii Leeward Planning Conference. Testimony opposing this measure was received from the Department of Land and Natural Resources.

Your Committees find that maintaining the value and productive use of the State's agricultural lands is of paramount concern. This measure allows the State and lessees to assess the value of the agricultural land and attached improvements prior to expiration of the lease. In addition, lessees are provided an opportunity to recoup their investments in the land through compensation or by entering into a new lease. Your Committees find that this measure strikes the proper balance between ensuring the State receives value for use of state agricultural land and supporting Hawaii's agricultural industry.

Your Committees have amended this measure to require the DLNR, upon petition of the lessee, to issue a "public notice" rather than an "advertisement" for purposes of consistency with section 171-16, Hawaii Revised Statutes, deleting a redundant definition, and making technical, nonsubstantive changes for style.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment 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 recommend 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 Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (English, Hanabusa, Ihara, Kawamoto, Matsunaga, Hemmings).

SCRep. 2137 (Joint/Majority) Health and Human Services and Tourism and Intergovernmental Affairs on S.B. No. 2760

The purpose of this measure is to increase the marriage license fee from \$50 to \$90, and to allocate \$10 to the Vital Statistics Improvement Special Fund for upgrading the computer hardware and software for the vital statistics system, and \$9.50 to a yet-to-be-established Birth Defect Special Fund for operating a yet-to-be-established Birth Defects Program.

Your Committees received testimony in favor of this measure from the Lieutenant Governor, Department of Health, March of Dimes, and two individuals. Your Committees received testimony opposing this measure from Hawaii State Trial Judges Association, Hawaii Catholic Conference, Nu`uanu Baptist Church, and an individual.

Your Committees find that this measure provides for a more streamlined, efficient, and convenient process for registering and recording marriage events occurring in the State with the Department of Health. This measure would allow the issuance of electronic rather than paper-based marriage licenses allowing those who perform marriages to verify the existence of a marriage license electronically as well as register the marriage through the Internet. Furthermore, this measure would provide more effective oversight of those who solemnize marriages by implementing an annual renewal requirement to help the Department of Health keep updated records of officiants.

Your Committees have amended this measure in the following ways:

- (1) Deleting the requirement that \$9.50 for each license be issued to the credit of the birth defects special fund;
- (2) Extending the license expiration term to five years; and
- (3) Changing the application for license fee to \$1.

Your Committees have also made nonsubstantive, technical changes.

Your Committees are not agreeable to the marriage license fee increase of \$50 to \$90, but looks forward to further discussion and consideration on such an increase.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2760, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2760, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 5. Noes, 2 (Hogue, Slom). Excused, 5 (English, Inouye, Kokubun, Nakata, Sakamoto).

SCRep. 2138 Health and Human Services on S.B. No. 2149

The purpose of this measure is to clarify the disclosure requirements of information that may be released by the family court in missing child cases.

Testimony in support of this measure was received from the Hawaii State Commission on the Status of Women, Volunteer Legal Services of Hawaii, Waimanalo Health Center, and Keiki Injury Prevention Coalition. Testimony in opposition was received from the Department of Social Services and Housing.

This measure would require the family court, in ordering access to information related to cases involving a missing child, to determine whether access will materially assist authorities in locating the child. A determination granting access raises specific rebuttable presumptions.

This measure has its genesis in Kema v. Gaddis, 91 Haw. 200 (1999), wherein the Hawaii Supreme Court invalidated a family court order that authorized the release of information in a child protective proceeding. This measure addresses the court's concerns about the effect of the release of information upon the child's minor siblings, by requiring that the court first weigh the interests of finding the missing child against the potentially harmful effect that access may have to the other siblings.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2149 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Kokubun, Nakata).

SCRep. 2139 (Majority) Health and Human Services on S.B. No. 2416

The purpose of this measure is to enact the Hawaii Long—Term Care Financing Act that creates a mandatory income tax assessment system to finance long—term care services.

Testimony in support of this measure was received from the State Insurance Commissioner, Executive Office on Aging (EOA), Hawaii State Commission on the Status of Women, Hawaii's First Lady, Honolulu Department of Community Services, Healthcare Association of Hawaii, Hawaii Alliance for Retired Persons, Policy Advisory Board for Elder Affairs, Hawaii Long Term Care Association, Kokua Council, Faith Action for Community Equity, First Unitarian Church of Honolulu, and one private citizen. Testimony in opposition was received from the Department of Taxation, Hawaii Insurance Association of America, Association of Insurance and Financial Advisors, Chamber of Commerce of Hawaii, and two private citizens. Comments were received from Office of Information Practices, Tax Foundation of Hawaii, Coalition for Affordable Long Term Care, and four private citizens.

This measure is a product of the Joint Legislative Committee on Long-Term Care, formed pursuant to S.C.R. 23, C.D. 1, 2001, to develop and implement a plan for a dedicated source of revenue to provide a state—funded long—term care services system.

Your Committee finds that there is a compelling need to create an affordable method of financing long—term care services, because increasing numbers of Hawaii's residents will need these services. It is incumbent upon the State to provide long-term care to the elderly and disabled. However, the inextricable reality of the current economic condition of the State is that state revenues are down and other state services could be affected accordingly. Nonetheless, your Committee is determined not to allow fortuity and timing to sabotage a plan that has been in the making for at least ten years. Even during sunnier economic days, the time will never be "right" for a state-sponsored long-term care financing scheme. Particularly in view of the fact that this measure is entirely self-financing and requires no outlay of general fund revenues, your Committee requests the legislature to take the bold step of passing this measure as a legacy to posterity.

After much deliberation over nearly a year of study, and after consulting with long—term care providers, consumers, experts, and actuaries, the joint committee determined that a financially viable system would require a mandatory contribution from the public. While the joint committee was reluctant to denominate this contribution as a "tax", your Committee believes that the contribution is in effect a long—term care income tax.

Upon recommendation of the joint committee, the amount of the tax, without regard to income level, is \$10 per month per person who receives a paycheck, either as an employee without regard to number of hours worked, or self—employed. Therefore, collection of the long—term care income tax would be identical to collection of state income taxes, which is by withholding or self-employed tax payments.

Your Committee believes that \$10 a month, with an annual increase of five per cent for the first five years, is a modest amount of money that will eventually pay \$70 per day or more for a year of long-term care services, which totals \$25,550 or more in benefits. The concept is not unlike life insurance.

Every dollar collected under this tax will be paid out in the future by way of benefit payments. In this sense, the word "tax" is used as a matter of administrative expediency for collection purposes. The amounts collected will be held in a trust fund to be used for no other purpose than for paying for long—term care services.

This measure is the culmination of an effort begun in the late 1980's with the EOA and its Hawaii Long Term Care Financing Project. The effort continued over the years in various administrative and legislative efforts, including the Family Hope Plan, several actuarial studies, several appropriations for studies, and two sequential and separate joint legislative committees. Everything on this subject that had to be studied and considered was done several times over. Your Committee is confident that this measure represents the best product for Hawaii, and also represents the first such financing plan in the country. The best long-term care actuaries in the country have priced and approved this plan.

Your Committee has amended this measure by replacing its contents with the contents of S.B. No. 2495, a similar measure which provides for a tax rather than a premium and designates the Department of Taxation to collect the tax. Your Committee has further amended the measure on the recommendation of the EOA by:

- (1) Substituting the blue ribbon panel with a board of trustees;
- (2) Commencing the first benefit payments on July 1, 2005;
- (3) Collecting the tax beginning each year after December 31, 2002, and changing the years of the graduated tax accordingly;
- (4) Requiring the tax to be withheld from retirement benefits for those already retired;
- (5) Requiring a detailed annual actuarial report;
- (6) Placing the board of trustees within the Department of Budget and Finance for administrative purposes;
- (7) Specifying the terms, composition, and appointment by the Governor of the board of trustees;
- (8) Providing for the fiduciary and other obligations of the board of trustees; and
- (9) Requiring the board of trustees to submit an annual report to the legislature with specified information on the finances of the fund.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Hogue). Excused, 2 (English, Nakata).

SCRep. 2140 Health and Human Services on S.B. No. 2591

The purpose of this measure, as received, is to appropriate \$1,200,000 to the Hana Community for the pilot project within the Hana Community Health Center to provide case managers and service delivery for all recipients under the Felix Consent Decree in the Hana public schools and to further support the current services provided to the community.

Testimony in support of this measure was received from three members of the Maui County Council, Hana Community Health Center, and a private citizen. Testimony in opposition to this measure was received from the Department of Health.

Your Committee finds that there is a great deal of support for this measure. Although no written testimony was submitted, members of Hana High and Elementary School, Hawaiian scholars, providers of services, and private citizens flew to Oahu to testify before this Committee on the importance of this measure. Your Committee further finds that this measure which has Hana Community Health Center providing case management and other related health services for children with special needs would be a natural extension of the health initiative and other services currently provided by Hana Community Health Center.

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

- (1) Deleting sections 2, 3, and 4, which provided for general obligation bonds to be issued for the purpose of constructing a senior center;
- (2) Appropriating \$810,000 as a grant-in-aid to Hana Community Health Center for general operational costs;
- (3) Establishing a one-year pilot project for the delivery of case management and other health related services through a collaborative community process to children who attend Hana High and Elementary School and are covered under Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794);
- (4) Adding a purpose section to clarify why the pilot project is being done, and that the project in no way relieves the State of its duties in serving Section 504 children;
- (5) Requiring that moneys from the Child and Adolescent Mental Health Division be used for a contract on behalf of Hana High and Elementary School with the Hana Community Health Center to implement the pilot project;
- (6) Requiring Hana High and Elementary School to oversee and monitor the pilot project, and establishing an advisory committee consisting of community representatives which shall report to the 2004 legislature on the success of the pilot project as well as on the community collaboration efforts; and
- (7) Adding a repeal date of June 30, 2004.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2591, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2591, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Fukunaga, Nakata).

SCRep. 2141 Health and Human Services on S.B. No. 2684

The purpose of this measure is to deter child pornography by bringing Hawaii's child pornography laws in line with federal statutes, and to criminalize the use of computers to victimize children.

Your Committee received testimony in support of the measure from the Attorney General, Honolulu Police Department, Honolulu Prosecuting Attorney, Hawaii Family Forum, and Sisters Offering Support. Your Committee received comments from the Office of the Public Defender.

Your Committee finds that the State must prove beyond a reasonable doubt that a pornographic image is of a child who is less than sixteen years of age to prove the crime of child abuse under the current law. Unfortunately, it is often impossible to prove the age of a child in a pornographic image, even when the child appears to be a minor. Moreover, in this age of computer generated images, pornographers sometimes use the defense that the image could have been created using several different children, or using some children and some adults. Thus, when the State attempts to prove that there is a child of under sixteen in the image, the defense counters that the State cannot prove that the image even includes a person because the image could have been computer generated. The State's burden of proof under current law is to disprove the possibility that the image could have been created using more than one child. This is often impossible even when the image contains the clearly identifiable face of a child on a body performing a sexual act. The federal definition of pornography that this bill seeks to enact was designed to address these issues.

Your Committee further finds that the use of the Internet to entice children into meetings has become widespread. This measure would allow sex offenders to be investigated and prosecuted before they commit a kidnapping or other crime. One method of investigation that has been successful in arresting sex offenders before a child is hurt has been sting operations in which the sex offender's intended victim is actually a police officer posing as a minor in chat rooms or E-mail communications. Once the sex offender agrees to meet the child and goes to the meeting place, the offender is arrested. However, the sex offender's defense to attempted sexual assault is often the defense of impossibility because the person posing as a child was not actually a child. Therefore, it is important to criminalize the sex offender's predatory computer behavior, so that the offender can be prosecuted for what the offender has actually done, as opposed to what the offender may have been trying to do.

Your Committee has amended this measure by:

- (1) Making technical, conforming amendments to reflect preferred drafting style; and
- (2) Raising the age of a child subject to this measure from 16 to 18 years of age.

Furthermore, your Committee respectfully requests the Judiciary Committee to review unclear language in section 1 relating to "reckless disregard of the risk". Your Committee is uncertain of this meaning and requests that further clarification be sought from the Department of the Attorney General.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2684, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2684, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 2142 Health and Human Services on S.B. No. 2761

The purpose of this measure is to provide for a consistent fee structure for permits relating to burial and disinterment administered by the Department of Health and to provide funds to help automate and modernize the process of registering death events with the Department of Health.

Testimony in support of this measure was submitted by the Department of Health.

Your Committee finds that current law does not allow for the assessment of fees for the issuance of burial-transit permits, but a \$5 fee is assessed for disinterment permits. This measure authorizes a fee of \$20 for either permit type. One-half of the fees will be deposited into the vital statistics improvement special fund and the remainder to the general fund.

Your Committee finds that the increased revenues for the vital statistics improvement special fund will allow the request and issuance of burial-transit and disinterment permits to become primarily electronic, resulting in quicker and more convenient means of obtaining permits for the disposition of a dead body and re-burial of human remains in the State. Your Committee further finds that the Department of Health will be able to administer the burial-transit and disinterment permits system more efficiently by eliminating the need for in-person or mail-in request and issuance of these permits.

Your Committee has amended this measure by making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2143 Health and Human Services on S.B. No. 2772

The purpose of this measure is to allow the Director of Health to deny the renewal of license of any person applying to renew the person's license as a tattoo artist.

Your Committee received testimony in support of the measure from the Department of Health (DOH).

Your Committee finds that current law authorizes the Director of Health to suspend or revoke the license of a tattoo artist, but it is not clear that the director has the authority to deny a renewal of a license if the applicant does not meet the requirements of Hawaii Administrative Rules, Chapter 17, Tattoo Artist. This measure would allow the director, in addition to suspending or revoking a license, to deny the renewal of a license.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2772 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2144 Health and Human Services on S.B. No. 3001

The purpose of this measure is to establish a pilot project within the Department of Health to encourage public employees to participate in health screening and to adopt healthier lifestyles.

Your Committee received testimony in support of this measure from Hawaii Medical Service Association (HMSA).

Your Committee finds that it is in the State's best interest to encourage every resident, both state employees and non state employees, to lead healthier lifestyles. Healthier residents are happier and lead more fulfilling lives, and help to lower health care costs for the State in the long term.

Therefore, your Committee supports this measure, which directs the Department of Health to establish the "wellness pilot program" to encourage state employees to participate in health screenings, and to adopt healthier lifestyle habits.

This measure will be automatically repealed on June 30, 2004. Your Committee has amended this measure to provide that, on the day on which this measure is repealed, section 382L-4, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3001, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3001, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Kokubun, Nakata).

SCRep. 2145 Health and Human Services on S.B. No. 3053

The purpose of this measure is to create the public health nursing branch program under the Department of Health.

Your Committee received testimony in favor of this measure from the Hawaii Government Employees Association, Hawaii Nurses' Association, and four individuals. Your Committee received testimony opposing this measure from the Department of Health.

Your Committee finds that the advent of drug resistant tuberculosis, the concerns about bioterrorism and, in Hawaii, the recent outbreaks of dengue fever should alert us to the need for a strong public health structure. Public health nursing is at the core of this public need.

Your Committee has amended this measure by creating a new section rather than a new part to the Hawaii Revised Statutes, and by making nonsubstantive, technical changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3053, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3053, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Kokubun, Nakata).

SCRep. 2146 Labor on S.B. No. 2715

The purpose of this measure is to amend the laws governing the administration of the Employees' Retirement System to significantly simplify and facilitate the expeditious administration and processing of pension benefits for public sector retirees.

The measure also establishes a \$5,000 fine for any department that fails to provide the Employees' Retirement System with personnel information needed to finalize pension benefits within sixty days of the System's request.

Testimony in support of the measure was received from the Department of Budget and Finance. The University of Hawaii, the City and County of Honolulu's Department of Human Resources and Police Department, the County of Maui's Department of Personnel Services, and the County of Kauai's Department of Personnel Services all voiced concerns over the \$5,000 fine. The City and County of Honolulu's Police Department was also concerned that making pension payments monthly instead of semi-monthly and restricting the days upon which a retiree is allowed to designate as the retiree's date of retirement...both contained as amendments in the measure...would place undue burdens on retirees. The Employees' Retirement System provided comments on the measure.

Your Committee finds that the measure:

1. Assesses a \$5,000 penalty to departments or agencies for non-compliance with an ERS request for personnel information;
2. Requires the Department of Health to furnish death records of retirees and beneficiaries to the Employees' Retirement System;
3. Simplifies the computation of retirement service credits;

4. Simplifies average final compensation (AFC) computations;
5. Commences pension benefits on the first of each month;
6. Extends the ninety-day filing requirement for retirement to 150 days;
7. Changes pension benefit payments from semimonthly to monthly; and
8. Allows beneficiaries to keep a full month's pension for the month of the pensioner's death;

Your Committee finds that these proposals will enable the Employees' Retirement System to finalize member's retirement, disability, and death benefits on a more timely basis, and reduce the significant retirement research effort by the State and county payroll and personnel offices.

Your Committee has amended the measure by:

- (1) Deleting the provisions that enable the Employees' Retirement System to impose a fine on noncomplying departments and agencies;
- (2) Deleting the provisions that require the Department of Health to furnish death records of retirants and beneficiaries to the Employees' Retirement System;
- (3) Recasting the provisions that require pension benefits to be paid on a monthly basis effective January 1, 2003, so that the monthly pension benefit payment only affects persons retiring after January 1, 2003; and
- (4) Making numerous technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2715, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2715, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Ihara, Kanno, Kawamaoto, Sakamoto).

SCRep. 2147 (Joint) Agriculture and Water, Land, Energy, and Environment on S.B. No. 2245

The purpose of this measure is to appropriate funds for preparation of the state agricultural water use and development plan by the department of agriculture, with the assistance of the commission on water resource management.

Testimony supporting this measure was received from the Department of Agriculture, Department of Land and Natural Resources, City and County of Honolulu Board of Water Supply, Del Monte, Hawaii Leeward Planning Conference, Pineapple Growers Association of Hawaii, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, and Big Island Farm Bureau.

Your Committees find that the success of Hawaii's agriculture industry hinges on proper water resource management. In 1998, the Legislature amended the State water code to require the Department of Agriculture to develop a comprehensive agricultural water use and development plan, including a master irrigation inventory plan. The federal government has recently approved an appropriation of \$300,000 for the plan that is contingent upon the appropriation of matching state funds. This measure provides the funds necessary to prepare the plan and ensure the availability of water for Hawaii's growing agriculture industry.

Your Committees have amended this measure by recognizing that the federal government has appropriated federal funding that requires the state matching funds appropriated in this measure.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2245, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2245, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (English, Hanabusa, Ihara, Kawamoto, Matsunaga, Hemmings).

SCRep. 2148 (Joint) Health and Human Services and Judiciary on S.B. No. 2150

The purpose of this measure is to require medical referrals to a qualified medical facility for an opinion on whether child abuse or neglect has occurred.

Testimony in support of this measure was received from Department of Human Services (DHS) and Kapiolani Child Protection Center.

Your Committees find that the DHS could use help in determining whether or not child abuse or neglect has occurred in reported cases. The signs and symptoms of abuse or neglect are often subtle and at times not visible. A trained expert physician is oftentimes necessary to assist in making a diagnosis of child abuse or neglect.

There are medical specialists and facilities specializing in diagnosing and treating child abuse and neglect. Your Committees believe that these medical resources should be used by the DHS in these cases. The intent of your Committees is that most suspected cases should be referred for an opinion, in the interests of protecting the safety of the child. Your Committees have every confidence in the treating physicians, particularly pediatricians, to recognize these cases. However, there is everything to gain and nothing to lose in seeking a second medical opinion. In this regard, your Committees view this measure as good medicine. More particularly, a second expert opinion could assess the severity and length of time of abuse and recommend treatment modalities, both medical and psychological for the child.

Your Committees request the DHS to implement a system review procedure that starts with a case file review followed by an interview with the reporting person, and if necessary, with the parent or custodian of the child. If from there, the DHS is still not completely satisfied that an abuse or neglect has not occurred, your Committees believe that a referral should be made for a second opinion. The DHS should bear in mind that time is of the essence. For the sake of the file review, your Committees suggest that the medical referral expert could assist in making a preliminary review in appropriate cases without examining the child.

Your Committees have amended this measure to require the DHS to review every report of child abuse or neglect to determine if a medical referral is necessary to obtain a definitive medical opinion, and to make an immediate referral accordingly. Your Committees have dispensed with informed consent for purposes of this referral, in recognition of the gravity and urgency of the matter and the probable non-cooperation of the parent or guardian.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2150, as amended herein, and recommend 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 Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Chun, Fukunaga, Ihara, Kokubun).

SCRep. 2149 (Joint) Health and Human Services and Judiciary on S.B. No. 2594

The purpose of this measure is to appropriate \$10,000 to reduce drug abuse.

Your Committees received oral testimony in support of the measure from the Narcotics Enforcement Division of the Department of Public Safety.

Your Committees find that the Narcotics Enforcement Division of the Department of Public Safety conducts numerous free public presentations annually to deter drug abuse through education. Although the department leverages public resources by partnering with schools and private nonprofit organizations, it still has expenses related to producing photocopied handouts and other educational materials. This measure would help meet those expenses.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2594 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Fukunaga, Ihara, Kokubun).

SCRep. 2150 Health and Human Services on S.B. No. 2964

The purpose of this measure is to statutorily establish the Hawaii Commission for National and Community Service (Commission).

Testimony in support of this measure was received from the Department of Human Services, Department of Education, and the Commission. Comments were received from the Department of Labor and Industrial Relations (DLIR).

The Commission was created by Executive Order 94-01 and was placed in the DLIR for administrative purposes. Hawaii is required to have the Commission in order to receive federal funds through the Corporation for National Service for the AmeriCorps national service program, as part of the National and Community Service Act of 1993.

This measure gives the Commission a permanent home, inasmuch as an executive order is necessarily temporary in nature in accordance with section 26-41, Hawaii Revised Statutes, relating to the creation of temporary boards and commissions by the Governor.

Your Committee is aware that a similar measure was vetoed by the Governor last year (S.B. No. 1535), for the reason that the bill was unnecessary because the Commission continues to exist to receive federal funds and the DLIR provides adequate administrative support. However, your Committee remains uneasy about the temporary nature of the Commission and prefers that it be established in statute.

Your Committee has amended this measure by replacing the Department of Human Services with the University of Hawaii as the most appropriate agency to house the Commission. According to testimony of the Commission, "The prospects of operating out of a University of Hawaii base provides promise of a mutually beneficial collaboration with extensive benefits for the national and

community service movements in Hawaii. The long history of interest and support for service learning throughout the University system makes this an ideal location to nurture the Commission to its full potential.”

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2964, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2964, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Kokubun, Nakata).

SCRep. 2151 Water, Land, Energy, and Environment on S.B. No. 2030

The purpose of this measure is to prohibit the Public Utilities Commission from approving a public utility rule, standard, or guideline that establishes a standby charge for a nonutility generator.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism (DBED&T), The Gas Company, Hui `Enekinia Hawai`i, ILWU Local 142, Hawaii Hotel Association, Starwood Hotels and Resorts in Hawaii, Sierra Club Hawai`i Chapter, Life of the Land, and one individual. The Public Utilities Commission, Hawaiian Electric Company, Inc., and Kauai Electric testified in opposition. One individual submitted comments.

Your Committee finds that a standby charge is a disincentive to nonutility distributed energy resources, and that such charges may not consider potential benefits of the nonutility generator to the utility system. In fact, increased activity by nonutility generators offers advantages to the customer self-generators and to Hawaii’s centralized electricity grids through greater reliability and improved power quality, opportunities for fuel diversity and renewable energy use, geographic dispersion of generation, reduction of transmission line losses by location at the user’s site, greater efficiency, and lower cost electricity when compared to central station utility power.

Despite these advantages, the current standby charges are a serious impediment to companies interested in making an investment in cogeneration. Your Committee has heard of charges of as much as \$100,000 a year for a hotel on the island of Hawaii – a magnitude that can change the economics of any project.

Your Committee is also concerned about the substantial differences in standby charges – both the rate charged and the applicability of the rates. Testimony before this Committee indicated that Kauai Electric has a fixed standby charge of \$5 that is added to the demand charges in their regular rate schedule, in contrast to the Big Island’s fixed standby charge of \$11.40, which is not added to the existing demand charge. Testimony further indicated that unlike the Big Island hotel that pays standby charges of \$100,000 a year, a cogeneration hotel project on Maui is not expected to cost that hotel any money in standby fees. These inequities further discourage development of energy alternatives in Hawaii.

Your Committee understands that DBEDT currently is conducting a study of “Distributed Energy Opportunities in Hawaii” under a grant from the U.S. Department of Energy, which is scheduled for completion in late 2002. It will provide an analysis of the potential market for distributed energy resources and the barriers, such as high standby charges and customer retention discounts.

Your Committee looks forward to the completion of this valuable report and any recommendations regarding the removal of barriers. However, your Committee believes that further discussion of the prohibition in this measure is merited and is passing the measure out for this purpose.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2030 and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Chun, Matsunaga).

SCRep. 2152 Water, Land, Energy, and Environment on S.B. No. 2669

The purpose of this measure is to authorize issuance of \$55,000,000 in special purpose revenue bonds to assist Pacific Wind Energy LLC in the construction of three wind energy conversion systems facilities on Maui and at South Point and North Kohala on the island of Hawaii.

Testimony in support of this measure was received from Pacific Wind Energy LLC and Sierra Club Hawai`i Chapter.

Your Committee finds that Hawaii is fortunate to have plentiful and consistent winds that can be harnessed and converted into the efficient production of electricity. In addition, the islands of Maui and Hawaii have ample lands available for the conversion of wind to energy.

Your Committee is supportive of this effort to increase the production and resulting use of alternative energy for Hawaii residents.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2669 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun Oakland, English, Ihara, Matsunaga).

SCRep. 2153 Water, Land, Energy, and Environment on S.B. No. 2774

The purposes of this measure are to broaden the parties eligible for loans and to provide another means to assist in financing eligible projects for environmental programs in Hawaii through the Drinking Water Treatment Revolving Fund and the Water Pollution Control Revolving Fund.

Testimony in support of this measure was received from the Department of Health.

Your Committee finds that this legislation broadens the class of recipients eligible for financial assistance beyond counties and state agencies to private entities or landowners to assist in financing nonpoint source and other eligible water pollution control projects. Your Committee has heard that the United States Environmental Protection Agency has documented that over fifty per cent of the pollution of our water environment is from nonpoint sources, and in Hawaii, most of the impaired water bodies are due to nonpoint source pollution. The vast majority of these pollution problems occur on private lands, and providing financial assistance to private entities is in the public interest because the pollution of state waters from private lands affects the public.

Your Committee has amended this measure to incorporate minor language changes as recommended by the Department of the Attorney General, to make the appropriation section effective July 1, 2002, and to make technical, nonsubstantive amendments to reflect the preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Chun Oakland, Ihara, Matsunaga).

SCRep. 2154 Water, Land, Energy, and Environment on S.B. No. 2808

The purpose of this measure is to authorize the Commission on Water Resource Management to determine appurtenant water rights under the State Water Code.

Testimony in support of this measure was received from the Commission on Water Resource Management and Earthjustice.

Your Committee finds that Article XI, Section 7, of the State Constitution calls for the protection of appurtenant water rights, and the State Water Code specifically provides that appurtenant rights are preserved under section 174C-63 Hawaii Revised Statutes. However, the Hawaii Supreme Court has said that appurtenant rights are an incident of land ownership, and defined appurtenant water rights as the "rights to the use of water utilized by parcels of land at the time of their original conversion into fee simple lands." Reppun v. Board of Water Supply, 65 Hawaii 531, 551 (1982).

Your Committee has heard that because the determination of appurtenant water rights is directly tied to a determination of rights in land, on April 25, 2001, the Department of the Attorney General (AG) advised the Commission that it is not currently authorized to determine appurtenant rights, since the Commission lacks authority to make determinations about rights in land. The AG advised that under the current law, the courts are the proper forums to determine appurtenant water rights.

Your Committee understands that adjudicating appurtenant rights in the courts in most cases will be very expensive and time consuming. In addition, the Commission strongly believes the inability to determine and quantify appurtenant rights will seriously hamper the Commission from carrying out its responsibilities in allocating water in water management areas and determining instream flow standards.

Your Committee supports providing the Commission with the appropriate authority to carry out its duties to protect appurtenant rights, while at the same time recognizing the proper jurisdiction of the courts in land matters. Your Committee has amended this measure to address a concern that the proposed language was too narrow, to make technical amendments to remove references to a statute that will be repealed on July 1, 2002.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2808, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2808, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Matsunaga, Nakata).

SCRep. 2155 Water, Land, Energy, and Environment on S.B. No. 2908

The purpose of this measure is to authorize \$25,000,000 in special purpose revenue bonds to assist Central Oahu Recycling and Disposal Facility, Inc., in acquiring land, planning, designing, and constructing a private solid waste recycling and disposal facility on Oahu.

Testimony in support of this measure was received from Central Oahu Recycling & Disposal Facility, Inc., and Eco-Feed, Inc. The Department of Health submitted comments.

Your Committee finds that currently, only about thirty per cent of Oahu's solid waste is being actively recycled, lagging far behind the State's goal to recycle fifty per cent of its solid waste by year 2000. In addition, Oahu is experiencing a severe shortage of landfill space at its current facility.

Your Committee is supportive of efforts to increase recycling and reduce landfill usage, providing both environmental and economic benefits to the State.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2908 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Ihara, Nakata).

SCRep. 2156 Economic Development and Technology on S.B. No. 2262

The purpose of this measure is to extend the drop-dead date for the residential construction and remodeling tax credit and the cut-off date for claiming qualifying costs under the tax credit to December 31, 2005, and July 1, 2005, respectively. This measure also allows developers to transfer the tax credit to buyers of the property that was the basis of the tax credit.

Your Committee received testimony in favor of this measure from the Department of Budget and Finance, Land Use Research Foundation of Hawaii, General Contractors Association of Hawaii, Subcontractors Association of Hawaii, AIA Hawaii State Council, Hawaii Construction Industry Association, Visitor Industry Coalition, Hawaii Operating Engineers Industry Stabilization Fund, Ko Olina Resort and Marina, and Building Industry Association - Hawaii. Your Committee also received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

Your Committee finds that this measure will provide a needed boost to combat the lingering effects of Hawaii's economic downturn. The economic benefits of the additional wages and taxes paid as a direct result of the renovations and new construction, as well as more taxes that will be generated from additional spending by our residents, will make up for any lost tax revenue resulting from the tax credit.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2262 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Matsunaga, Taniguchi, Slom).

SCRep. 2157 Economic Development and Technology on S.B. No. 2368

The purpose of this measure is to appropriate funds to repair and maintain Aloha Stadium.

Your Committee received testimony in favor of this measure from the Department of Accounting and General Services and an individual.

Your Committee finds that Aloha Stadium is a public facility for public events that needs to be properly maintained. Additionally, a well maintained facility can protect the State from liability.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2368 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Taniguchi).

SCRep. 2158 Economic Development and Technology on S.B. No. 2371

The purpose of this measure is to provide a general excise tax holiday for purchases of clothing or footwear priced less than \$100 upon the enactment of federal legislation reimbursing the State for the tax exemption.

Your Committee received testimony in favor of this measure from Retail Merchants of Hawaii and comments on this measure from Tax Foundation of Hawaii. Your Committee received testimony opposing this measure from the Department of Taxation.

Your Committee finds that the downturn in our economy since September 11th created difficulties for our businesses as well as for our residents. A tax holiday will provide a measure of relief for Hawaii's families and will help the retail industry continue its large contribution to Hawaii's economy.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2371 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Kim, Matsunaga).

SCRep. 2159 Economic Development and Technology on S.B. No. 2376

The purpose of this measure is to appropriate moneys for additional camping cabins in state parks.

Your Committee received testimony opposing this measure from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds that there are not enough cabins throughout our state parks for residents as well as visitors to enjoy.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2376 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Taniguchi).

SCRep. 2160 Economic Development and Technology on S.B. No. 2383

The purpose of this measure is to expand the definition of "qualified hotel facility" to include property on which commercial or recreational use is permitted and offsite improvements necessary to service destination resort areas.

Your Committee received testimony in favor of this measure from the Hawaii Tourism Authority, Land Use Research Foundation of Hawaii, Hawaii Hotel Association, Visitor Industry Coalition, Hawaii Resort Developers Conference, Waikiki Improvement Association, Ko Olina Resort and Marina, Hawaii Activities and Tours Association, and Hawaii Operating Engineers Industry Stabilization Fund. Your Committee received testimony opposing this measure from the Department of Taxation, and comments from Tax Foundation of Hawaii.

Your Committee finds that a tax credit to boost Hawaii's tourism and construction industries would be beneficial to enhance economic activity and the overall appearance and offerings of Hawaii's resort areas on a competitive level.

Your Committee has amended this measure by including a commercial construction and remodeling tax credit to further enhance the State's economy.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2383, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2383, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Kim, Matsunaga).

SCRep. 2161 Economic Development and Technology on S.B. No. 2408

The purpose of this measure is to appropriate moneys to support the activities of PACON International, the Pacific Congress on Marine Science and Technology.

Your Committee received testimony in favor of this measure from the Department of Business, Economic Development, and Tourism and the National Director, President, and Chairman of PACON International.

Your Committee finds that the Department's involvement with PACON International has provided access to high-level officials in government ministries and private enterprise throughout Asia that has benefited the Ocean Resources Branch's ocean science and technology marketing program. Further, PACON International will match every dollar appropriated.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Taniguchi).

SCRep. 2162 Economic Development and Technology on S.B. No. 2411

The purpose of this measure is to appropriate moneys to the Department of Business, Economic Development, and Tourism to market Hawaii products and services.

Your Committee received comments on this measure from the Department of Business, Economic Development, and Tourism.

Your Committee finds that, given the recent changes within our economy, diversifying Hawaii's economy by strengthening the sales of our manufacturing and professional service sectors will help in offsetting the loss of revenues and employment opportunities in tourism related businesses.

Your Committee has amended this measure by changing the dollar amount of the appropriation to \$1 to allow your Committee on Ways and Means to make the final dollar determination.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2411, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Taniguchi).

SCRep. 2163 Economic Development and Technology on S.B. No. 2414

The purpose of this measure is to increase income tax deductions for business meals and entertainment expenses from fifty per cent to one hundred per cent, and to allow business entertainment deductions for club dues.

Your Committee received testimony in support of this measure from the Retail Merchants of Hawaii, Hawaii Hotel Association, the Hawaii Business League, and Hawaii Restaurant Association, and comments on this measure from Tax Foundation of Hawaii. Your Committee received testimony opposing this measure from the Department of Taxation.

Your Committee finds that this measure puts Hawaii at the forefront in encouraging business tourism. These deductions should have a dramatic and positive impact on small retailers and other businesses that do not have the facilities to host meetings and/or entertain clients on their premises, and must bear the additional cost of restaurants and outside meeting rooms.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2414 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Matsunaga, Taniguchi).

SCRep. 2164 Economic Development and Technology on S.B. No. 2540

The purpose of this measure is to appropriate funds for the Community-Based Economic Development Program of the Department of Business, Economic Development, and Tourism.

Your Committee received testimony in favor of this measure from the Department of Business, Economic Development, and Tourism, Hawaii County Department of Research and Development, Kauai County Office of Economic Development, Kauai Food Bank, Hawaii County Economic Opportunity Council, Hilo-Hamakua Community Development Corporation, Hawaii Alliance for Community-Based Economic Development, Hawaii Alliance for Community-Based Economic Development, Louis Pohl Gallery, Na Po'e Ho'a Aina, MEO Business Development Corporation, Nanakuli Neighborhood Housing Services, Inc., Community Works, Garden Island Resource Conservation & Development, Inc., Maunaloa Valley Community Association, Papakolea Community Development Corporation, Ko'olauloa Educational Alliance Corporation, Hamakua Diversified Agricultural Association, Waimanalo Community Development Corporation, and three individuals.

Your Committee finds that the Community-Based Economic Development Program has helped communities become economically self-sufficient by funding community-based economic development ventures and assisting in the building of business and organizational skill levels.

Your Committee has amended this measure by inserting \$150,000 as the appropriation amount.

The \$150,000 appropriation is to permit the enhancement and continuation of financial and technical assistance to eligible community organizations that enables them to plan and implement economic development projects and ventures that provide employment opportunities, builds economic capacity, strengthens identity, and helps to retain and create cultural anchors. Funding will increase the number of jobs, create additional new businesses and assist in expanding established businesses in Hawaii's communities. The program also anticipates a significant increase in the number of community organizations seeking technical and financial assistance. Funding will assure the Program is able to provide training and capacity building opportunities to promote, support, and invest in community-based development projects that result in measurable economic impact.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology 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 Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ige, Kim, Matsunaga).

SCRep. 2165 Hawaiian Affairs on S.B. No. 2472

The purpose of this measure is to appropriate funds for the Office of Health Status Monitoring of the Department of Health to establish a system to allow people of Hawaiian heritage to have access to and copies made of their vital records to prove their ethnic identity without charge to them.

Your Committee received testimony in support of this measure from the Department of Hawaiian Home Lands (DHHL), the Oahu Council of Hawaiian Civic Clubs, and four concerned citizens.

Your Committee finds that the increased cost of vital records searches has caused an economic hardship for individuals trying to verify their eligibility for the Hawaiian home lands program and other Hawaiian entitlement programs.

While DHHL has made efforts to reduce the documentation required of its clients, the process of determining an individual's native Hawaiian qualifications is still time consuming and costly.

Therefore, your Committee supports this measure, which appropriates public funds to establish a more efficient system to allow native Hawaiians to access their vital statistics.

The appropriation amount has been left blank for determination by your Committee on Ways and Means.

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. 2472 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2166 Hawaiian Affairs on S.B. No. 2880

The purpose of this measure is to appropriate funds to the Department of Hawaiian Home Lands for the maintenance and upkeep of Puea Cemetery.

Testimony in support of the measure was received from three private citizens. The Department of Hawaiian Home Lands submitted comments on the measure and recommended that if the measure is to move forward in the legislative process, that another expending agency be designated, since the Puea Cemetery is not situated on Hawaiian Home Lands.

Your Committee finds that Puea Cemetery in Kapalama is one of four major state cemeteries on Oahu. The oldest marker in the cemetery dates back to 1903 and other markers indicate that the buried include persons of Hawaiian, Filipino, Portuguese, Chinese, Japanese, Puerto Rican, Korean, English, and Irish ancestry. A portion of the cemetery, owned by the Kaahumanu Society, is well maintained and protected by a chain link fence. However, the rest of the cemetery is not fenced in or otherwise contained. As a result, the cemetery, which is located within an urban, residential area and adjacent to public roads and walkways, suffers from the thoughtless and disrespectful actions of those who litter the grounds, walk over graves, and walk their pets through the cemetery.

Your Committee has amended the measure by replacing the Department of Hawaiian Home Lands with the Department of Accounting and General Services as the expending agency.

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. 2880, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2880, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2167 Hawaiian Affairs on S.B. No. 2476

The purpose of this measure is to provide interim revenue to the Office of Hawaiian Affairs (OHA).

Testimony in support of the measure was received from the OHA, Association of Hawaiian Clubs, and a private individual. Your Committee heard testimony in opposition to the measure from three private individuals.

Your Committee finds that a September, 2001, Hawaii Supreme Court decision effectively cut off ceded land revenue to OHA mandated by the State Constitution. This measure provides funds to allow OHA to continue its mission until such time as a more lasting and comprehensive settlement can be worked out.

Your Committee has amended the measure by:

- (1) Adding a definition of "public land trust" to Chapter 10, Hawaii Revised Statutes;
- (2) Deleting references to "pro rata" in sections 10-3 and 10-5, Hawaii Revised Statutes;
- (3) Making technical, nonsubstantive amendments to section 10-13.5, Hawaii Revised Statutes, for the purpose of style;

- (4) Adding a new section to Chapter 10, Hawaii Revised Statutes, that requires OHA to annually report to the Governor and the Legislature on how land trust proceeds are expended; and
- (5) Making other technical, nonsubstantive amendments for the purpose of clarity and style.

The amendments made by your Committee are a restoration of certain provisions of Act 304, Session Laws of Hawaii 1990, the entirety of which was repealed due to the Hawaii Supreme Court's ruling in Office of Hawaiian Affairs v. State of Hawaii, 96 Haw. 388, 31 P.3d 901 (2001).

Your Committee believes that the amended measure will assist OHA in effectuating its intended purpose until such time that the issues regarding how much is owed and the propriety of paying ceded land revenues to OHA are finally resolved.

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. 2476, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2476, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2168 Hawaiian Affairs on S.B. No. 2750

The purpose of this measure is to broaden the use of the Native Hawaiian Rehabilitation Fund (NHRF) to allow the provision of NHRF supported programs and services to native Hawaiian families, Hawaiian homestead communities, and other organizations controlled by native Hawaiians.

Testimony in support of the measure was received from the Department of Hawaiian Home Lands (DHHL), the Hawaiian Caucus of the Twenty-first Legislature, and the State Council of Hawaiian Homestead Associations. Ka Lahui Hawaii and two private citizens testified in opposition to the measure.

Your Committee finds that the measure will enable DHHL to utilize its resources to assist a greater number of native Hawaiians while also providing ancillary benefits to the community-at-large.

Your Committee has amended the measure by making technical amendments for the purpose of clarity.

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. 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2169 Hawaiian Affairs on S.B. No. 2478

The purpose of this measure is to allow trustees of OHA to participate in and receive the same retirement benefits as other state elected officials.

Your Committee received testimony in support of the measure from the Hawaiian Caucus of the Twenty-first Legislature, 2002, Office of Hawaiian Affairs, Association of Hawaiian Civic Clubs, and a private individual. Your Committee received testimony in opposition to the measure from a private individual.

Your Committee finds that Office of Hawaiian Affairs trustees are treated differently from both their elected colleagues at the State and County levels and their own employees, all of whom are entitled to State retirement benefits as a condition of their employment. This measure corrects this inequitable situation by allowing the trustees to participate in the Employees' Retirement System and to accrue retirement benefits as other elected State officials and the employees of the Office of Hawaiian Affairs do.

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. 2478 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2170 Transportation, Military Affairs, and Government Operations on S.B. No. 2212

The purpose of this measure is to authorize state purchasing agencies to utilize two-step design-build proposals when procuring construction projects, and to require payment to unsuccessful offerors when a design-build process is used.

Your Committee received testimony in support of this measure from the Department of Accounting and General Services (DAGS), the Hawaii Chapter of the American Public Works Association, the Consulting Engineers Council of Hawaii, and the American Institute of Architects.

Your Committee finds that design-build requests for proposals are beneficial for highly specialized projects that require a high level of creativity and cooperation between the designer and the construction agent. Your Committee believes that the design-build process will lead to more efficient use of government resources in the long run, as the total cost of some projects will be lower and the resulting structures sounder.

Your Committee also recognizes that the time, effort, and resources necessary to develop a proper design-build proposal is significantly higher than most bids. Therefore, your Committee supports this measure insofar as it requires compensation to unsuccessful offerors. In return, the purchasing agency will have proprietary rights over each proposal, and can cull the useful portions of each when crafting the final design.

Your Committee amended this measure based on recommendations submitted by DAGS. As amended, the head of the purchasing agency has the discretion whether to use a two-step design-build process. Also, compensation to unsuccessful offerors will be limited to bidders for projects with a total construction estimate of greater than \$5,000,000.

Your Committee finds that these amendments will give the purchasing agency the necessary flexibility to determine when a design-build process should be used, and will not unduly burden purchasing agencies by requiring compensation to unsuccessful offerors on smaller projects.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2212, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2212, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2171 Transportation, Military Affairs, and Government Operations on S.B. No. 2221

The purpose of this measure is to change the time in which the Department of Accounting and General Services is required to submit its annual financial statement and status report concerning the State educational facilities improvement special fund to the legislature.

Your Committee received testimony in favor of this measure from the Department of Accounting and General Services.

Your Committee finds that the Department is able to prepare the annual report within ninety days after each fiscal year-end of June 30th. Your Committee defers to the Committee on Ways and Means to establish the date.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2221 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2172 Transportation, Military Affairs, and Government Operations on S.B. No. 2321

The purpose of this measure is to increase the age of mandatory child safety seat usage from 4 to 8 years old, with certain limited exceptions.

Your Committee received testimony in support of this measure from the Department of Transportation, the Department of Health, the Honolulu City and County Police Department, the Maui County Police Department, the Hawaii County Police Department, the Keiki Injury Prevention Coalition, the Waianae Coast Comprehensive Health Center, the Hawaii Association of Independent Schools, State Farm Mutual Automobile Insurance Company, Blueprint for Change, and a concerned citizen.

Your Committee finds that child passenger safety must be a priority in this State. Although a similar measure was vetoed by the Governor following the 2001 regular session, your Committee believes that children must be adequately protected when riding in automobiles.

Your Committee received an enlightening demonstration of proper safety seat use during the public hearing on this measure. The demonstration showed how an adult sized seat belt is completely inadequate to protect small children from injury in the event of a motor vehicle accident. With a child safety seat, the same child can use a seat belt properly.

Your Committee also finds that the requirements of this measure are not too onerous to impose upon the drivers of this State. First, there are exemptions for children over 80 pounds and for older vehicles equipped only with lap belts in the back seat.

In addition, your Committee finds that a compliant child safety seat costs between \$20-\$30, and that with the tax credit provided by the State for purchasers of such a seat, the economic impact on a family will be either nothing or very little.

Therefore, your Committee fully supports this measure to protect small children riding in automobiles.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2321 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2173 Transportation, Military Affairs, and Government Operations on S.B. No. 2335

The purpose of this measure is to eliminate the requirement that a neighborhood electric vehicle (NEV) display a slow moving vehicle emblem.

Your Committee received testimony in support of this measure from the Department of Transportation.

Your Committee finds that NEVs are restricted to roads with a speed limit of no greater than 35 miles per hour and that most NEVs are capable of traveling at speeds up to 25 miles per hour. Your Committee further finds that slow moving vehicle emblems are designed primarily for use on heavy machinery that is being driven on roads with a speed limit of greater than 35 miles per hour.

Therefore, your Committee supports this measure, which will remove an onerous and unnecessary requirement for NEV drivers.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2335 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2174 Transportation, Military Affairs, and Government Operations on S.B. No. 2337

The purpose of this measure is to provide enhanced penalties, including vehicle forfeiture for third offenses, for persons convicted of reckless driving or racing on highways.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Honolulu City and County Police Department, the Maui County Police Department, the Hawaii County Police Department, and a concerned citizen. The Office of the Public Defender submitted testimony in opposition to this measure.

Your Committee finds that racing on our highways has become an increasingly common problem in Hawaii. The number of speed and racing related accidents and fatalities is far too high, and your Committee believes that harsher penalties may be an appropriate deterrent.

Therefore, your Committee supports this measure, which provides enhanced penalties for persons convicted of racing on a highway. Under this measure there are separate, stepped-up penalties for first, second, and third offenses. In addition, this measure, as referred to your Committee, provides for vehicle forfeiture for persons convicted of reckless driving.

Your Committee amended this measure to insert a vehicle forfeiture provision for persons convicted of racing on highways for a third time, and to amend the vehicle forfeiture provision proposed for persons convicted of reckless driving so that forfeiture will only occur upon a third reckless driving offense.

Your Committee finds that vehicle forfeiture should be included as one of the penalties for racing on highways, as an additional deterrent. At the same time, your Committee believes that vehicle forfeiture is a drastic state action that should be reserved for third offenders in all cases.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2337, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2337, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2175 Transportation, Military Affairs, and Government Operations on S.B. No. 2767

The purpose of this measure is to establish a separate offense for parking in or otherwise using the access aisle adjacent to a parking space reserved for persons with a disability.

Your Committee received testimony in support of this measure from the Maui County Police Department and the Disability and Communications Access Board.

During the 2001 regular session, legislation was enacted providing for increased penalties for persons who violate the law regarding parking for persons with disabilities. Your Committee finds that this measure is a logical extension of last year's amendments.

Your Committee finds that the access aisle adjacent to parking spaces reserved for persons with a disability is important to provide sufficient room to enter and exit vehicles parked in those spaces.

A person who illegally uses the access aisle inhibits use of that space to nearly the same extent as a person who illegally parks within the space itself. Therefore, your Committee fully supports this measure.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2767 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2176 Transportation, Military Affairs, and Government Operations on S.B. No. 2842

The purpose of this measure is to authorize the Director of Transportation (Director) to extend revocable permits for concessionaires for up to one year if such an extension is necessary due to a natural disaster or an adverse economic condition.

Your Committee received testimony in support of this measure from the Department of Transportation (DOT), the Airports Concessionaires Committee, HMS Host International, APCOA, and Catrala-Hawaii.

Through legislation enacted during the 2001 regular session, the Director was given the authority to issue revocable permits to airport concessionaires for up to one year for any purpose. Your Committee supports this measure, as amended, which authorizes extensions of such permits for up to one additional year.

Your Committee finds that this measure is necessary in light of the economic downturn resulting from the September 11, 2001, terrorist attacks against the United States. Air travel has declined significantly, and consequently, airport concessionaires have been devastated.

As a result, it has proven difficult to obtain responsive bidders for airport concessions. Therefore, your Committee finds that it makes sense to authorize extensions of revocable permits for concessions, so that the concessions can remain open to serve visitors and other passengers at the airport.

Your Committee amended this measure to limit the duration of any extension to one year, and to delete the requirement that a "statewide" emergency occur to justify an extension. In addition, your Committee amended this measure to define exactly what type of "economic condition" may justify an extension.

Your Committee finds that these amendments strike the appropriate balance between giving the Director the flexibility necessary to ensure that airport concessions remain open, while providing a measurable standard for the Director to follow in making such a determination.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2842, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2842, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 2177 Transportation, Military Affairs, and Government Operations on S.B. No. 410

The purpose of this short form bill is to amend the law relating to transportation.

The purpose of this measure, as amended by your Committee, is to amend the legal requirements for interisland transfers of vehicles in order to strike a balance between the need for administrative simplicity and the need to protect the public against theft and fraudulent transfers.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the action to report out S.B. No. 410, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 410, S.D. 1, and be recommitted to the Committee on Transportation, Military Affairs and Government Operations, for further consideration.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Inouye, Menor, Taniguchi).

SCRep. 2178 Commerce, Consumer Protection and Housing on S.B. No. 2294

The purpose of this measure is to recodify the laws relating to financial services loan companies.

The Hawaii Financial Services Loan Association testified in support of this measure. The Commissioner of Financial Institutions (Commissioner) offered amendments to the measure.

This measure repeals article 9 of the code of financial institutions relating to financial services loan companies (FSLCs) and replaces it with two new articles relating to depository FSLCs and nondepository FSLCs, respectively. The proposed new laws, among other things:

- (1) Provide depository FSLCs with greater flexibility in their operations, similar to that enjoyed by banks, savings banks, and savings and loan associations;
- (2) Establish a 24% usury ceiling on loans made by depository FSLCs, the same as that applicable to banks, savings banks, and savings and loan associations, and a 31.66% annual percentage rate ceiling on certain simple interest loans made by nondepository FSLCs;
- (3) Repeal the authority of FSLCs to make precomputed loans, but grandfather in existing precomputed loans;
- (4) Limit or prohibit certain fees and charges that may be assessed against consumers; and
- (5) Establish recordkeeping and reporting requirements for nondepository FSLCs.

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

- (1) Incorporating amendments proposed by the Commissioner that reflect the version of this measure drafted by a task force composed of industry representatives, the division of financial institutions, and others;
- (2) Inserting a delayed effective date of July 1, 2050; and
- (3) Making technical, nonsubstantive changes for purposes of clarity and consistency, and to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2294, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2294, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2179 Commerce, Consumer Protection and Housing on S.B. No. 2450

The purpose of this measure is to assist workers displaced following the events of September 11, 2001, to obtain housing.

Your Committee received testimony in support of this measure from the Housing and Community Development Corporation of Hawaii, Hawaii State Commission on the Status of Women, Hawaii Catholic Conference, Volunteer Legal Services Hawaii, and the Affordable Housing and Homeless Alliance.

The downturn in the economy following the attacks on the United States on September 11, 2001, has resulted in many workers losing their jobs and their ability to afford housing. Without assistance from the State, many families risk becoming homeless. Transitional housing program fees range from \$350 to \$500, sums that the unemployed cannot afford to pay. This measure would provide funding to cover the program fees of eligible families.

Your Committee has amended this measure to reflect its original intention to help displaced workers qualify for "transitional" housing, rather than "traditional" housing, and by making a technical, nonsubstantive change.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2450, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Hogue).

SCRep. 2180 Commerce, Consumer Protection and Housing on S.B. No. 2375

The purpose of this measure is to provide funding for security measures at the State senior and disabled residence complex on Oahu.

The Housing and Community Development Corporation of Hawaii testified in support of this measure.

The State operates three residences for senior and disabled persons on Oahu at Hale Po'ai, Halia Hale, and Puahala Homes. Residents of the homes have been victims of serious crimes, including assault, burglary, and robbery. This measure appropriates funds to provide security personnel and to install security cameras at the complex. Your Committee finds that the implementation of security measures will help to deter and reduce crimes committed against some of the community's most vulnerable residents.

Your Committee has amended this measure by inserting an effective date of July 1, 2050.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2181 Commerce, Consumer Protection and Housing on S.B. No. 2885

The purpose of this measure is to establish that a segregation of taxable income by a land-based telecommunications services provider is valid if the method of segregation utilized is not in conflict with administrative rules.

Sprint testified in support of this measure. The Department of Taxation (Department) opposed the measure and the Tax Foundation of Hawaii submitted comments thereon.

Wireline telecommunications services providers who “bundle” their services by offering interstate, intrastate, and international telecommunication services for one rate, are subject to different taxes, depending on the source of the taxable revenue. Income derived from interstate and international services is subject to the general excise tax (GET), while income derived from intrastate service is subject to the public service company (PSC) tax.

Currently, a wireline provider may segregate in its business records and on its tax returns income taxable under one GET rate from income taxable under another GET rate, and income subject to GET from income subject to the PSC tax. However, if a subsequent audit by the Department concludes that the revenue was incorrectly segregated and additional taxes are due, the wireline provider cannot recoup these additional taxes from a subscriber. This measure would provide greater certainty in the taxation process by deeming a segregation valid so long as the segregation method utilized does not conflict with rules adopted by the Department.

Your Committee understands that the Department and industry representatives are engaged in discussions in an effort to address the concerns underlying this measure. Therefore, to facilitate these discussions, your Committee has amended this measure by delaying its effective date until July 1, 2050. Additionally, your Committee made a technical, nonsubstantive change for clarification.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2182 Commerce, Consumer Protection and Housing on S.B. No. 3031

The purpose of this measure is to enact a new article 1 of chapter 490, Hawaii Revised Statutes (Article 1), relating to the Uniform Commercial Code (UCC).

Testimony in support of this measure was received from Hawaii’s Commission to Promote Uniform Legislation.

Article 1 provides for the general administration of the UCC and covers matters such as definitions, construction, applicability, notice, performance, and remedies. Article 1, first enacted in Hawaii in 1965 and substantially unchanged since, has been adopted in all fifty states. This measure represents the latest suggested enactment, part of the necessary process of updating the law and maintaining the viability of the UCC.

Your Committee has amended this measure by making technical changes for proper drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3031, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3031, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2183 Commerce, Consumer Protection and Housing on S.B. No. 2727

The purpose of this measure is to clarify that the licensing rules applicable to specific regulated professions and vocations, in addition to the specific licensing laws, prevail over uniform licensing laws.

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

The Uniform Professional and Vocational Licensing Act, codified in chapter 436B, Hawaii Revised Statutes (HRS), establishes requirements of general applicability for the State’s regulated professions and vocations, while requirements specific to the professions and vocations are codified in separate chapters within HRS. The uniform Act was not intended to override specific licensing laws, and

section 436B-3, HRS, provides that a respective profession's licensing laws prevail over the uniform laws, except where the former is silent.

Under some licensing schemes, certain regulatory requirements are established by rule, rather than by statute. This has led to some confusion as to whether the specific licensing scheme still prevails over the general licensing laws, since section 436B-3, HRS, references only "laws" when it provides that specific professional and vocational licensing provisions prevail over the general laws. This measure clarifies that administrative rules, adopted by the licensing authority, also prevail over the general provisions of chapter 436B, HRS.

Your Committee has amended this measure by making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2727, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2727, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2184 Hawaiian Affairs on S.B. No. 2751

The purpose of this measure is to allow a homestead lessee, who is at least one-quarter Hawaiian, to transfer the leasehold interest in the tract to a brother or sister who is at least one-quarter Hawaiian.

Your Committee received testimony in favor of this measure from the Department of Hawaiian Home Lands (DHHL), Hawaiian Caucus, and State Council of Hawaiian Homestead Associations.

Your Committee finds that section 208(5) of the Hawaiian Homes Commission Act currently allows a homestead lessee to transfer the leasehold interest in the tract to a husband, wife, child, or grandchild who is at least one-quarter Hawaiian (qualified relatives of the lessee). This measure would authorize a qualified relative of the lessee, with the approval of DHHL, to transfer the lease to a brother or sister who is at least one-quarter Hawaiian. This measure is a positive change that will help ensure that the homestead lease remains in the family of the original lessee.

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. 2751 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2185 Hawaiian Affairs on S.B. No. 2813

The purpose of this measure is to expedite the determination process of the Island Burial Councils.

Testimony in support of the measure was received from the Department of Land and Natural Resources and the Department of Accounting and General Services. Testimony in opposition to the measure was received from the Hawaii Leeward Planning Conference, Communications-Pacific Inc., and three members of various Island Burial Councils.

Your Committee finds that the measure would shorten the existing forty-five day to thirty day time period allocated to the Island Burial Councils to make a determination on how to mitigate a discovery of a native Hawaiian burial site. If the Council is unable to make a determination within the thirty day time frame, the landowner's permit application to execute a mitigation plan would be deemed automatically approved.

Your Committee has concerns with the concept of automatic permit application approval when it involves the preservation or relocation of native Hawaiian remains, particularly those that may be considered as historic. Testimony indicated that in many cases, the councils find it necessary to consult with literally hundreds of potentially impacted area residents who may be descendants of the persons whose remains were discovered. This process invariably requires much time in order to ensure that concerns of potential descendants are appropriately addressed.

In light of these concerns, your Committee has amended the measure by deleting any reference to a specific time period in which applications must be approved and any automatic permit approval, and replaced it with amendments that require each island burial council to adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, that ensure that permit applications will be decided upon in a reasonable amount of time.

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. 2813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2813, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2186 Transportation, Military Affairs, and Government Operations on S.B. No. 2246

The purpose of this measure is to authorize the issuance of general obligation bonds and appropriate money as a grant-in-aid to Hawaii Island Veterans Memorial Inc. to build a combined veterans center in Hawaii county.

Your Committee received testimony in support of the measure from 37 veterans.

Your Committee finds that the measure would provide a safe centralized location for Big Island veterans to access much-needed supportive services, recreational opportunities, and housing. This is a modest request to honor those who have made such tremendous sacrifices so that we, as a society, may live in freedom.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2246 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2187 Transportation, Military Affairs, and Government Operations on S.B. No. 2307

The purpose of this measure is to amend the Hawaii Rules of Evidence to ensure that Hawaii courts admit photogrammetric analysis of electronic photographs.

Your Committee received testimony in support of this measure from an associate professor in the Department of Civil Engineering at the University of Hawaii at Manoa, and a person practicing in the field of photogrammetric analysis. The Honolulu City and County Police Department submitted testimony in opposition to this measure. Your Committee received comments from the Judiciary, the Department of Transportation, and the Office of the Public Defender.

Your Committee finds that, like many states and the federal judiciary, Hawaii's rules of evidence were drafted long before many of today's common technologies were developed. Although the rules are flexible enough to pertain to new technologies, your Committee believes that it makes sense to specifically include any new technologies that the legislature feels must be used or considered by the courts of the State.

Your Committee further finds that photogrammetric analysis is a new technology that may be very useful to the police in clearing accident scenes more quickly, by obviating the need to take distance measurements by hand. Therefore, your Committee also believes that this new technology can benefit all users of State highways, who are sometimes trapped in traffic while hand measurements are taken at accident scenes.

Your Committee finds that the amendments to the rules of evidence contained in this measure will ensure admissibility of photogrammetric evidence, and thus facilitate its use.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2307 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2188 Transportation, Military Affairs, and Government Operations on S.B. No. 2330

The purpose of this measure is to exempt interstate and intrastate shipping cargo from wharfage fees at intermediate ports within the State.

Your Committee received testimony in favor of this measure from Young Brothers, Limited, and Meadow Gold Dairies. Your Committee received testimony opposing this measure from the Department of Transportation and Matson.

Your Committee finds that Hawaii's agricultural industry has much to offer in terms of fresh, quality products, many of which are highly perishable. Hawaii has become increasingly aware of the need for competitive and more accessible ways of inter-island and intrastate transportation to get our agricultural produce and products to market. This measure creates a more level playing field for Hawaii merchants.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2330 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2189 Transportation, Military Affairs, and Government Operations on S.B. No. 2331

The purpose of this measure is to reestablish the Fiftieth Anniversary Commemoration of the Korean War Commission (Commission) and to appropriate funds to enable the Commission to complete its work.

Your Committee received testimony in support of this measure from the Military Affairs Council of the Hawaii Chamber of Commerce, the chair and a member of the Commission, and well over 100 honored veterans. Your Committee was overwhelmed by the level of support for this measure.

Your Committee finds that military veterans hold a special place in our society. The men and women who valiantly fought for the cause of freedom and democracy deserve to be honored and revered for their service.

Your Committee further finds that the Commission was established in 1999 through Executive Order No. 99-07. Although the Commission received a small amount of state funds in 2000, the Commission has not yet completed its work. This problem is compounded due to the fact that the Commission is due to expire no later than the last day of this regular session.

Therefore, your Committee fully supports this measure, both to extend the life of the Commission, and to appropriate funds to enable the Commission to finish its work. The Commission's mission is particularly relevant now, as next year will mark the 50th anniversary of the end of the Korean War.

Your Committee amended this measure to extend the life of the commission for an additional year, until December 31, 2003.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2190 (Majority) Transportation, Military Affairs, and Government Operations on S.B. No. 2336

The purpose of this measure is to require that all drivers under age eighteen are accompanied by an adult when driving at night between the hours of ten and four.

Testimony in support of this measure was received from the Department of Transportation, Department of Education, Department of Health, Honolulu Police Department, Keiki Injury Prevention Coalition, State Farm Mutual Automobile Insurance Company, and Mothers Against Drunk Driving. Testimony in opposition was received from the Public Defender.

This measure recognizes and addresses the fact that young drivers are not as capable and experienced in driving, particularly at night. Being licensed does not detract from that fact.

Your Committee believes that this measure would also curb drag racing and driving under the influence among persons under eighteen. Your Committee is particularly concerned about the number of deaths, seventeen in the first eight months of 2001, attributable to accidents resulting from excessive speed. Young drivers are particularly vulnerable to poor driving habits, due to their relative immaturity and inexperience behind the wheel.

It is not the intent of your Committee to cause undue hardship to youth who drive at night. The restricted hours of 10:00 p.m. to 4:00 a.m. seem reasonable, since youths should be home in bed between those hours. Indeed, most adults are also probably at home. All your Committee asks is that a licensed driver who is at least twenty-one years old accompany the youth within those times.

Your Committee has amended this measure by making technical changes for proper drafting style, and by changing "earliest" to "latest" in reference to the occurrence of specified conditions that trigger eligibility to drive after a suspension or revocation.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2336, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2336, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, 1 (Hemmings). Excused, 1 (Menor).

SCRep. 2191 Transportation, Military Affairs, and Government Operations on S.B. No. 2390

The purpose of this measure is to establish a general excise tax (GET) exemption for amounts derived from contracting by a contractor for commercial construction projects.

Your Committee received testimony in support of this measure from the General Contractors Association of Hawaii, the Hawaii Hotel Association, the Hawaii Pest Control Association, and the Waikiki Improvement Association. Testimony in opposition to this measure was submitted by the Department of Taxation and the Department of Budget and Finance. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that the economy of the State of Hawaii relies heavily on the tourism industry, and that the competition for tourist dollars worldwide is increasing every day. Therefore, your Committee agrees that the State should be looking for ways to bolster that economic sector.

Your Committee further finds that this measure will induce and assist commercial establishments to upgrade existing structures and also to begin new construction. Although your Committee recognizes that this measure will cost the State somewhat in the short term, in the long term the State will benefit from better facilities and increased visitor arrivals.

Your Committee amended this measure to include fumigators and pest control operators within the definition of "contractor," thus enabling those businesses to qualify for the tax exemption. Your Committee finds that fumigation services, particularly pre-treatment of soil, are a construction activity that should qualify for this exemption.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2390, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2390, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2192 Transportation, Military Affairs, and Government Operations on S.B. No. 2488

The purpose of this measure is to appropriate funds for a program to issue removable windshield placards to qualified persons with disabilities.

Testimony in support of this measure was received from the Disability and Communication Access Board, City and County of Honolulu Customer Services Department, and Hawaii County ADA Coordinator.

This measure is an appropriation for the second fiscal year of the fiscal biennium 2001 to 2003. Act 238, Session Laws of Hawaii 2001, appropriated \$176,000 for the program for fiscal year 2001-2002. Parking spaces reserved for persons with disabilities requires the disabled person to have a windshield placard. The program is not self-funded because no fee is charged to qualified persons with disabilities, as such a charge would violate the Americans with Disabilities Act. Therefore, legislative appropriations are necessary to fund the program.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2193 Transportation, Military Affairs, and Government Operations on S.B. No. 2550

The purpose of this measure is to establish a maximum fee for reproducing a government record.

Your Committee received testimony in support of this measure from the Office of Information Practices, Common Cause Hawaii, the League of Women Voters, and a concerned citizen. The Department of Accounting and General Services submitted testimony in opposition to this measure.

Your Committee finds that under Hawaii's laws allowing free access to public and government documents, many citizens request various documents from state agencies. Agencies are required by law to provide photocopies of these documents to accommodate citizen requests.

Your Committee further finds that there is no cap on the fee an agency may charge for photocopying documents and that as a result, there is inconsistency and in some cases, overcharging. Therefore, your Committee supports this measure, which will cap photocopying fees at 25 cents a page.

Your Committee amended this measure to clarify that the fee cap applies to standard letter size and legal size documents. For unusually shaped or larger documents, an agency may charge the actual cost of reproducing that document.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2550, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2550, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2194 Transportation, Military Affairs, and Government Operations on S.B. No. 2552

The purpose of this measure is to delete the requirement that precinct officials be satisfied that the physical disability exists before rendering assistance, and to delete blindness as a specified condition.

Your Committee received testimony in favor of this measure from the Disability and Communication Access Board, State Planning Council on Developmental Disabilities, the Arc in Hawaii, Statewide Independent Living Council of Hawaii, Assistive Technology Resource Centers of Hawaii, and the League of Women Voters of Hawaii.

Your Committee finds that current language in section 11-139, Hawaii Revised Statutes, requires precinct officials to be satisfied that a physical disability exists before rendering assistance to an individual. Removal of the requirement would relieve the burden on the individual to prove that a disability exists before assistance can be given.

Your Committee has amended this measure by removing language related to disability status. These amendments place the focus of the law on the person's right to vote, rather than on an individual's disability status. The Disability and Communication Access Board believes the modified language will encourage greater voter participation.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2195 Transportation, Military Affairs, and Government Operations on S.B. No. 2633

The purpose of this measure is to prohibit public disclosure of confidential information contained in juror master lists and juror qualification forms.

Your Committee received testimony in support of this measure from the Judiciary, the Office of Information Practices, Common Cause Hawaii, and the League of Women Voters of Hawaii. The Hawaii State Bar Association submitted testimony with no objection to this measure. The Office of the Public Defender submitted comments on this measure.

Your Committee finds that prospective jurors are often concerned that the private information they provide on their juror selection forms will be disclosed to the parties in the case, their attorneys, and other court personnel.

Your Committee supports this measure, which will improve jurors' sense of privacy protection by limiting public disclosure of sensitive information and addressing related safety concerns.

Your Committee has amended this measure based on a collaborative effort between the Judiciary and the Office of the Public Defender. These amendments specify that juror qualification forms are not a public record and shall not become part of the court record unless the court orders them sealed. Redacted forms can be disclosed under certain limited circumstances as set forth in section 612-17(c), Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2633, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2633, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2196 Transportation, Military Affairs, and Government Operations on S.B. No. 2645

The purpose of this measure is to allow a police officer to determine what type of test is to be taken (blood or urine), when the officer suspects a driver being under the influence of drugs. This measure also makes amendments to the implied consent provisions to clarify that for the purposes of determining alcohol content, the applicable tests are blood and breath.

Testimony in support of this measure was submitted by the Department of Transportation, Department of the Prosecuting Attorney, County of Hawaii Police Department, City and County of Honolulu Police Department, and Mothers Against Drunk Driving. Testimony in opposition was submitted by the Office of the Public Defender.

Your Committee finds that this measure will enable our police officers to be more effective by giving them the necessary authority to investigate impaired drivers and reduce drug/alcohol related fatalities and accidents. Your Committee further finds that this measure is necessary because in certain instances, an arrestee may not choose the test they prefer until after the three hour time limit has passed. Thus, your Committee is passing this measure in its current form to give our officers the authority to determine, based on their experience, and suspicion which test is necessary to determine if a driver was under the influence of drugs or alcohol.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2645 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2197 Transportation, Military Affairs, and Government Operations on S.B. No. 2646

The purpose of this measure is to establish that the refusal of a legally arrested person, including persons under the age of 21, to submit to a breath, blood, or urine test may be admissible in any criminal or civil proceeding.

Testimony in support of this measure was submitted by the Department of Transportation, State Attorney General, Department of the Prosecuting Attorney and the Police Department of the City and County of Honolulu, County of Hawaii Police Department, and Mothers Against Drunk Driving. Testimony in opposition was submitted by the Office of the Public Defender.

Your Committee finds that under current statutory provisions, evidence of a person's refusal to submit to a blood, breath, or urine test can only be admitted in the administrative license revocation proceedings and not in any other criminal or civil proceeding. Your Committee further finds that this information is admissible for other proceedings in almost every other jurisdiction. Your Committee believes that this measure to allow the admission of such evidence will assist the trier of fact to determine whether a driver was impaired in a criminal or civil case.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2646 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2198 Transportation, Military Affairs, and Government Operations on S.B. No. 2649

The purpose of this measure is to propose amendments to the State Constitution that would conform it to the federal Constitution.

Your Committee received testimony in favor of this measure from the Honolulu County Prosecuting Attorney. Your Committee received testimony opposing this measure from the Judiciary, Office of Information Practices, and the League of Women Voters of Hawaii.

Your Committee finds that our Supreme Court has skewed the balance between the constitutional rights of the criminal defendant and the right of victims and the public to have relevant evidence presented to judges and juries. These amendments will address this imbalance and provide a more equitable balance between these rights.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2649 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2199 Transportation, Military Affairs, and Government Operations on S.B. No. 2694

The purposes of this measure are to repeal Hawaii's existing electronic surveillance laws and replace them with updated statutes, and to establish a surveillance review unit within the Department of the Attorney General (AG).

Your Committee received testimony in support of this measure from the AG, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Honolulu Police Department, the Hawaii County Police Department, and the Maui County Police Department. Testimony in opposition to this measure was submitted by the Office of the Public Defender. The Office of Information Practices submitted comments.

Your Committee finds that Hawaii's existing wiretapping law was drafted in 1984, and is badly outdated due to technological advances over the past 18 years. As a result, wiretaps are almost never used in Hawaii.

Your Committee further finds that this measure not only brings Hawaii's electronic surveillance laws up to date, it also provides sufficient protections to ensure that there are no abuses. Specifically, this measure provides strong privacy protections for Hawaii's residents, contemplates current technology, is not overly restrictive, and conforms to federal electronic surveillance laws.

Following the September 11, 2001, terrorist attacks against the United States, it quickly became evident that our national security depends on intelligence gathering, and electronic surveillance is one of the most effective means.

Therefore, your Committee supports this measure, which gives law enforcement officials in Hawaii the tools necessary to use electronic surveillance technology to protect the public.

Your Committee made several technical, nonsubstantive amendments to this measure for clarity and accuracy.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2694, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2694, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2200 Transportation, Military Affairs, and Government Operations on S.B. No. 2837

The purpose of this measure is to clarify that a person who refuses a test for intoxication is ineligible for a conditional driving permit under administrative driver revocation.

Testimony in support of this measure was submitted by the Department of Transportation, Department of the Prosecuting Attorney, City and County of Honolulu Police Department, and Mothers Against Drunk Driving.

Your Committee finds that this measure is necessary to correct a loophole in the current law for persons who refuse to take a test for suspected use of intoxicants. Prior to the 2000 amendments to the administrative revocation of driver's license provisions, an arrestee who refused to take a blood or breath test was not eligible to receive a conditional permit. Unfortunately, the Committee finds that when the 2000 house keeping amendments were made to these sections, this language was inadvertently deleted. Thus, your Committee finds that this measure is necessary close this loophole and improve public safety by keeping intoxicated driver off the road.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2837 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2201 Transportation, Military Affairs, and Government Operations on S.B. No. 2838

The purpose of this measure is to clarify that a driver licensing examination is required for drivers of mopeds.

Testimony in support of this measure was received from the Department of Transportation (DOT).

This measure also clarifies requirements for using a moped to obtain a driver's license for a moped.

Your Committee notes the testimony of the DOT that this measure would separate the examination, licensing, and operation of mopeds from that of motor scooters and motorcycles.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2838 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2202 Transportation, Military Affairs, and Government Operations on S.B. No. 2840

The purpose of this measure is to modify the State's commercial driver licensing laws to conform to new federal standards, regulations, and penalties pertaining to railroad and highway grade crossings for commercial motor vehicles.

Your Committee received testimony in support of this measure from the Department of Transportation (DOT).

Your Committee finds that commercial driver licensing laws are designed to improve highway safety by ensuring that drivers of large commercial vehicles are qualified to operate those vehicles safely.

Your Committee further finds that federal Motor Carrier Safety regulations require that Hawaii law with regard to commercial driver licensing conform to federal penalties and sanctions by October 4, 2002.

Therefore, your Committee supports this measure to comply with federal law.

Your Committee made several technical, nonsubstantive amendments to this measure for clarity and accuracy.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2840, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2840, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2203 Transportation, Military Affairs, and Government Operations on S.B. No. 2990

The purpose of this measure is to establish statutory language to define crimestoppers programs, and to provide a mechanism to compensate persons whose tip leads to the arrest and conviction of a criminal.

Your Committee received testimony in support of this measure from the Honolulu City and County Police Department, CrimeStoppers Honolulu, Inc., and the Hawaii Bankers Association. The Office of Information Practices submitted comments.

Your Committee finds that citizens can be the best police force in the State, as they often are exposed to criminal activity when there are no law enforcement personnel in the vicinity. Your Committee believes that citizens should be encouraged to assist peace officers in ferreting out crime.

Along those lines, the CrimeStoppers program was created in Albuquerque, New Mexico, in 1976. There are now over 1,100 crimestoppers programs worldwide, and the program has proven very successful in galvanizing citizen involvement in crime detection and prevention.

In 1981, CrimeStoppers Honolulu, Inc., was founded by Richard Davi. Over the past 20 years, persons providing tips through the program have lead to several thousand arrests and the recovery of millions of dollars worth of property.

Your Committee fully supports the efforts of the CrimeStoppers program, and further supports this measure, to provide a statutory framework for defining such programs and compensating persons providing useful tips.

Your Committee amended this measure to delete the proposed amendments to chapter 92F that would have specified that certain communications related to the CrimeStoppers program are protected from disclosure. Based on testimony submitted by OIP, such an amendment is unnecessary, as existing law is sufficient to protect the confidentiality of the information provided to crimestoppers organizations.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2990, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2990, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2204 Transportation, Military Affairs, and Government Operations on S.B. No. 3009

The purpose of this measure is to establish an office of grant writing (office) within the Department of Budget and Finance (B&F).

Testimony in support of this measure was received from the Parents and Children Together, Aloha United Way, Hawaii Youth Services Network, National Association of Social Workers, and Hawaii Primary Care Association. Testimony in opposition was received from B&F.

The purpose of the office would be to secure federal grant moneys that may be available under federal programs. The office would be responsible for writing applications for federal grant moneys on behalf of state agencies, and would advise state agencies on administering those grants. There would be an advisory council consisting of certain designated nonprofit entities to assist the Governor in appointing an administrator of the office.

Your Committee heard testimony that over the years, particularly in the area of health and human services, available federal grant moneys slip by the State due to a lack of an organized, vigilant, and capable agency to pursue federal moneys. Researching the availability of federal grants and writing applications for those grants require specialized knowledge and experience. The loss of federal grant moneys through neglect cannot be tolerated by the State which is struggling under budget deficits.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3009 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2205 Transportation, Military Affairs, and Government Operations on S.B. No. 3036

The purpose of this measure is to make an appropriation for increased outreach counseling services for veterans.

Testimony in support of this measure was submitted by the Office of Veterans Services.

Your Committee finds that there is a need for enhanced outreach counseling, especially on the islands of Hawaii and Maui. These islands have approximately 11,482 and 7,919 veterans, respectively, and the additional funds will allow the Office of Veterans Services to contract counseling services to supplement the services that are provided by the one counselor position on each island.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3036 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2206 Transportation, Military Affairs, and Government Operations on S.B. No. 3048

The purpose of this measure is to authorize issuance of \$75,000,000 in revenue bonds to develop a new world class visitor destination on Ford Island to honor World War II veterans.

Your Committee received testimony in support of this measure from the Department of Business, Economic Development, and Tourism. The Department of Budget and Finance (BUF) submitted comments.

Your Committee finds that projects such as the one proposed by this measure serve many purposes. Not only would this visitor destination honor the veterans of World War II and educate residents and visitors about the War, it would also boost the tourism industry by providing another visitor attraction in Hawaii.

Therefore, your Committee fully supports this measure and hopes that the project will be designed and constructed as soon as possible.

Your Committee made technical amendments to this measure for clarity and accuracy.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3048, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3048, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Inouye, Menor, Taniguchi).

SCRep. 2207 Transportation, Military Affairs, and Government Operations on S.B. No. 3060

The purpose of this measure is to appropriate the sum of \$120,000, to provide bicycle education classes to the youth of Hawaii.

Testimony in support of this measure was received from the Department of Transportation, Department of Education, Hawaii County Department of Parks and Recreation, Peoples Advocacy for Trails Hawaii (PATH), Keiki Injury Prevention Coalition, League of American Bicyclists, Hawaii Bicycling League, and four private citizens.

This measure would help to ensure the safety of bicycle riders. Bicycle injuries are a recognized injury for children, and proper education would prevent or mitigate those injuries.

According to the testimony of PATH, which has provided bicycle safety awareness education to fourth grade students island-wide for nine years, students learn how to safely handle a bike, avoid potential dangers on roadways, and learn self-esteem in the form of independence.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3060 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2208 (Joint) Health and Human Services and Tourism and Intergovernmental Affairs on S.B. No. 2009

The purpose of this measure is to require a public hearing prior to permitting the operation of a halfway house. Furthermore, this measure defines the term halfway house.

Testimony in support of this measure was submitted by the Department of Public Safety and two private citizens. Testimony in opposition to this measure was submitted by the Department of Health, Department of Planning and Permitting-City and County of Honolulu, Planning Department-County of Hawaii, and Hawaii Youth Services.

Your Committees find that the City and County of Honolulu currently requires conditional use permits for halfway houses, however, does not define halfway house. This measure is only intended to clarify the meaning of halfway house and ensure that the public be on notice and have the opportunity to have their voices heard.

Currently, conditional use permits require a presentation to the neighborhood board of the area before an application is even filed. This measure is not requiring further notice or hearings, just clarifying current practices. Your Committees, however, are concerned that this measure was interpreted to be in violation of the Federal Fair Housing Act of 1988, thus we are requesting the Committee on Judiciary to address this issue if it finds that this measure is in violation of federal law.

Upon further consideration, your Committees have amended this measure by deleting the language "public hearing" and replacing it with "public informational meeting". Although the intent of this measure was not to require the counties to make their decision

regarding the permit solely on the voice of the public, your Committees believe that this language will clarify that this measure only requires that the public has a venue to voice their concerns, if any, and be apprised of any potential halfway houses moving into their neighborhood.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2009, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2009, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 5 (English, Inouye, Kokubun, Nakata, Sakamoto).

SCRep. 2209 (Joint) Water, Land, Energy, and Environment and Transportation, Military Affairs, and Government Operations on S.B. No. 2003

The purposes of this measure are to require state agencies to dedicate a portion of maintenance funds to retrofit older facilities with water saving plumbing fixtures, and to require state agencies to comply with any request by a County Board of Water Supply to reduce water use.

Testimony in support of this measure was received from the Department of Accounting and General Services, Department of Land and Natural Resources, and City and County of Honolulu Board of Water Supply.

Your Committees have heard that retrofitting with water conservation fixtures will reduce the amount of water used by state agencies that collectively use from 300 to 400 million gallons of water a month, or 10 to 13 million gallons of water a day on Oahu. The Board of Water Supply pumps about 150 million gallons per day, so the State's usage is about seven to nine per cent of the daily pumpage.

Your Committees find that state agencies are among the highest, most visible water users. When the public sees government supporting a request to cutback on water use, individuals are more willing to support the conservation effort.

Your Committees are supportive of this measure and its efforts to conserve water.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2003 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 3 (Matsunaga, Menor, Nakata).

SCRep. 2210 (Joint) Water, Land, Energy, and Environment and Transportation, Military Affairs, and Government Operations on S.B. No. 2484

The purposes of this measure are to streamline enforcement provisions on lead-acid battery violations, to clarify disposal options for used tires and notice requirements to consumers of new tires, and to require that tire inventory payments by the rental car industry shall be paid annually rather than quarterly.

Testimony in support of this measure was received from the Department of Health, Hawaii Automobile Dealers Association, and Catrala-Hawaii.

Your Committees find that, with regard to tire recycling, this measure is in response to concerns raised by tire retailers and car rental companies. For tire retailers, it will provide additional flexibility while maintaining the original intent of the law to give consumers an incentive to leave their old tires at the dealers, rather than taking them home and dumping them. In addition, for motor vehicle rental companies, the change from quarterly to annually for the motor vehicle tire surcharge will allow rental companies and local dealers who sell to car rental companies to recover a portion of the tire surcharge.

Your Committees are in support of this measure to provide additional flexibility in special waste recycling, as a means of further encouraging protection of Hawaii's environment.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2484 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 3 (Matsunaga, Menor, Nakata).

SCRep. 2211 (Joint) Water, Land, Energy, and Environment and Transportation, Military Affairs, and Government Operations on S.B. No. 2179

The purposes of this measure are to add a new part to Chapter 196, Hawaii Revised Statutes, to encourage the evaluation and implementation of energy efficiency and renewable technologies, and to repeal current provisions that would be in conflict with the new part.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Hawaiian Electric Company, Inc., Covanta Energy Group, Sierra Club Hawai'i Chapter, and one individual.

Your Committees find that this measure is modeled after Presidential Executive Order 13123, and would ensure that state government leads by example in managing energy use. Your Committees have heard that the program has been very effective at the federal level by advancing energy efficiency and water conservation, as well as improving utility management decisions at federal sites.

Your Committees are encouraged by the broad support for the intent of this measure. Your Committees have amended this measure to:

- (1) Add "waste-to-energy" in the definition of "renewable energy";
- (2) Delete the designation of synthetic natural gas as a non-petroleum energy source;
- (3) Add language to address financing mechanisms and to retain pertinent bidding requirements;
- (4) Modify the language that mandates a specific combination of energy technologies in implementation of energy reduction systems; and
- (5) Make technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2179, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2179, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 3 (Matsunaga, Menor, Nakata).

SCRep. 2212 (Joint) Water, Land, Energy, and Environment and Judiciary on S.B. No. 2810

The purpose of this measure is to clarify who can participate in Safe Harbor Agreements and Habitat Conservation Plans, and to establish consistent standards for public and private lands.

Testimony in support of this measure was received from the United States Fish and Wildlife Service, Department of Land and Natural Resources, Department of Transportation, Housing and Community Development Corporation of Hawaii, Natural Energy Laboratory of Hawaii Authority, Ducks Unlimited, The Nature Conservancy of Hawaii, Land Use Research Foundation of Hawaii, Hawaii Leeward Planning Conference, The Estate of James Campbell, The Gentry Companies, and Cyanotech Corporation. The Conservation Council for Hawai'i, Earthjustice, Hawaii Audubon Society, Life of the Land, and Sierra Club Hawai'i Chapter testified in opposition.

Your Committees find that the Nineteenth Legislature amended Chapter 195D, Hawaii Revised Statutes, to allow for the implementation of Safe Harbor Agreements and Habitat Conservation Plans, in complement to the federal Endangered Species Act. Safe Harbor Agreements provide encouragement for landowners who are interested in promoting endangered species on their property, but are concerned by the long-term liabilities those species might create. Habitat Conservation Plans provide a flexible framework for landowners to move ahead with land-use projects, despite the current presence of endangered species on their land.

Your Committees understand that while there is opposition to some components of these plans, there are safeguards in place. The Board of Land and Natural Resources is not the sole decision-maker as to whether these standards have been met. The law requires that any proposal must meet the approval of an advisory committee, that there be a sixty-day public review period, and that there be a public hearing on the island affected.

Your Committees have also heard that at present there are a number of situations in which these plans are needed, but the landowner is ineligible. For example, there are Safe Harbor Agreements and Habitat Conservation Plans proposed that involve Hawaiian stilts in Kona and an aquaculture facility, an endangered plant at Kapolei and the North-South Road, candidate endangered species and Watershed Partnerships, and the University of Hawaii and dry forest restoration. All of these are currently stalled at the State level by the definition of landowner.

Your Committees find that this measure will provide protection for Hawaii's endangered species and fragile natural resources. Your Committees have amended this measure to clarify that landowner consent is required for these plans, and to extend confidentiality protection for private lands only.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2810, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2810, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 5 (Hanabusa, Ihara, Matsunaga, Matsuura, Nakata).

SCRep. 2213 (Joint) Labor and Health and Human Services on S.B. No. 2180

The purpose of this measure is to prohibit the use of, or the requirement for genetic testing by employers and insurers for health care, life insurance, and long-term care insurance.

Testimony in support of the measure was received from the ILWU Local 142, Common Cause Hawaii, and a private citizen. Testimony in support of the measure with amendments was received from the Department of Health, the Insurance Commissioner, and the Hawaii Civil Rights Commission. State Farm Insurance, the American Council of Life Insurers, and the National Association of Insurance and Financial Advisors opposed passage of the measure.

The Department of Health also testified that similar prohibitions already exist in articles of the Insurance Code governing accident and sickness insurance, mutual benefit societies, and health maintenance organizations.

Your Committees find that the measure would protect employees and potential insureds from discriminatory practices based solely on an employee or insured's refusal to submit to a genetic test or use of the employee or insured's genetic information.

Your Committees have amended the measure by:

- (1) Adding a definition of "being regarded as having such an impairment" to Chapter 378, Hawaii Revised Statutes (HRS);
- (2) Removing the prohibition on the use of genetic testing and information from the insurance articles relating to life insurance, group and blanket disability insurance, and long-term care insurance;
- (3) Recasting the language prohibiting the use of genetic testing and information to conform with sections 431:10A-118, 432:1-607, 432D-26, HRS; and
- (4) Adding the conformed language to Chapter 431:10A, part IV, HRS, relating to extended health insurance, and Chapter 432:2, HRS, relating to fraternal benefit societies.

As affirmed by the records of votes of the members of your Committees on Labor and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2180, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2180, S.D. 1, and be referred to the Committees on Commerce, Consumer Protection and Housing and Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 7 (Fukunaga, Ihara, Kanno, Kawamoto, Kokubun, Sakamoto, Hogue).

SCRep. 2214 Labor on S.B. No. 2111

The purpose of this measure is to amend collective bargaining laws to enable parties to agree that non-cost items may become effective prior to legislative approval of cost items.

Testimony in support of the measure was received from the University of Hawaii Professional Assembly and the Hawaii Government Employees Association. The Office of Collective Bargaining submitted concerns over the fragmenting of a collective bargaining agreement's implementation.

The measure also moves provisions that establish when the provisions of a collective bargaining agreement take precedence over civil service laws and employer policies from section 89-10, Hawaii Revised Statutes (HRS), relating to written agreements, enforceability, and cost items, to section 89-19, HRS, relating to when Chapter 89, HRS, takes precedence.

Your Committee finds that the measure may facilitate the parties' ability to bargain cost and non-cost items more freely and openly.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2111 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2215 (Joint) Labor and Water, Land, Energy, and Environment on S.B. No. 2900

The purpose of this measure is to appropriate funds to continue the efforts of the emergency environmental workforce to improve the State's economy by employing citizens to protect the environment.

Testimony in support of the measure was received from Board of Land and Natural Resources, the Research Corporation of the University of Hawaii, the project coordinator for the emergency workforce, the Coordinating Group on Alien Pest Species, Maui Invasive Species Committee, Sierra Club Hawaii Chapter, Hawaii's Thousand Friends.

Your Committees find that the terrorist attacks of September 11, 2001, have resulted in a significant economic downturn in the State. In an effort to assist those people who were displaced as a result of the September 11, 2001, terrorist attacks, the Legislature enacted Act 4, 2001 Third Special Session, which established an emergency environmental workforce for short-term employment for individuals who lost their jobs.

Your Committees believe this program is an ingenious way of keeping Hawaii's displaced workforce working. The persons employed by the program are providing a much needed service to the community which would otherwise go unfurnished.

As affirmed by the records of votes of the members of your Committees on Labor and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2900 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2216 (Majority) Labor on S.B. No. 2967

The purpose of this measure is to prohibit an employer from requiring an employee to work continuously for more than eight hours without at least a fifteen-minute break period.

Testimony in support of the measure was received from the ILWU Local 142, the Hawaii State AFL-CIO, Covanta Energy Group, and a private citizen.

Your Committee finds that under existing law, only minors are protected with a statutorily mandated rest break. Your Committee believes that the provision of a minimum of fifteen minutes for an employee to use as either a rest or meal break is a good employment practice and will result in a more efficient workforce.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2967 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2217 Labor on S.B. No. 3025

The purpose of this measure is to enable, for a limited time, a successor employer who acquires all or a substantial portion of a business to assume the previous employer's unemployment insurance experience rating; provided that certain requirements are met.

Testimony in support of the measure was received from BEI Hawaii. The Department of Labor and Industrial Relations supported the passage of the measure with amendments.

Your Committee finds that this assumption of a previous employer's unemployment insurance experience rating was previously allowed under statute between December 31, 1988, to December 31, 1992.

Your Committee believes that enabling a successor employer who carries on the business of a former employer and who employs the same employees as the former employer should be allowed to assume the former employer's experience rating if the successor employer so chooses. The benefit of allowing such an assumption of experience would be lower start-up costs for the successor employer, thereby increasing the chances of the business' success.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3025 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2218 Labor on S.B. No. 3078

The purpose of this measure is to provide that a written designation of beneficiary for earned and unpaid wages is void if the beneficiary predeceases the employee, if the employee and beneficiary divorce, if an unmarried employee subsequently marries, or if the employee enters into or terminates a reciprocal beneficiary relationship.

Your Committee received testimony in favor of this measure from the Department of Human Resources Development and the Honolulu County Department of Human Resources.

Your Committee finds that currently, an employee's written designation of beneficiary for the employee's earned and unpaid wages and lump sum vacation payment remains valid even if the employee divorces the named beneficiary or remarries. Although the City and County of Honolulu encourages employees to update their beneficiary forms, the forms are not always updated. This has led to

situations in which an employee's current spouse must deal with not only the untimely death of the employee, but also with the stress of knowing that the employee's ex-spouse will receive the moneys because the written designation was never changed.

Your Committee has amended this measure by providing that a valid court order filed within ten calendar days of the employee's death shall take precedence if it requires the designation of a specific beneficiary for the benefits. Nonsubstantive, technical amendments have been made as well.

As affirmed by the record of votes of the members of your Committee on Labor 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2219 Hawaiian Affairs on S.B. No. 2477

The purpose of this measure is to clarify the Office of Hawaiian Affairs' ability to award grants, subsidies, and purchase of service contracts and to exempt such awards from the requirements of Chapters 42F and 103F, Hawaii Revised Statutes.

Testimony in support of the measure was received from the Attorney General and the Hawaiian Caucus of the Twenty-first Legislature. The Office of Hawaiian Affairs and the Department of Hawaiian Home Lands supported the measure with amendments. The State Procurement Office opposed the provisions of the measure that exempted grants, subsidies, and purchase of service contracts of the Office of Hawaiian Affairs from Chapter 103F, Hawaii Revised Statutes, relating to the purchase of health and human services. The Association of Hawaiian Civic Clubs, Ka Lahui Hawaii, and three private citizens opposed passage of the measure. The Department of Land and Natural Resources took no position on the issue.

Your Committee finds that although the measure exempts the Office of Hawaiian Affairs from complying with Chapters 42F and 103F, Hawaii Revised Statutes, relating to grants and subsidies, and the purchase of health and human services, respectively, the measure also requires the Office of Hawaiian Affairs to use those chapters as guides in adopting their own policies.

Your Committee has amended the measure by:

- (1) Deleting section 1 of the measure;
- (2) Removing the provision that exempts grants, subsidies, and purchases of services, of the Office of Hawaiian Affairs from Chapters 42F and 103F, Hawaii Revised Statutes;
- (3) Recasting the grant award language to be more specific with respect to qualifying for such awards;
- (4) Replacing the version of section 10-5, Hawaii Revised Statutes, in the measure with the version that was in existence prior to the enactment of Act 304, Session Laws of Hawaii 1990, which the Hawaii Supreme Court invalidated; and
- (5) Making the appropriation and expending agency sections of the measure effective on July 1, 2002, rather than upon approval.

Your Committee found it necessary to replace the version of section 10-5, Hawaii Revised Statutes, in the measure due to the Hawaii Supreme Court ruling that invalidated Act 304, Session Laws of Hawaii 1990, which contained a provision that required the underlying provisions of that section to be re-enacted in the form in which they appeared prior to the enactment of Act 304.

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. 2477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2477, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 1 (Hanabusa).

SCRep. 2220 (Joint) Hawaiian Affairs and Water, Land, Energy, and Environment on S.B. No. 2869

The purpose of this measure is to authorize the Department of Land and Natural Resources to utilize its powers of eminent domain to acquire lands adjacent to the Mo'okini Heiau to provide public access and for its protection.

Testimony in support of the measure was received from the Department of Land and Natural Resources and the Mo'okini Luakini Foundation. A private citizen testified in opposition to the measure. One private citizen provided comments.

Your Committees find that Act 166, Session Laws of Hawaii 1992, now codified as section 6E-38.5, Hawaii Revised Statutes (Act 166), sought to preserve and protect a cluster of historical sites in North Kohala, on the island of Hawaii. The sites include the Mo'okini Luakini, Kamehameha birthsite, Kukuipahu Heiau, and the historical sites at Mahukona. The Kohala Historical Sites State Monument is a collection of those sites. The monument was also designated for educational and cultural purposes to be enjoyed by the public. The Department of Land and Natural Resources administers the monument.

When Act 166 was enacted, the Mo'okini Luakini, Kamehameha birthsite, and Kukuipahu Heiau were already owned by the State.

Act 166 further mandated that the following real property be included to ensure the unimpaired preservation of the visual, cultural, and historical aspect of the monument:

- (1) Historical sites at Mahukona; and
- (2) Any additional land surrounding all of the monument sites to preserve and protect them with adequate buffers and provide public access, including but not limited to those lands running along the coast between Huinamaka and Kalaelimukoko and those lands mauka of the Mo`okini Heiau encompassing the area formerly used for the housing of the Mo`okini priests and family gravesites.

The additional real property was to be acquired by the State through gifts or land exchanges and designated by the Board of Land and Natural Resources as part of the monument upon acquisition.

In the years following Act 166, the State made unsuccessful attempts to acquire the lands adjacent to the monument from the private owner through either a purchase or land exchange. These adjacent lands are necessary to provide public access to the monument as specified in Act 166.

In 1979, the Mo`okini Luakini Corporation was established as a nonprofit entity to promote, develop, and preserve the Mo`okini Heiau. Through the years, the Mo`okini Luakini Corporation has been dedicated to preserving the Mo`okini Heiau for educational and cultural purposes. Your Committees find that Mo`okini Luakini Corporation is the most qualified organization to protect and care for the Mo`okini Heiau.

Your Committees also find that the purchase of the lands adjacent to the monument is necessary to provide public access to the Kohala Historical Sites State Monument, including the Mo`okini Heiau. Your Committees further find that the State's acquisition of this land will protect the area by providing adequate buffers as authorized by Act 166.

In its deliberations, your Committees received testimony that raised concerns over a number of issues. These include:

- (1) How best to ensure adequate public access to the historical sites;
- (2) Whether there exists clear title to the lands, since testimony indicated that there are descendants of the original owners of the land who seek to regain control of the lands encompassing the historical sites;
- (3) What constitutes adequate buffers around each historical site; and
- (4) The need to accurately describe exactly which lands are to be condemned.

Although your Committees recognize that these concerns need to be addressed, your Committees understand that in order to do so, this measure must move forward in the legislative process as a vehicle to promote such discussion. As such, your Committees recommend that the measure move forward in its original form until such time that suitable amendments may be developed.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2869 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Hanabusa, Ihara, Nakata).

SCRep. 2221 (Joint) Education and Labor on S.B. No. 2012

The purpose of this measure is to reduce from two years to one year the minimum time of retirement for teachers to become eligible to be rehired by the Department of Education (DOE).

Your Committees received testimony in support of this measure from the Lieutenant Governor, DOE, Hawaii Teachers Standards Board, Hawaii State Teachers Association, and The Hawaii Business Roundtable.

Act 308, Session Laws of Hawaii (SLH) 2001, provided that, beginning July 1, 2001, the DOE may employ retired teachers who had been retired for two calendar years. The purpose of Act 308, SLH 2001, was to encourage the return to the classroom of experienced and qualified teachers to alleviate the teacher shortage.

Your Committees find, and empirical evidence has indicated, that the two year limitation has failed to attract enough teachers. A wait period was initially intended to prevent teachers from retiring and immediately working again. However, your Committees believe that a one-year wait period is sufficient for this purpose.

Your Committees have amended this measure by deleting the provision which would have extended the repeal date of Act 308, SLH 2001.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2012, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2012, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 8 (English, Hanabusa, Ige, Ihara, Kanno, Matsuura, Menor, Tam).

SCRep. 2222 Education on S.B. No. 2032

The purpose of this measure is to advance the date that is used to determine a child's kindergarten entry age from December 31 to September 30, and to allocate the funds saved thereby to other educational programs.

Your Committee received testimony in support of this measure from the Department of Education, the Department of Human Services, and a local child therapist. The Hawaii State Teachers Association submitted testimony in opposition to this measure. The Hawaii Educational Policy Center submitted a comparative analysis for consideration by your Committee.

Your Committee finds that under existing law and related rules, the cutoff date for determining age eligibility for entry into kindergarten is December 31 of each year. Your Committee further finds that only Maryland and Hawaii use December 31 as a cutoff date for public school students.

By having such a late date to determine age eligibility for kindergarten, your Committee finds that some students enter school at too young an age. As a result, these students may lack the maturity and intellectual capability necessary to succeed in school. Therefore, your Committee supports the intent of this measure, to advance the age eligibility cutoff date to September 30.

Your Committee amended this measure to delay its implementation for one year, so that the new age cutoff date will take effect beginning with the 2003-2004 school year. Your Committee believes that this amendment will assist parents and the Department of Education ("D.O.E.") in preparing for this change.

Your Committee also amended this measure to specify that the cost savings to be realized from the date change should be applied to the Resources for Early Access to Learning ("R.E.A.L.") and Pre Plus programs, as well as for early education, school readiness, and other programs to be determined by the D.O.E. and the Department of Human Services. These programs, particularly R.E.A.L. and Pre Plus, are invaluable in giving our young children the fundamental skills necessary to succeed once they begin school.

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. 2032, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2032, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Matsunaga, Menor, Tam).

SCRep. 2223 Education on S.B. No. 2035

The purpose of this measure is to statutorily establish the Hawaii State Student Council (HSSC).

Testimony in support of this measure was received from the Department of Education (DOE) and three members of the HSSC.

The HSSC was established by the Board of Education (BOE) in 1972 and provides students with leadership and community service opportunities. Council members provide a voice for students across the State and participate in activities such as Children's Youth Day, the State Student Conference, and student leadership workshops. The Council makes regular reports to the BOE and is mandated by the State Constitution to select a public high school student as a nonvoting member of the Board. The organization is funded by the DOE which also provides it with a staff advisor.

This measure proposes to statutorily establish the Council and requirements for its membership and governance. Your Committee finds that formally establishing the Council will not require additional funding or staffing and will ensure that public school students continue to have a voice in matters of student concern.

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. 2035 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, Ige, Matsunaga, Menor).

SCRep. 2224 Education on S.B. No. 2057

The purpose of this measure is to exempt temporary public school facilities from state and county laws that exceed the requirements of the Americans with Disabilities Act (ADA) of 1990.

Testimony in support of this measure was received from the Department of Education and Department of Accounting and General Services (DAGS). Testimony in opposition was received from the Disability and Communication Access Board and a private citizen.

According to DAGS, temporary public school facilities comply with the ADA Guidelines and are reviewed for compliance. Additional requirements that exceed ADA Guidelines would in many cases add to the difficulty, time, and cost necessary to construct these temporary facilities. One example would be hurricane-proofing, which requires such extensive strengthening and anchoring as to

make a temporary facility for all intents and purposes permanent. Also, many schools have permanent facilities that comply with the ADA Guidelines and serve similar functions for the particular school.

Your Committee has amended this measure by:

- (1) Deleting the requirements relating to the existence of other temporary facilities or permanent facilities that comply with the ADA, and to the State waiving all ADA requirements; and
- (2) Adding that the exemption also applies to all temporary non-public facilities of public schools, for example, storerooms and offices.

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. 2057, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2057, S.D. 1, and be referred to the Committees on Judiciary and Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Matsunaga, Menor, Tam).

SCRep. 2225 (Joint) Education and Health and Human Services on S.B. No. 2154

The purpose of this measure is to appropriate funds for before-school, after-school, and weekend programs for children.

Testimony in support of this measure was submitted by Office of Youth Services, Hawaii Youth Services Network, and Blueprint for Change.

This measure is intended to help remedy the current social problem of school age children who are idle during times before school, after school, and weekends. The appropriation contained in this measure would provide programs for them to learn during these times.

Your Committees have amended this measure by making a stylistic change to the purpose clause regarding the importance of safe learning environments.

As affirmed by the records of votes of the members of your Committees on Education and Health and Human Services 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 Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Matsunaga, Menor, Nakata, Tam).

SCRep. 2226 (Joint) Education and Health and Human Services on S.B. No. 2160

The purpose of this measure is to establish an osteoporosis prevention and treatment education program within the University of Hawaii to be operated with private funding.

Your Committees received testimony in favor of this measure from the Executive Office on Aging and the University of Hawaii School of Medicine.

Your Committees find that osteoporosis is a bone-thinning disease that one in two women and one in eight men will suffer from in their lifetime. The disease affects the quality of life and a person's ability to live independently as they age.

Your Committees have amended this measure by removing the restriction on funding to private contributions and federal funding, thereby allowing state funds to be used in osteoporosis prevention and treatment education. For example, moneys may be used to teach health care students or community physicians about osteoporosis, and to allow faculty to use their University time to write grants to seek funding to teach or conduct research about osteoporosis.

Further, your Committees have amended this measure by making nonsubstantive, technical amendments.

As affirmed by the records of votes of the members of your Committees on Education and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2160, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2160, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Matsunaga, Menor, Nakata, Tam).

SCRep. 2227 Education on S.B. No. 2205

The purpose of this measure is to provide additional compensation to educational officers with advanced degrees.

The Department of Education, Hawaii Government Employees Association, and an individual testified in support of this measure.

Currently, the salary schedule for educational officers, unlike the salary schedule for teachers, does not take into consideration advanced degrees earned. Therefore, educational officers, including school principals, who undertake advanced studies that enable them to better serve Hawaii's public school students, are not compensated for furthering their skills and training.

This measure authorizes the appropriation of funds to provide additional compensation to educational officers who have earned master's or doctoral degrees in teaching, public education, or in fields related to their job duties. The cost of providing this additional compensation for fiscal year 2002-2003 is estimated at \$900,000.

Your Committee finds that increasing the salary schedule for educational officers with advanced degrees will encourage professional growth and improve the quality of leadership in our public schools. Your Committee further finds that this measure will enable the Department of Education to recruit and retain qualified individuals as school principals at a time when the department faces a critical principal shortage.

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. 2205 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2228 Education on S.B. No. 2207

The purpose of this measure is to appropriate funds to provide public school principals with stability bonuses.

Your Committee received testimony in favor of this measure from the Department of Education, Kaimuki High School, and the Hawaii Government Employees Association.

Your Committee finds that the educational system is currently experiencing a great administrative transformation due to retirements. Bonuses will ameliorate present conditions and provide an incentive to recruit and sustain future educational officers in the Department.

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. 2207 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2229 Education on S.B. No. 2208

The purpose of this measure is to require that each public school have a full time vice-principal.

The Department of Education (DOE), Hawaii State Teachers Association, Hawaii Government Employees Association, and a dozen individuals testified in support of this measure.

Under DOE staffing ratios, elementary and intermediate schools with less than five hundred fifty students are not allocated a vice principal position, and statewide, eighty-two public schools are without a full-time permanent vice principal. In these schools, the principal is the sole administrative officer responsible for among other tasks, dealing with staffing and management issues, school security, repair and maintenance, budgets, curriculum, standards implementation, school-based decisionmaking, and student discipline.

Your Committee finds that each public school in the State should have a full time vice-principal to assist in school administration and this measure establishes this requirement. Requiring a vice principal in each school will also help to establish a pool of qualified candidates for principals, for which there is a current and projected shortage.

Your Committee further finds that the DOE requires flexibility in its administrative staffing of schools and that the interests of a particular school and its students may best be served through the services of an administrative officer rather than a vice principal, such as a curriculum leader or an operational officer. Therefore, your Committee has amended this measure to require that each public school have a full time vice principal or, alternatively, a full time administrative officer.

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, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2208, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2230 Education on S.B. No. 2210

The purpose of this measure is to appropriate funds to hire additional counselors and college counselors in all public schools.

Testimony in support of this measure was received from the Department of Education (DOE) and Hawaii State Teachers Association.

According to the DOE, the current student-to-counselor ratio in Hawaii is 301 students per counselor. The recommended ratio by the American School Counselor Association is 250 to 1. This measure is intended to achieve that recommended ratio in DOE middle and high schools.

The need for a reduction is evident with the implementation of the School Behavioral Health services in the schools, which may require increased mental health services. In addition, over eighty per cent of high school graduates go on to post high school education or employment, which requires more intensive high school counseling.

Your Committee has amended this measure by specifying that the student to counselor ratio be 250 to 1 in DOE middle and high 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. 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 Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2231 Education on S.B. No. 2211

The purpose of this measure is to authorize the Department of Education to fully reimburse the tuition of College of Education graduates who teach in the public schools for at least six years.

Your Committee heard testimony in support of the measure from the Department of Education.

Your Committee finds that this measure could be an effective tool for recruiting and retaining public school teachers in this time of teacher shortage.

Your Committee has amended the measure by:

- (1) Broadening the scope of the measure from the College of Education to any state-approved teacher training program;
- (2) Establishing a ceiling of tuition reimbursement as those verifiable tuition expenses up to a limit no greater than that of regular session University of Hawaii tuition;
- (3) Clarifying that this benefit is available only to graduates of Hawaii high schools, as those with ties to and familiarity with Hawaii and its unique culture are more likely to be retained as teachers for an extended period; and
- (4) Adding a provision stipulating that this benefit cannot be used in conjunction with any other forms of tuition assistance (such as waivers or scholarships), except for the Hawaii Educator Loan Program.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2211, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2232 Education on S.B. No. 2224

The purpose of this measure is to increase the amount of general excise tax revenue to be deposited into the State educational facilities improvement special fund.

Testimony in support of this measure was submitted by the Department of Education, Department of Accounting and General Services (DAGS), and General Contractors Association of Hawaii. The Tax Foundation of Hawaii submitted comments.

Section 36-32, Hawaii Revised Statutes (HRS), creates the State educational facilities special fund and section 237-31, HRS, requires that a portion of all general excise tax revenues be deposited into it. The fund is used solely to plan, design, acquire land for the construction of public school facilities, and provide equipment and technology infrastructure. The portion of the tax to be deposited is specified in section 237-31, HRS, relating to remittances of excise tax collections, which currently is the sum of all general excise tax revenues that represent the difference between \$45,000,000 and the proceeds from the sale of any general bond obligations.

This measure raises the amount to \$90,000,000 per fiscal year, thereby increasing the current minimum capital improvement project (CIP) funding level. The current CIP funding level of \$45,000,000 jeopardizes timely implementation of CIP funded projects for new facilities, improvements, and upgrades.

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. 2224 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2233 Education on S.B. No. 2283

The purpose of this measure is to require the corporation designated under Act 77, Session Laws of Hawaii 1997, relating to early childhood education and care, to jointly submit with the interdepartmental council in their annual report to the Governor and the legislature, a description of the progress achieved in school readiness efforts.

Testimony in support of this measure was received from the Office of the Governor, Office of the Lieutenant Governor, Department of Education, Department of Health, Department of Human Services, University of Hawaii at Manoa, Honolulu Community College, Good Beginnings Alliance, Maui County Good Beginnings Community Council, Institute for Native Pacific Education and Culture, Hoowaiwai Na Kamalii, Childcare Business Coalition, Hawaii Association for the Education of Young Children, Kamehameha Schools, Hawaii Community Foundation, Hawaii Kids Watch, and a private individual.

This measure is intended to enhance the efforts of the Good Beginnings Alliance to develop policy recommendations concerning all aspects of a coordinated early childhood education and care system. A key element of this effort is the adoption by statute of a definition of "school readiness" as young children "ready to have successful learning experiences in school when there is a positive interaction among the child's developmental characteristics, school practices, and family and community support." A joint report from the interdepartmental council created by and the private nonprofit corporation discussed in Act 77, Session Laws of Hawaii 1997, is required on progress in improving Hawaii's system of early education and care.

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. 2283, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, Ige, Matsunaga, Menor).

SCRep. 2234 Education on S.B. No. 2357

The purpose of this measure is to require the Department of Education to pay all new hires within four weeks.

Your Committee received testimony in support of the measure from the Hawaii State Teachers Association and Hawaii Government Employees Association. Your Committee received testimony in opposition to the measure from the Department of Education. Your Committee received comments from the Department of Accounting and General Services.

Your Committee finds that the Department of Education is working to ameliorate the tardiness of initial payments to new hires. However, it is an ongoing concern of such long standing that no further delay is acceptable. If, as some testimony indicated, internal departmental policies of the Department of Education and Department of Accounting and General Services must be changed to deal with the problem adequately, then let them be changed – and expeditiously. This problem cannot wait another year for solution. It is too deleterious to employee morale and welfare and unacceptable to hold public service to a different standard than the private sector.

Your Committee has amended the measure by requiring that all newly hired Department of Education employees receive their paychecks on the second pay period after the date of hire instead of within four weeks as originally drafted.

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. 2357, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2357, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2235 Education on S.B. No. 2358

The purpose of this measure is to require a sufficient amount of textbooks and equipment for students and provide teachers with a \$250 allocation to reimburse out-of-pocket expenses for supplies.

Your Committee received testimony in favor of this measure from the Department of Education.

Your Committee finds that students should have sufficient and quality instructional resources to support their learning and attainment of standards. Often times teachers pay out-of-pocket for supplies necessary to support teaching and learning.

Based on a population of 13,000 teachers statewide and at \$250 per teacher, a total of \$3.2 million may need to be appropriated.

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. 2358 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2236 (Joint) Education and Labor on S.B. No. 2660

The purpose of this measure is to require the Department of Education (DOE) to provide unlicensed individuals employed to teach on an emergency hire basis with information regarding alternative certification and licensure. This measure also requires the Board of Education (BOE) to consider educational outcome disparities between students taught by unlicensed persons and those taught by licensed teachers, and to adopt rules that support the hiring of qualified professional staff and the dissemination of information on licensure and certification.

The DOE, Hawaii Teacher Standards Board, and Hawaii State Teachers Association testified in support of this measure.

State law allows the hiring of unlicensed persons to teach on an emergency hire basis under certain conditions and limitations. Your Committees find that the quality of teaching by unlicensed individuals is enhanced if these individuals have obtained professional certification and, further, that the hiring of persons certified in special education, school counseling, and secondary level English proficiency has helped to reduce teacher shortages in these areas. This measure promotes professionalism in education by requiring the DOE to provide unlicensed emergency hires with information on alternative certification and licensure, requiring the BOE to consider data relating to educational outcomes of students taught by unlicensed persons, and by requiring the BOE to adopt rules that support the hiring of qualified professional staff.

Your Committees have made technical amendments to this measure for clarification.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2660, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2660, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 8 (English, Hanabusa, Ige, Ihara, Kanno, Matsuura, Menor, Tam).

SCRep. 2237 (Majority) Labor on S.B. No. 2118

The purpose of this measure is to require successor employers to retain incumbent employees upon the divestiture, sale, or acquisition of a business.

Testimony in support of the measure was received from the Hawaii Government Employees Association, the Hawaii State AFL-CIO, ILWU Local 142, and numerous private citizens who were dislocated from their former positions at the Hawaiian Waikiki Beach Hotel when the property was acquired by a new owner. The Department of Labor and Industrial Relations, the Chamber of Commerce of Hawaii, and the Libertarian Party of Hawaii opposed passage of the measure.

Your Committee finds that if a successor employer acquires a business and is intent upon continuing it, the successor employer should retain the incumbent workers. Such a requirement would minimize the disruption caused by dislocation to workers who, through no fault of their own, suffer simply due to the transfer of ownership of a business.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2118 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2238 Education on S.B. No. 2033

The purpose of this measure is to amend the Hawaii educator loan program law to:

- (1) Reduce the period of forgiving loans from the Hawaii Educator Loan Program from 10 years to 6 years and forgive 10 per cent for each of the first 5 years and 50 per cent for the 6th year;
- (2) Establish an appropriation ceiling;
- (3) Authorize up to 5 per cent of outstanding loans for administrative costs; and
- (4) Exempt the University of Hawaii from the public hearing requirements under chapter 91, Hawaii Revised Statutes, to expedite implementation of the program.

The measure also appropriates \$200,000 for fiscal year 2002-2003 to implement the program.

Your Committee heard testimony in support of the measure from the Lieutenant Governor, Superintendent of Education, University of Hawaii, Hawaii Association of Independent Schools, Hawaii State Teachers Association, and Hawaii Business Roundtable.

Your Committee finds that this measure is an important tool in addressing the current shortage of teachers within the Department of Education. By assisting in the recruitment of able college students into the profession of teaching, the measure will significantly contribute to the department's efforts to provide quality teachers in the public schools and enable the department to attract Hawaii students at Mainland colleges and universities to consider employment as public school teachers in Hawaii.

Your Committee further finds that new teachers usually leave the profession between the first three to five years of teaching. However, retention increases significantly if a teacher stays in the system in excess of five years. Rather than requiring ten years of service, this measure reflects a more realistic time-frame of six years, after which time the likelihood of new teachers staying in the profession increases.

Your Committee has amended the measure by:

- (1) Adding a new section authorizing expenditure from the Hawaii Educator Loan Program Special Fund; and
- (2) Making technical, nonsubstantive amendments and adding missing statutory language.

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. 2033, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2033, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Kawamoto, Menor, Tam, Hogue).

SCRep. 2239 Education on S.B. No. 2100

The purpose of this measure is to authorize the issuance of general obligations bonds to fund the establishment of an advanced technology learning center, or qualified zone academy, for students housed at the former national guard facility located at 475 22nd Avenue, Honolulu, Hawaii 96816.

Your Committee received testimony supporting this measure from the Department of Education. Comments on this measure were received from the Department of Budget and Finance.

Your Committee finds that the federal government authorized states, schools, and districts to use Qualified Zone Academy Bonds (QZAB) to finance school renovation, repairs, equipment and instructional materials, and professional development. Matching state funds are required to utilize the QZAB. This measure appropriates the necessary matching funds to take advantage of the federal funds available to establish an advanced research and technology enterprise partnership project that will benefit Hawaii's schools.

Your Committee has amended this measure by clarifying the intent of the federal QZAB program and further expressing the need for the state matching funds prior to the lapsing of the federal funds on December 31, 2002.

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. 2100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2100, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (English, Ige, Menor, Tam).

SCRep. 2240 Education on S.B. No. 2284

The purpose of this measure is to appropriate funds to the Department of Education (DOE) to continue the safety resource officer program (program) in the central Oahu school district.

Testimony in support of this measure was received from the DOE, Central Oahu District Schools, Moanalua High School, Waiialua High and Intermediate School, Leilehua High School, Mililani Mauka Elementary School, Wheeler Middle School, Radford High School, Haleiwa Elementary School, Waimalu Elementary School, Aiea High School, Pearl Harbor Kai Elementary School, Aiea Intermediate School, Mililani Middle School, Chester W. Nimitz Elementary School, Wahiawa Middle School, Aliamanu Middle School, Honolulu Crime Stoppers, Aiea Parent Teacher Students Association, and four private citizens.

The program was developed to ensure a safe school environment for all students at the secondary level. The program has been an unqualified success, according to the DOE.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2284, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (English, Matsunaga, Menor, Tam).

SCRep. 2241 Education on S.B. No. 2896

The purpose of this measure is to allow the Department of Education to provide suitable student transportation to and from not-for-profit private and sectarian elementary schools and secondary schools; provided that eligibility for such transportation has been determined in a nondiscriminatory manner on the basis of neutral, secular criteria.

Your Committee heard testimony in favor of the measure from the Department of Education, St. Catherine School, Superintendent of Catholic Schools, St. John's Catholic Preschool, and three private individuals. Your Committee received comments from the Department of Accounting and General Services.

Your Committee finds that dependable transportation is one of the most vital components enabling families to comply with Section 302A-1132, Hawaii Revised Statutes, which (with certain limited exceptions) mandates compulsory attendance in school for children under 18 years of age. As these school buses are already in operation, it would be more cost-effective to have them operate as close to full capacity as possible.

Your Committee has amended the measure by:

- (1) Adding a provision that students attending schools of choice shall not be eligible for transportation services unless cost-neutral services may be provided by the Department of Education mandating that private and sectarian school students shall pay fair market value (as determined by the Department of Education) for school bus fare, to achieve compliance with Article X, Section 1 of the Hawaii State Constitution;
- (2) Adding a provision that the availability of such transportation will be provided on a space available basis to students of not-for-profit private and sectarian elementary schools and secondary schools;
- (3) Deleting the reference to ratification of a constitutional amendment regarding student transportation to private and sectarian schools as the trigger of the effective date; and
- (4) Deleting the reference to the Department of Accounting and General Services, in light of Executive Order No. 00-01, which transferred jurisdiction over student transportation to the Department of Education from the Department of Accounting and General Services effective July 1, 2000.

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. 2896, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2896, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2242 Education on S.B. No. 2991

The purpose of this measure is to authorize and fund the development of high school career and technical education programs within the Department of Education.

Your Committee received testimony in support of the measure from the Department of Education and Hawaii State Teachers Association.

Your Committee finds that, in order to meet the demands of the 21st century, members of a learning community must be technologically literate by becoming interactive users and shapers of current and emerging technologies. Consequently, the use of technology should enhance instruction of students and working conditions of educational employees.

Your Committee has amended the measure by reducing the appropriation to zero 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. 2991, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2991, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2243 Education on S.B. No. 3004

The purposes of this measure are to:

- (1) Specify the duties of the Office of Educational Accountability, School Accountability and Advisory Panel, and School Advisory Councils; and
- (2) Abolish school/community-based management.

Your Committee received testimony in opposition to the measure from the Department of Education, Hawaii State Teachers Association, Hawaii Government Employees Association, and Hawaii Business Roundtable.

Your Committee finds that accountability remains an important educational reform initiative. Although the Department of Education is developing an accountability system in cooperation with the Legislature and other interested stakeholders, passing this measure on to the Committee on Ways and Means will provide an important means of both encouraging the department to continue developing its system expeditiously and establishing a forum of public discussion on this valuable concept.

Your Committee has amended the measure by deleting the sections that would have abolished school/community-based management.

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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2244 Labor on S.B. No. 2467

The purpose of this measure is to mandate binding arbitration for bargaining unit 09, registered professional nurses to resolve contract disputes with a public employer.

Testimony supporting this measure was received from the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, and Hawaii Health Systems Corporation. Testimony opposing this measure was received from the Office of Collective Bargaining.

Your Committee finds that registered nurses, like police officers and firefighters, provide an essential public service. If left to strike, the health, safety, and welfare of the public could be placed in serious jeopardy. Your Committee believes that potentially jeopardizing the lives of innocent citizens due to a disagreement over a collective bargaining agreement is not in the public's best interest.

Your Committee has amended this measure by changing the effective date of this measure to July 1, 2002, deleting the redundant amendment to section 89-10, Hawaii Revised Statutes, and making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2467, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2245 (Joint) Hawaiian Affairs and Transportation, Military Affairs, and Government Operations on S.B. No. 2231

The purpose of this measure is to establish a process in which the State can provide both meaningful and legally adequate warnings to the public regarding the access and use of Kaho'olawe and its surrounding waters.

Testimony in support of the measure was received from the Kaho'olawe Island Reserve Commission. The Consumer Lawyers of Hawaii voiced several concerns with the measure.

Specifically, the measure establishes a Task Force on Warning Signs and Devices and a process by which the State is protected from liability, so long as adequate warning is provided to the public through the design and placement of warning signs on Kaho'olawe.

Your Committees find that Kaho'olawe and its surrounding waters continue to contain hazards from residual unexploded ordnance, and natural conditions similar to the other Hawaiian islands. Persons accessing Kaho'olawe and its surrounding waters are exposed to these hazardous conditions. Your Committees also find that in advance of the 2003 transfer of Kaho'olawe from the federal government to the State, it is necessary to put measures in place that establish a balance between the public's access and use of Kaho'olawe and the government's duty to provide adequate warning.

Your Committees believe that the measure will provide a process by which a legally adequate warning system can be developed for Kaho'olawe and its surrounding waters, thereby increasing public safety and reducing the potential for unexploded ordnance related accidents.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2231 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2246 (Joint) Hawaiian Affairs and Transportation, Military Affairs, and Government Operations on S.B. No. 2620

The purpose of this measure is to clarify the filing of nomination papers to be a candidate for the Board of Trustees of the Office of Hawaiian Affairs (OHA).

Testimony in support of the measure was received from the Office of Elections.

Your Committees find that under existing law, candidates for the Board of Trustees of OHA must file their nomination papers sixty days prior to the general election (roughly early September). This measure would conform the filing deadline for OHA candidates with the July filing deadline complied with by all candidates for federal, state, or county elective offices.

Your Committees believe that conforming the OHA candidate filing deadline with the filing deadline for other offices will minimize confusion on when to file nomination papers for particular elective offices.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2620 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2247 Judiciary on S.B. No. 2623

The purpose of this measure is to enact the Judiciary Supplemental Appropriations Act of 2002.

Your Committee received testimony in support of this measure from the Judiciary.

Your Committee notes the testimony of the Judiciary that:

- (1) The Judiciary's budget base has been reduced in each fiscal year during the past four bienniums;
- (2) The addition of new initiatives and corresponding resources has resulted in average increases of less than \$1 million per year;
- (3) A significant portion of the supplemental budget is related to three additional judgeships, one circuit court judge for the second circuit to serve as a senior family court judge, one circuit court judge for the third circuit to preside over the drug court program, and one intermediate court of appeals judge (as authorized by Act 248, Session Laws of Hawaii 2001); and
- (4) Other major items relating to program expansions, computer system installation, and court relocation.

Your Committee has amended this measure on the recommendation of the Judiciary by:

- (1) Increasing from \$4,000,000 to \$6,900,000, the construction appropriation amount for the Kauai courthouse project (item 1 amended);
- (2) Increasing the 2002-2003 fiscal year B and C fund amounts for JUD 601-Administration from \$1,746,738 and \$77,552,000 to \$3,046,738 and \$151,552,000, respectively;
- (3) Adding two new capital improvement projects – Kapolei Judiciary Complex (item 15) and Honolulu circuit court reroofing (new item 16); and
- (4) Changing the overall total for capital improvement projects from \$23,027,000 to \$169,866,000 to reflect the above 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. 2623, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2623, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2248 Judiciary on S.B. No. 2821

The purpose of this measure is to allow for the award of medical expenses in excess of \$10,000 to compensate crime victims.

Your Committee received testimony in support of this measure from the Crime Victim Compensation Commission, Maui County Prosecuting Attorney, Honolulu County Prosecuting Attorney, Kauai County Prosecuting Attorney, and the Sex Abuse Treatment Center.

Your Committee finds that, at present, the maximum \$10,000 award is woefully inadequate in addressing cases involving catastrophic medical care. Hawaii is one of eight states that has a \$10,000 maximum award while more than forty other states have higher limits ranging from \$15,000 to a high of \$150,000 in Washington State, and no limit in New York.

As affirmed by the record of votes of 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 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2249 (Joint) Hawaiian Affairs and Education on S.B. No. 2229

The purpose of this measure is to appropriate funds to provide bus transportation for students attending Hawaiian language immersion schools.

Testimony in support of the measure was received from the Department of Education and two private citizens.

Your Committees find that since the inception of the Hawaiian Language Immersion Program in 1987, the program has grown significantly. For the 2001-2002 school year, the total enrollment was 1,621 students, supported by 116 teachers and locations on the islands of Oahu, Kauai, Maui, Molokai and Hawaii.

Your Committees also find that if the Hawaiian language immersion program is to be sustained without having to build new facilities for the sole purpose of housing immersion programs, bus transportation to existing immersion programs are necessary.

Your Committees therefore believe that the measure will provide the opportunity for more students to attend a Hawaiian language immersion program school.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2229 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 4 (Hanabusa, Matsunaga, Menor, Tam).

SCRep. 2250 (Joint) Hawaiian Affairs and Commerce, Consumer Protection and Housing on S.B. No. 2232

The purpose of this measure is to ensure that unencumbered funds that were appropriated for infrastructure improvements at Kikala-Keokea on the island of Hawaii will not lapse at the end of the 2001-2002 fiscal year.

Testimony in support of the measure was received from the Department of Land and Natural Resources (DLNR).

Your Committees find that Act 144, Session Laws of Hawaii 2001 (Act 144) established and funded an Infrastructure Development Fund, to be administered by DLNR, for the completion of infrastructure at the Kikala-Keokea subdivision, subject to a dollar-for-dollar match from the Office of Hawaiian Affairs (OHA). All funding commitments to complete the design and construction of infrastructure improvements must be agreed upon in a Memorandum of Agreement (MOA) between OHA and DLNR before any funds can be expended. Your Committees also find that DLNR is still working on the MOA with OHA and the Attorney General to secure funding commitments and establish payment mechanisms to support this project.

Your Committees further find that the language contained in Act 144 will not permit the expenditure of funds after June 30, 2002, if they were not encumbered by that date. To address this situation and to meet the Legislature's intended work period through June 30, 2004, DLNR has included a request in the LNR 101 (Public Lands Management) operating budget to extend the authorization for expenditure of the funds to June 30, 2003. A similar request would be submitted next fiscal year to extend the authorization to June 30, 2004.

Your Committees support providing funding for infrastructure improvements at the Kikala-Keokea subdivision either through the Executive Supplemental Budget as requested by the Governor or through passage of this measure.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2232 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 4 (Hanabusa, Kim, Matsunaga, Hemmings).

SCRep. 2251 (Joint) Hawaiian Affairs and Education on S.B. No. 2895

The purpose of this measure is to appropriate funds to sponsor a Hawaii delegation to the Festival of Pacific Arts.

Testimony in support of the measure was received from the Department of Business, Economic Development, and Tourism, the State Foundation on Culture and the Arts, the `Ilio`ulaokalani Coalition, the `Ilio`ulaokalani Youth Coalition, Halau Haloa, and four private citizens.

Your Committees find that as a member of the Pacific island community, Hawaii should actively participate in the Festival of Pacific Arts. The Festival for Pacific Arts is the largest gathering of cultural practitioners and artists of the entire Pacific island nations. The last festival was held in New Caledonia in 2000. At that event, twenty-seven delegations were represented.

Your Committees have amended the measure by adding language that would enable the Hawaii delegation to submit a bid to host the Festival of Pacific Arts in the year 2008, and by making the effective date of the measure July 1, 2050, to ensure further discussion on the issue.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2895, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2895, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Hanabusa, Matsunaga, Menor, Tam).

SCRep. 2252 (Joint) Hawaiian Affairs and Education on S.B. No. 2897

The purpose of this measure is to establish a State Office on Hawaiian Culture and Arts and an attendant grant program.

Testimony in support of the measure was received from the Keomailani Hanapi Foundation, the `Ilio`ulaokalani Coalition the `Ilio`ulaokalani Youth Coalition, Ka Lahui Hawaii, and four private citizens.

Your Committees find that the State Foundation on Culture and the Arts is currently charged with the responsibility to promote and nurture Hawaiian culture and arts. Although mandated to do so, the State Foundation on Culture and the Arts is also charged with promoting and nurturing all cultural and artistic endeavors in the State. Sadly, with the current state of fiscal austerity, the Foundation is not able to devote enough resources to perpetuating Hawaiian culture and arts in the manner that it should be.

To this end, the measure establishes a State Office on Hawaiian Culture and Arts and an attendant grant program to further the goal of perpetuating and preserving Hawaiian cultural activities and arts.

Your Committees have amended the measure by changing the effective date from July 1, 2002, to July 1, 2050, to ensure further discussion on the issue.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2897, as amended herein, and recommend 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 Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Hanabusa, Matsunaga, Menor, Tam).

SCRep. 2253 Tourism and Intergovernmental Affairs on S.B. No. 2108

The purpose of this measure is to appropriate funds to upgrade the Hawaii County police department's telecommunication systems.

The Hawaii County Civil Defense Agency and the State of Hawaii Organization of Police Officers testified in support of this measure.

Your Committee finds that the telecommunications system utilized by the Hawaii County police department suffers from numerous deficiencies that put the safety of the public and law enforcement officers at risk. The present system lacks adequate coverage, is unreliable, and suffers from channel congestion, among other problems, and is unable to handle the increasing number of calls for police assistance. This measure appropriates funds that would enable the Hawaii County police department to upgrade its system and, thereby, to better protect the public.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2254 Tourism and Intergovernmental Affairs on S.B. No. 2346

The purpose of this measure is to redefine the term "hotel" in the penal code.

The Hawaii Hotel Association and Maui Hotel Association testified in support of this measure.

The penal code defines "hotel" as a structure in which all of the tenants are roomers or boarders. Your Committee finds that this definition does not accurately reflect the lodging and hospitality establishments of today, which often include retail and food service tenants. Therefore, this measure redefines "hotel" to mean a structure in which a majority of the tenants are roomers or boarders.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2346 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2255 Tourism and Intergovernmental Affairs on S.B. No. 2350

The purpose of this measure is to set an unspecified limit on the transient accommodations tax (TAT) revenues deposited in the tourism special fund, with an unspecified amount to be deposited in the state parks special fund.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Department of Land and Natural Resources (DLNR), and Sierra Club Hawai'i Chapter. The Hawaii Tourism Authority (HTA), Visitor Industry Coalition, Hawai'i Hotel Association, Maui Hotel Association, Hawaii Activities and Tours Association, Waikiki Improvement Association, and Hawaii Business Roundtable testified in opposition. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that Hawaii's parks are some of the most spectacular places in the world, and part of what brings people to visit the State. These resources should be experienced in the context of world class, well-designed, well-maintained park facilities, but unfortunately, this is not always the case. Facilities designed and built decades ago to handle a few dozen visitors are now overwhelmed by thousands of people every day. To various degrees, roads are crumbling, sewage systems overloaded, water supplies overdrawn, trails eroding, irrigation systems failing, picnic tables are collapsing, and shelters are falling apart. Work crews have little time for preventative maintenance in the struggle to keep the failing basic facilities on line.

Your Committee has heard that the DLNR Na Ala Hele Program, under the Division of Forestry and Wildlife, currently manages approximately 277 miles of hiking and multiple use trails statewide. A study in 2000 of fourteen trails located in both state parks and under the Na Ala Hele Program, conducted by students from the University of Hawaii Department of Urban and Regional Planning, determined that seventy-eight per cent of over 2000 individuals interviewed were from out of state. In addition, Na Ala Hele manages and regulates the commercial trail tour activities of twenty-one permitted operators on select trails statewide. Ten years ago there were virtually no trail tours in existence, and currently there is a growing demand for trail activity from visitors.

Your Committee strongly acknowledges the nexus between the visitor industry and Hawaii's natural resource areas. Well over half of state park users are visitors to the islands, and as the survey has shown, the percentage is even higher on trails.

Your Committee has amended this measure to:

- (1) Add a purpose paragraph to detail the specific purposes of the measure;
- (2) Cap the TAT revenues deposited in the tourism special fund at \$61,000,000 annually;
- (3) Require the HTA to direct at least \$1,000,000 of that amount to support efforts to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors;
- (4) Deposit ninety per cent of any TAT revenues over \$61,000,000 in the state parks special fund, and transfer ten per cent to the Hawaii statewide trail and access program to take care of those trails not under parks jurisdiction, up to \$2,000,000 annually, and require expenditures in response to a master plan developed with HTA; and
- (5) Authorize any excess over \$63,000,000 to be deposited into the general fund.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2350, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2350, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (English, Matsuura, Sakamoto).

SCRep. 2256 Tourism and Intergovernmental Affairs on S.B. No. 2421

The purposes of this measure are to:

- (1) Increase the membership of the Hawaii Tourism Authority (HTA) board and clarify that it is a policy-making board;
- (2) Expand the board's duties to include assistance with state policies relating to natural resources infrastructure;
- (3) Require legislative notice for HTA contracts over \$25,000; and

- (4) Require periodic audits of all contracts over \$15,000,000 awarded by HTA.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Department of Land and Natural Resources, Hawaii Hotel Association, Visitor Industry Coalition, Hawaii Activities and Tours Association, and Retail Merchants of Hawaii. The Hawaii Tourism Authority (HTA) testified in opposition.

Your Committee finds that increasing the membership of the HTA board to reflect the diverse nature of the tourism industry will strengthen the board's ability to respond to an increasingly sophisticated and competitive global tourism market. The addition of the Chair of the Board of Land and Natural Resources as a non-voting member is also critical to the success of the board's expanded role in supporting the State's efforts to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors.

Your Committee considers the Auditor's recently released critical audit of the HTA as indicative that the periodic audit requirement of this measure will be an effective way to assist the HTA, in the future, in avoiding many of the concerns raised.

Your Committee has amended this measure to:

- (1) Further clarify the county representation on the board;
- (2) Specify that the executive director's salary shall not exceed fifteen per cent of the three per cent allowed for HTA administrative costs;
- (3) Change the contract amount for audits from \$10,000,000 to \$15,000,000; and
- (4) Delete references to chapter 77, Hawaii Revised Statutes, which is repealed effective July 1, 2002.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (English, Matsuura, Sakamoto).

SCRep. 2257 Tourism and Intergovernmental Affairs on S.B. No. 2556

The purpose of this measure is to exempt from the Employees' Retirement System the executive director of the Hawaii Tourism Authority and to give the board additional flexibility in the appointment.

Testimony in support of the intent of this measure was received from the Hawaii Tourism Authority (HTA).

Your Committee understands that the HTA board does not wish to exempt the executive director from all retirement benefits, only those pertaining to a retirement allowance based on the highest three years of public service.

Your Committee believes, however, that no decision can be made on how best to achieve this exemption until the board determines further parameters for hiring the executive director. Until such decisions are made, your Committee is passing this measure on for further discussion.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2556 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (English, Matsuura, Sakamoto).

SCRep. 2258 Tourism and Intergovernmental Affairs on S.B. No. 2635

The purpose of this measure is to clarify the duties and responsibilities of the Hawaii Tourism Authority (HTA).

The HTA and State Auditor testified in support of this measure.

Since its inception in 1998, the HTA has assumed the duties of the Office of Tourism. Therefore, this measure repeals the laws that establish the Office of Tourism and other related tourism statutes that are no longer relevant. Additionally, this measure assigns to the HTA key duties and responsibilities formerly assigned to the Office of Tourism, consistent with the recommendations of the State Auditor.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2635 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2259 (Majority) Tourism and Intergovernmental Affairs on S.B. No. 2709

The purposes of this measure are to assign responsibility to market, operate, manage, and maintain the Hawaii convention center facility to the Hawaii Tourism Authority; and establish a Hawaii convention center enterprise special fund and a convention center facility reserve special fund.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, the Hawaii Tourism Authority (HTA), and Hawaii Hotel Association. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that this measure would clarify the responsibility for the Hawaii Convention Center, an issue that has been clouded since the Convention Center Authority law expired on June 30, 2000.

Your Committee further finds that the convention center is of great importance to the visitor industry of the State and that this measure will ensure greater accountability and efficiency for the convention center.

Your Committee has amended this measure to formally repeal the convention center authority law, effective June 30, 2000, as provided for in S.B. No. 2459, which was previously heard in this Committee, conform the effective date to the various amendments to the bill, and to make technical amendments to conform to preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs 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 Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2260 Tourism and Intergovernmental Affairs on S.B. No. 2858

The purpose of this measure is to change the penalty for cruelty to animals from a misdemeanor to a class C felony.

Testimony in support of this measure was received from the Hawaiian Humane Society, Animal Rights Hawaii, Citizens for Humane Animal Policies, and three individuals. The Honolulu Police Department and the Office of the Public Defender submitted testimony in opposition.

Your Committee has heard that the current animal cruelty law was originally written in 1850 and although the penal code was reorganized in 1972, the animal cruelty section has remained virtually unchanged.

Your Committee strongly supports stronger penalties as a deterrent to cruelty to animals, but members have grave reservations about the class C felony provisions. The Honolulu Police Department has raised concerns that a class C felony, while justified in cases of severe abuse, may not be appropriate in other, less abusive situations.

Your Committee believes the penalty provision would benefit from further discussion by the members of the Committee on Judiciary.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2261 Tourism and Intergovernmental Affairs on S.B. No. 2875

The purpose of this measure is to set parameters for awarding tourism product enrichment and diversification grants to the counties based on the same percentage of revenue the counties receive from the transient accommodations tax.

Testimony in support of this measure was received from the County of Hawaii Department of Research and Development, five members of the Maui County Council, The Visitor Industry Coalition, Hawai'i Hotel Association, and Maui Hotel Association. The Hawaii Tourism Authority (HTA) testified in opposition.

Your Committee finds that the HTA was created to serve a policy-making and broad marketing role to allow Hawaii to compete in the global tourism arena. Allowing the counties to manage their own contracts and make decisions about what is most appropriate for their specific tourism attractions would be a much more efficient use of the State's tourism moneys.

Your Committee has heard a number of suggestions to increase flexibility in the county grants program while maintaining accountability. Your Committee has amended this measure to:

- (1) Make the county grants formula more flexible by allowing the HTA board to allocate "up to" the specified percentages for each county;
- (2) Authorize the board to set grant requirements;

- (3) Authorize the board to withhold future grant amounts and redistribute moneys to other counties and other projects if the board determines that the project has not met grant requirements or that post event analysis did not meet feasibility criteria; and
- (4) Make technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (English, Matsuura, Sakamoto).

SCRep. 2262 Tourism and Intergovernmental Affairs on S.B. No. 2890

The purpose of this measure is to permit time sharing on properties where an existing hotel is a valid non-conforming use under county ordinance.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs, Hawaii Tourism Authority, a Member of the Honolulu City Council, Hawaii Hotel Association, American Resort Development Association, Roberts Hawaii, Acquisition Research Corporation, and one individual. The City and County of Honolulu Department of Planning and Permitting testified in opposition.

Your Committee finds that time sharing has remained one of the few positive aspects of the visitor industry since the terrorists attacks of September 11, and their devastating effect on travel.

Your Committee is supportive of efforts to allow further development of this valuable industry. Your Committee has amended this measure to provide that in counties with a population over 500,000, the hotel must have at least sixty units and forty per cent of the units must be apartments.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2890, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2890, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2263 Tourism and Intergovernmental Affairs on S.B. No. 2891

The purpose of this measure is to clarify that the provisions of chapter 92, Hawaii Revised Statutes (HRS), regarding notice and minutes of meetings, apply to meetings of any advisory group created or authorized to be created by charter, ordinance, or by the request or order of a county executive, to provide a vision in the development of public facilities and improvements requiring the expenditure of specific sums of public funds for these facilities and improvements.

Testimony in support of this measure was received from Common Cause Hawaii and Kailua Neighborhood Board. The City and County of Honolulu Department of Corporation Counsel and Department of Planning and Permitting testified in opposition. The Office of Information Practices submitted comments.

Your Committee finds that the issue of whether the City and County of Honolulu's Vision Teams are subject to the provisions of Chapter 92, HRS, has been of serious concern since the inception of the Vision Teams. While your Committee commends any citizen who is willing to volunteer for the better public good, members agree with a comment made in the hearing "that democracy is not always convenient." The Sunshine Law does require more effort on the part of the members of appointed groups, but it ensures that the work of those groups is open to all for review.

Your Committee has amended this measure to defer to the recommendation of the Office of Information Practices that the proposed language be subject to all of Chapter 92, HRS, and not just the two sections cited previously.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs 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 Judiciary

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2264 (Joint) Tourism and Intergovernmental Affairs and Health and Human Services on S.B. No. 2904

The purpose of this measure is to appropriate funds for a second ambulance to service the Waianae Coast.

Testimony in support of this measure was received from the Department of Health, City and County of Honolulu Emergency Services Department, and American Medical Response.

Your Committees have heard that between 1997 and 2001, the number of calls for ambulance services in the Waianae area have increased by approximately twenty per cent. Responses from units outside the Waianae area have gone up twenty seven per cent for the same period. As a result, more than one in four calls to the Waianae area exceed the State's response time standard, which stipulates that responses should not exceed an average of fifteen minutes.

Your Committees support this measure as a means of providing for the safety and peace of mind of Waianae Coast residents.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2904 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 4 (Inouye, Kokubun, Nakata, Sakamoto).

SCRep. 2265 Tourism and Intergovernmental Affairs on S.B. No. 2905

The purpose of this measure is to preclude a retail seller of liquor from being held jointly and severally liable to a tort victim.

The Consumer Lawyers of Hawaii testified in opposition to this measure.

This measure proposes to limit the liability of a retail seller of liquor whose negligence in selling liquor contributes to a tort victim's injuries or damages. Your Committee heard concerns about the abolition of joint and several liability in these types of cases, and believes that the issue merits further review and consideration by the Committee on Judiciary.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2905 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2266 Tourism and Intergovernmental Affairs on S.B. No. 2976

The purpose of this measure is to make a grant-in-aid to the City and County of Honolulu to clean up the Kailua waterway system waterway.

Testimony in support of this measure was received from the Department of Health, Honolulu Department of Environmental Services, Kailua Neighborhood Board No. 31, Kailua Bay Advisory Council, Enchanted Lake Residents Association, Koolau News, Oceanit, and three private citizens.

The Kailua waterway system incorporates Enchanted Lake, Kaelepu Stream, Kawainui Canal, and Oneawa Canal. The problem with these waterways is that they form a basin for runoff from lands owned by the City and County of Honolulu, the State, federal government, and private landowners. Eventually, the runoff discharges into Kailua Bay.

Your Committee has amended this measure to condition the grant on a match from the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2976, as amended herein, and recommends 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2267 (Joint) Tourism and Intergovernmental Affairs and Economic Development and Technology on S.B. No. 3021

The purpose of this measure is to expand Hawaii's tax credits for motion picture and television production.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Honolulu Film Office, and Big Island Film Office. The Department of Budget and Finance testified in opposition. The Department of Taxation and the Tax Foundation of Hawaii submitted comments.

Your Committees find that since 1997, Hawaii has offered a three per cent or four per cent tax credit on all Hawaii production expenditures to motion picture and television producers, depending on certain qualifying criteria. This includes the cost of goods and services, as well as wages and salaries, while filming in the State. Currently, Hawaii also offers a tax credit for hotel expenses equal to the 7.25 per cent transient accommodations tax.

Your Committees have heard that offering a tax credit is a welcome signal to the film industry, but the amount of the credit is not enough to compete with other financial incentives offered in other locations.

Your Committees support further incentives to attract more motion picture and film productions to Hawaii, but have heard concerns regarding the means as proposed in this measure.

Your Committees have amended this measure to:

- (1) Clarify that the four per cent tax credit excludes wages and salaries, which are eligible for tax credits of up to twenty-two per cent; provided that the tax credit for wages and salaries shall not exceed \$25,000 per employee;
- (2) Reinsert the provisions requiring the Director of Taxation to provide rules for these tax credits;
- (3) Delete new language that would have set levels of production costs;
- (4) Add commercials as eligible for the tax credits; and
- (5) Make the tax credits effective for taxable years beginning after December 31, 2051, for purposes of further discussion.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Economic Development and Technology 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 referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Buen, Kawamoto, Matsunaga, Sakamoto, Taniguchi).

SCRep. 2268 (Joint) Tourism and Intergovernmental Affairs and Transportation, Military Affairs, and Government Operations on S.B. No. 2907

The purpose of this measure is to establish a tax credit for qualified investment at Ko Olina Resort and Marina.

Testimony in support of this measure was received from Ko Olina Resort and Marina, Kewalo Basin Marine Mammal Laboratory, The Estate of James Campbell, Libertarian Party of Hawaii, and one individual. The Tax Department testified in opposition. The Tax Foundation of Hawaii submitted comments.

Your Committees find that Ko Olina Resort and Marina is well placed for the development of a centralized visitor attraction. The 652-acre resort is master planned, zoned, and approved for hotel, timeshare, commercial, and recreational development. The addition of educational activities that take advantage of Hawaii's location and resources, such as an aquarium and marine science center, would add considerably to the attraction.

Your Committees further find that the investments attracted by the tax credit proposed in this measure would have significant benefits to residents in the form of new jobs and leisure activities.

Your Committees have also heard concerns regarding several of the specific tax provisions of this measure. Your Committees find these concerns to be well considered and have amended this measure to:

- (1) Delete the transfer of the tax credit;
- (2) Add provisions for the recapture of the tax credit;
- (3) Cap a taxpayer's total investment eligible for the tax credit at \$100,000,000;
- (4) Restrict "investment" to facilities for attractions, educational purposes, and infrastructure directly related to such facilities; and
- (5) Eliminate any doubling of tax credits for the investment.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2907, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2907, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2269 Transportation, Military Affairs, and Government Operations on S.B. No. 2305

The purpose of this measure is to appropriate funds for capital improvement projects for the benefit of the 18th Senate District.

The Hawaii State Public Library System submitted comments on this measure.

Your Committee finds that capital improvement measures are important ways for senators to inform the legislature of the needs in their community. Although most capital improvement measures are relating to schools, facilities, and other infrastructures, this request

for capital improvement funds includes a request for a median strip guardrails for the H-2 freeway. Your Committee finds that guardrails provide safety for all Hawaii residents who travel the H-2.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2305 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Inouye, Menor, Taniguchi).

SCRep. 2270 Transportation, Military Affairs, and Government Operations on S.B. No. 2409

The purpose of this measure is to require civil process servers to wear identification badges and to carry a wallet-sized identification card while serving civil documents.

Your Committee received testimony in support of this measure from the Department of Public Safety and the Hawaii Deputy Sheriff's Association. Testimony in opposition to this measure was submitted by the Judiciary, Credit Associates of Maui, Ltd., Nationwide Commercial Collections, Kauai Credit Adjusters, Ltd., State Wide Collections, Doctors Business Bureau, Collection Agency of Hawaii, Inc., Honolulu Information Service, Process Servers Exclusive, Reliable Process Service, and nearly 80 concerned citizens.

Your Committee finds that process servers operate in a quasi-judicial role by acting as officers of the court while serving official documents. In addition, it is difficult for the public to determine whether a person approaching them with official-looking documents is legitimately serving civil process or is an impostor. Therefore, your Committee finds that it is appropriate to require civil process servers to carry adequate identification.

Your Committee made technical, nonsubstantive amendments to this measure for clarity and accuracy.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2409, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Inouye, Menor, Taniguchi).

SCRep. 2271 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2306

The purpose of this measure is to exempt structures and improvements to airports from county approvals and county special management area permits.

Testimony in support of this measure was received from the Department of Transportation (DOT). Testimony in opposition was received from the Honolulu Planning and Permitting Department, Hawaii County Planning Department, and Hawaii's Thousand Friends.

This measure is in response to the terrorists attacks of September 11, 2001, necessitating additional airport construction and improvements to meet new federal security standards and security in general. Obtaining county approvals for airport construction projects is a time consuming process that delays capital improvement projects. Your Committees believe that county approvals should give way to the exigencies of providing secure airports. Your Committees find that the greater good of the public outweighs the building and permitting requirements of the counties. However, your Committees request the DOT to be mindful of and to voluntarily comply with county requirements, even though exempted by this measure.

Your Committees have amended this measure, as a reasonable compromise, to clarify that the exemption from county special management area permits applies when necessary to comply with federal security requirements, including compliance with the Aviation Transportation and Security Act of 2001.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2306, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2306, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, 1 (Fukunaga). Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2272 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2319

The purpose of this measure is to clarify an employee's exemption from the motor vehicle safety responsibility law for posting security when involved in an accident during normal scope of employment.

Although your Committees received no testimony on this measure, your Committees find that this measure is important as more and more employees are using their own vehicles in the course of their employment. This measure removes the language limiting the exemption from posting security to drivers of a motor vehicle owned by their employer, thereby making the exemption applicable to all accidents so long as the accident occurred during the normal scope of that person's employment.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2319 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2273 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2422

The purpose of this measure is to lengthen the time between mandatory motor vehicle safety inspections.

Your Committees received testimony in support of this measure from the Hawaii Transportation Association, Hawaiian Electric Company, and Charley's Taxi.

Your Committees find that while motor vehicle safety is a top priority for the State, the requirement of an annual (or more frequent) safety inspection is unduly burdensome. Therefore, your Committees agree with the intent of this measure, which lengthens the time between inspections for most vehicles to two years, and to one year for most vehicles that currently require inspection every six months.

Your Committees amended this measure to require inspection of commercial tour vehicles every year, rather than every six months. Your Committees find that commercial tour operators are especially conscientious in inspecting their vehicles on their own accord, and that the increased State oversight is unnecessary.

Similarly, motor vehicle rental companies testified that since most rental vehicles are under two years of age, those vehicles should not require inspection. Therefore, your Committees amended this measure to effectively exempt rental and U-drive vehicles under two years of age from inspection. Rental and U-drive vehicles older than two years will require an annual inspection.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2422, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2422, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2274 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2628

The purpose of this measure is to clarify the State's "Driving Under the Influence" (DUI) laws.

Testimony in support of the measure was received from the Judiciary, the Department of Transportation, the City and County of Honolulu's Prosecuting Attorney, and Mothers Against Drunk Driving. The City and County of Honolulu's Police Department supported the measure with amendments.

Specifically, the measure:

- (1) Allows the combination of prior drug enforcement contacts with alcohol enforcement contacts when deeming a person a "repeat intoxicated driver";
- (2) Requires that sworn statements of a law enforcement officer or other person be considered if the officer or person is absent from the administrative revocation hearing;
- (3) Requires personal service upon a law enforcement officer to appear at an administrative revocation hearing or other person be made not later than forty-eight hours prior to the administrative revocation hearing;
- (4) Establishes that the absence of a subpoenaed officer or person constitutes good cause for the continuance of an administrative revocation hearing;
- (5) Clarifies that a person or minor who refuses to be tested for the presence of intoxicants at a traffic stop will not be issued a conditional permit to operate a motor vehicle; and
- (6) Makes other amendments to facilitate the proper administration of the State's DUI law.

Your Committees find that the Judiciary's Administrative Driver's License Revocation Office (ADLRO) has received a number of complaints and concerns raised by police officers relating to arrestee/defense counsel's late service of subpoenas to appear at ADLRO

hearings. The late service of subpoenas has caused conflicts with the officer's court calendars, late night and early morning work shifts, and last minute family problems such as child care matters. This has increased the number of continuances and delays in ADLRO hearings. Even if not done for the specific purpose of making it difficult for an officer to attend ADLRO hearings, this can be easily corrected by mandating that reasonable notice (i.e., 48 hours service prior to hearing) be given to witnesses that their presence is required at ADLRO hearings. This is further supported by the statutory requirement that requests for subpoenas be made no later than five days prior to the scheduled hearing date.

Your Committees also find that the original intent of the administrative revocation law was to create a fair, but primarily expeditious process to remove dangerous impaired drivers from the streets as soon as possible. Due to the evolution of the law through judicial review decisions and appellate cases, the responsibility on law enforcement officials has expanded to the reading of an exhaustive litany of any and all possible consequences covering all possible scenarios related to the arrestee's situation, including his or her driving history which may or may not be accurate or known to the police at the time of arrest. The original intent and purpose of the law needs to be revisited and clarified by the requested amendments.

This is time consuming and frustrating to the police who often deal with intoxicated individuals. For example, one document regarding implied consent, has evolved since the beginning of the program from a relatively simple one page form to a two page, two sided document in order to meet the standards established by the current case law. It has simply created an almost unworkable burden on law enforcement and continues to be a major factor in both their apprehension over performing and documenting the voluminous ADLRO paperwork and in ADLRO's ability to sustain revocations if all of the requirements are not exhaustively performed.

A simplified reference to section 291E-41, Hawaii Revised Statutes, which identifies the criteria used for revocation periods would eliminate much of the current confusion and streamline the process.

Your Committees further find that the absence of police officer witnesses may be due to any number of legitimate reasons which may not be known to the ADLRO hearing officer at time of hearing. Currently, the absence of a subpoenaed and served police officer at the ADLRO hearing would cause a reversal upon judicial review, merely on the basis of the officer's unexplained non-appearance at time of hearing. There should be a means of insuring that an otherwise sustainable case is not dismissed or reversed due to the excusable non-appearance or failure of an officer to notify the office prior to hearing. Hence, the good cause for the continuance to be ordered initially by the hearing officer should be the non-appearance itself. Since the hearing officer is mandated by statute to control and conduct the hearing, the discretion to determine good cause for non-appearance upon later examination or testimony should rest in the hearing officer's hands.

Your Committees have amended the measure by clarifying that when an officer informs a person suspected of driving under the influence of drugs or alcohol of the sanctions contained in sections 291E-41 and 291E-65, Hawaii Revised Statutes, the officer shall only be required to inform the person of the applicable sanctions, rather than all of the sanctions contained in both sections.

Your Committees believe that the measure will assist the Judiciary in effectively administering the State's Administrative Driver's License Revocation Program.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2628, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2628, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2275 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2681

The purpose of this measure is to ensure that public works projects will have plans or specifications prepared or supervised by a licensed design professional.

Testimony in support of this measure was submitted by the Department of Transportation, Department of Accounting and General Services and the Department of Commerce and Consumer Affairs.

Your Committees find that this measure retains the original intent of this statute, which is to protect the public by requiring licensed professionals to provide the plans or specifications for public works involving alterations or new construction. However this measure differentiates these new or alteration construction from maintenance construction, which would only require observation of the maintenance work by a licensed design professional designated by the government agency undertaking the public works project. These types of project should be differentiated and allow discretion in situations where plans are not necessary.

Upon further consideration, your Committees have amended this measure by making technical, nonsubstantive changes.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2681, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2681, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2276 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2737

The purpose of this measure is to clarify the protections afforded private agencies and entities engaged in civil defense functions.

Your Committees received testimony in support of the measure from the Department of Public Safety, Department of Business, Economic Development, and Tourism, Department of Defense, Honolulu Police Department, Hawaii Hotel Association, and Hawaiian Electric Company.

Your Committees find that providing immunity from liability to private agencies and entities that assist the public in times of disasters will encourage them to provide tourists and the general public with private shelters in times of disasters or civil defense.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2737 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2277 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2768

The purpose of this measure is to add the requirements of the Federal Fair Housing Amendments Act to the design requirements for persons with disabilities for state and county construction projects.

Your Committees received testimony in support of the measure from the Disability and Communication Access Board.

Your Committees find that Section 103-50, Hawaii Revised Statutes, requires state and county projects to conform to the requirements of the Americans with Disabilities Act Accessibility Guidelines, as amended by the Disability and Communication Access Board. However, new construction of multi-family dwelling units must also conform to the requirements of the rules adopted under the Federal Fair Housing Amendments Act. This measure would assure that state and county housing projects conform to both design guidelines.

Your Committees further find that the current statute establishes the scope of coverage as federal, state, and county projects. It was never intended that all federal projects would come under the jurisdiction of state law, nor the State Disability and Communication Access Board review process. This measure would clarify the scope of coverage to projects that are federally-funded and administered by the State or a county, conforming to current practice.

Your Committees have amended this measure to reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2768, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2768, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (English, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 2278 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.B. No. 2308

The purpose of this measure is to amend section 171-10, Hawaii Revised Statutes (HRS), to establish a new class of public lands for maritime use.

Your Committees received testimony in support of this measure from the Maritime Committee of the Hawaii Chamber of Commerce and Paradise Cruise, Ltd. Testimony in opposition to this measure was submitted by the Department of Transportation, the Board of Land and Natural Resources (BLNR), Hawaii's Thousand Friends, and the Makai Society.

Your Committees find that under existing law, BLNR is required to classify all public lands into 13 categories, depending on the uses for which the classified land is suitable. Maritime use is not one of the available categories for classification.

Your Committees believe that it is appropriate to designate maritime use as one of the permissible land classifications. Hawaii is the most maritime state in the United States, and your Committees find that BLNR should consider maritime uses when disposing of public lands.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2308 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 4 (Chun Oakland, Ihara, Matsunaga, Menor).

SCRep. 2279 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.B. No. 2835

The purpose of this measure is to grant the Harbors Division of the Department of Transportation (DOT) greater flexibility in the disposition of leases for uses subject to the approval of the Board of Land and Natural Resources (BLNR).

Your Committees received testimony in support of this measure from DOT, BLNR, the Maritime Committee of the Hawaii Chamber of Commerce, and Paradise Cruise, Ltd. The Makai Society and Hawaii's Thousand Friends submitted testimony in opposition to this measure.

Your Committees find that existing law allows maritime businesses to negotiate a lease not to exceed thirty-five years without recourse to public auction. Your Committees agree that it also makes sense to allow such leases for maritime related uses as well, and to define that term in the Hawaii Revised Statutes.

Your Committees amended this measure based on the testimony submitted by DOT to clarify the definition of "maritime related" and to specify that leases for maritime related uses not to exceed 35 years do not require public auction. Technical, nonsubstantive changes were also made.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2835, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2835, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 4 (Chun Oakland, Matsunaga, Menor, Nakata).

SCRep. 2280 Transportation, Military Affairs, and Government Operations on S.B. No. 2836

The primary purposes of this measure as referred to your Committee were to set the fee that the Department of Education (DOE) can charge for the driver education program, and to create a special Driver Education Fund to hold the fees.

Your Committee received testimony in support of this measure from the Department of Transportation, DOE, and the Hawaii Insurers Council.

Your Committee finds that the driver education program operated by DOE costs the Department approximately \$225 per student, and that DOE lacks the resources necessary to administer the program to every eligible student, particularly following the mandate of Act 175, Session Laws of Hawaii 1999.

Therefore, your Committee supports this measure insofar as it creates a special fund to segregate and hold these important funds.

In addition, your Committee supports an increased fee for the DOE's driver education program. As introduced, this measure set the fee at \$100. However, based on concerns raised by DOE, your Committee amended this measure to allow the Board of Education to continue to establish the fee. This will give the Board continued discretion to set the fees at a reasonable level for students, especially students from low income families.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2281 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2887

The purpose of this measure is to increase the small purchase procurement exception dollar ceiling for construction projects from \$25,000 to \$250,000, and to establish a state resident procurement preference.

Your Committees received testimony in opposition to this measure from the State Procurement Office.

Your Committees find that this measure promotes two laudable goals. First, it increases the small purchase dollar ceiling to \$250,000 for construction projects, thereby exempting such projects from the time consuming procurement process.

Your Committees find that with the large backlog of projects, particularly school repair and maintenance projects, it makes sense to ease the requirements for awarding contracts for those projects so that work can begin as soon as possible.

In addition, your Committees support the provisions of this measure establishing a procurement preference for state residents. With the economic recession and further encroachment from mainland contractors, the State has a compelling interest in protecting local residents.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2887 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, 1 (English). Excused, 4 (Inouye, Menor, Sakamoto, Taniguchi).

SCRep. 2282 Transportation, Military Affairs, and Government Operations on S.B. No. 3049

The purpose of this measure is to authorize the issuance of special facility revenue bonds for a ferry system between Iroquois Point and Ford Island to Aloha Tower and Hilton Hawaiian Village Pier.

Your Committee received testimony in support of this measure from the Department of Transportation (DOT), the three partners proposing to develop and operate the proposed ferry system, and Paradise Cruise, Ltd.

Your Committee finds that with traffic gridlock worsening every day, it is critical that alternative means of transportation be developed to allow commuters another option to get to and from work each day.

Therefore, your Committee fully supports the establishment of a ferry system, and further supports the issuance of special facility revenue bonds for that purpose.

Your Committee amended this measure based on the testimony submitted by DOT. First, your Committee deleted a portion of the legislative findings that erroneously stated that DOT had already received federal moneys for the establishment of a ferry system.

In addition, your Committee amended this measure to provide that the special facility revenue bonds be used for ferry facilities rather than to purchase ferries themselves, and amended the lapsing of balances into the general fund to provide instead that the authority to issue the bonds lapses.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3049, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3049, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 1 (Menor).

SCRep. 2283 (Joint) Water, Land, Energy, and Environment and Commerce, Consumer Protection and Housing on S.B. No. 2238

The purpose of this measure is to authorize the issuance of special purpose revenue bonds (SPRBS) to assist in the establishment of nonfossil fuel generating plants and related facilities in Hilo.

Testimony in support of this measure was received from the Wailuku River Hydroelectric Power Company, Inc. (Wailuku Hydro) and the Hawaii Renewable Energy Alliance.

The proceeds of the SPRBS would be used by the Power Company, or a partnership in which Wailuku Hydro is a general partner, to establish nonfossil fuel generating plants and related facilities. The electric output of these facilities would be required to make power available to the general public by sale to the Hawaii Electric Light Company, Inc. (HELCO).

Wailuku Hydro is a Hawaii corporation engaged in the development, ownership, and operation of renewable energy facilities in the State of Hawaii. Wailuku Hydro was previously successful with a 1991 project, involving a 12MW Wailuku River Hydropower Project (Project) near Hilo, which is an economic boon to Hilo. The sale of electricity to HELCO has avoided to date the importation of nearly 600,000 barrels of oil. In addition, the Project has saved thousands of tons of air pollutants and greenhouse gas emissions.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2238 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Chumbley, Chun, Kokubun, Nakata, Hemmings, Hogue).

SCRep. 2284 (Joint) Water, Land, Energy, and Environment, Tourism and Intergovernmental Affairs and Commerce, Consumer Protection and Housing on S.B. No. 2266

The purpose of this measure is to require the counties to include a curbside recycling program in their integrated solid waste management plans.

Testimony in support of the intent of this measure was received by the Department of Health, Office of Environmental Quality Control, Hawaii's Thousand Friends, Na Leo Pohai, Sierra Club Hawaii Chapter, and Hawaii Food Industry Association.

Your Committees find that curbside recycling programs are an effective means of reducing the amount of trash destined for landfills, as well as providing economic opportunities in the recycling industry.

While your Committees strongly support increased recycling, requiring the counties to implement curbside recycling will require considerable financial resources, particularly for neighbor island counties.

Your Committees have amended this measure to delete the requirement that the counties include a curbside recycling program, and in its place, authorize the counties to consider establishing such a program, as well as fees to pay for the costs.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2266, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2266, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs & Vice Chair on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 7 (Chumbley, Chun Oakland, Ihara, Nakata, Sakamoto, Hogue, Slom).

SCRep. 2285 Water, Land, Energy, and Environment on S.B. No. 2505

The purpose of this measure is to require a draft and final environmental impact statement (EIS) to be prepared by a qualified environmental consultant retained by the Office of Environmental Quality Control (OEQC) in accordance with the competitive sealed bidding or the competitive sealed proposals selection methods, at the expense of an applicant, if the applicant for a proposed action is a regulated utility.

Testimony in support of this measure was received from Hawaii's Thousand Friends and Na Leo Pohai. The OEQC, Hawaiian Electric Company, Inc., Kauai Electric and The Gas Company, Verizon Hawaii, and Land Use Research Foundation of Hawaii testified in opposition. Sierra Club Hawaii Chapter submitted comments.

Your Committee finds that while there may be support for creating a bidding process with a pool of environmental consultants, OEQC would need additional resources to administer this change, and it may also create a conflict of interest.

Your Committee has heard that ensuring an objective review is vitally important, however, particularly in the case where an agency may be both the proposing agency and the accepting authority for environmental assessments.

Your Committee has amended this measure to delete the proposed new language and in its place, to authorize OEQC, when a conflict of interest may exist because the proposing agency and the agency making the determination are one and the same, to review the agency's determination, consult the agency, and make a final determination.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2505, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2505, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Chun Oakland, Nakata).

SCRep. 2286 (Joint) Water, Land, Energy, and Environment and Commerce, Consumer Protection and Housing on S.B. No. 2802

The purpose of this measure is to allow the Board of Land and Natural Resources to lease public lands to renewable energy producers through direct negotiations.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Department of Land and Natural Resources (DLNR), Hawaiian Electric Company, Inc., and Life of the Land. The Hawaii Renewable Energy Alliance submitted comments.

Your Committees find that Chapter 171, Hawaii Revised Statutes, allows for leasing of public lands by direct negotiation to public utilities, including electric utility companies, but does not allow for direct negotiation to renewable energy producers who provide power to the electric utility companies. As a result, public lands can only be leased via public auction to these entities.

Your Committees have heard that in recent years, DLNR has received requests to lease public lands for wind farms, which are considered renewable energy producers. There is substantial preliminary work in planning and developing these projects, including preparation of Environmental Assessments and Conservation District Use Applications. With such a significant investment in time and money, applicants are apprehensive about the process when they are not assured a lease through the auction disposition method. This uncertainty discourages the development of renewable energy projects on public lands.

Your Committees understand that research indicates the federal government, and many mainland states and municipalities currently allow for direct negotiation to renewable energy producers.

Your Committees have also heard the concern raised regarding the requirement that the disposition be subject to legislative disapproval, but note that this provision is required for the disposition of public utilities under current law.

Your Committees have amended this measure to limit to twenty-five per cent, the power produced by a renewable energy producer from fossil fuels, and to make technical amendments to conform to the preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2802, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2802, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Chumbley, Chun, Kokubun, Nakata, Hemmings, Hogue).

SCRep. 2287 (Joint) Water, Land, Energy, and Environment and Agriculture on S.B. No. 2968

The purpose of this measure is to make an appropriation for the Waiahole water system revolving fund to finance improvements to the Waiahole water system.

Testimony in support of this measure was received from the Commission on Water Resource Management, Agribusiness Development Corporation (ADC), Kunia Water Cooperative, and a private citizen. Testimony in opposition was received from the Sierra Club Hawaii Chapter, Hakipuu Ohana, Life of the Land, and Ka Lahui Hawaii. Hawaii's Thousand Friends submitted comments.

The distribution of water from the Waiahole water system has been a major dispute among competing interests, including an appeal to the Hawaii Supreme Court from a decision of the Commission on Water Resource Management (CWRM). Ultimately, the result was that the ADC was required by the CWRM to release more water into the various streams and to develop a plan to divert tunnel water into the Waikane Stream.

The CWRM also required the ADC to maintain daily records of the amount of water diverted from the windward tunnels into Waikane Stream, which requires the ADC to install and calibrate a metering device. The moneys in this measure enable the ADC to comply with those orders.

Your Committees note that Windward residents prefer that user fees rather than general fund moneys be used to pay for the project. Your Committees agree with this proposition, but the reality of collecting user fees may be that it is easier said than done. However, the proposition is worth considering in the long run after the appropriate allotment of water is finally settled.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2968 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Chun Oakland, Hanabusa, Ihara, Kawamoto, Nakata).

SCRep. 2288 (Joint) Water, Land, Energy, and Environment and Hawaiian Affairs on S.B. No. 2898

The purpose of this measure is to protect caves as unique cultural and natural resources of the State of Hawaii.

Testimony in support of this measure was received from the Department of Land and Natural Resources, Department of Transportation, Hawaii Leeward Planning Conference, and one individual. The Office of Information Practices submitted comments.

Your Committees find that this measure is the first step in protecting an often hidden, fragile natural and cultural resource. While there is general support for the importance of such a step, implementation and enforcement will require considerable effort on the part of many parties.

Your Committees are supportive of this measure and have amended it by:

- (1) Adding a definition of "construction context";
- (2) Clarifying that prohibitions shall not apply to caves inadvertently encountered during normal construction context;
- (3) Grandfathering lawfully authorized commercial cave visiting operations;
- (4) Requiring that written permission of the landowner be obtained prior to accessing a cave;
- (5) Requiring burial discoveries be reported as required under section 6E-43.6, Hawaii Revised Statutes; and
- (6) Making other technical, nonsubstantive changes for clarity.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2898, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2898, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 3 (Chun Oakland, Hanabusa, Nakata).

SCRep. 2289 Transportation, Military Affairs, and Government Operations on S.B. No. 2823

The purpose of this measure is to require manufacturers, dealers, and users, to report on their inventories of explosives and to provide penalties for noncompliance.

Testimony in support of the measure was received from the Attorney General, the Department of Public Safety, and the Department of Labor and Industrial Relations.

The measure requires those who possess explosives to file quarterly reports with the Department of Public Safety. Failure to comply with the reporting requirements is punishable by fines ranging from \$1,000 to \$10,000.

Your Committee finds that since the terrorist attacks on September 11, 2001, there is a need to keep track of explosives in the State in order to verify that the explosives will be used for legal purposes only.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2823 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2290 (Joint) Labor and Transportation, Military Affairs, and Government Operations on S.B. No. 2078

The purpose of this measure is to transfer the Deferred Compensation Program (DCP) of the Department of Human Resources Development (DHRD) to the Employees' Retirement System (ERS) and to require the ERS to pay interest on pensions that are not processed and issued within ninety days of retirement.

Testimony in support of the measure was received from the Department of Budget and Finance. The City and County of Honolulu's Police Department and the Hawaii Government Employees Association opposed the measure. The ERS submitted comments.

Your Committees find that if the DCP is transferred to the ERS as proposed under this measure, it is unclear as to who will be paying for the administration of the DCP. Although the concept of transferring the DCP to the ERS is worthy of consideration, your Committees do not believe that such a transfer should occur in the near future.

However, with regard to the requirement that the ERS pay interest on pensions that are not processed and issued within ninety days of retirement, your Committees believe that retirants should not have to wait excessively for their pensions to be finally determined and issued. Your Committees also believe that the eight percent interest penalty that accrues from the ninety-first day after a retirant retires to the date that the finalized pension is made is not unreasonable.

Your Committees have amended the measure by deleting the sections that transfer the DCP from the DHRD to the ERS.

As affirmed by the records of votes of the members of your Committees on Labor and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2078, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2078, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 7 (Chumbley, Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 2291 (Joint) Labor and Transportation, Military Affairs, and Government Operations on S.B. No. 3008

The purpose of this measure is to extend the time frame in which the Department of Education is to comply with Act 253, Session Laws of Hawaii 2000 (Act 253), otherwise known as the Civil Service Modernization Act, with regard to the categorization and inclusion of its employees into civil service.

Testimony in support of the measure was received from the Department of Education.

Your Committees find that the measure would give the Department of Education an additional year to comply with Act 253's requirement to transfer certain classes of civil service employees from the Department of Human Resources Development to the Department of Education. Originally, the implementation date was set at July 1, 2002, the measure extends that date to July 1, 2003.

This transfer includes the following employee classes:

- (1) Teaching assistants;
- (2) Educational assistants;
- (3) Bilingual/bicultural school-home assistants;
- (4) School psychologists;
- (5) Psychological examiners;
- (6) Speech pathologists;
- (7) Athletic health care trainers;
- (8) Alternative school work study assistants;
- (9) Alternative school educational/supportive services specialists;
- (10) Alternative school project coordinators; and
- (11) Communication aides.

The measure also amends section 76-16, Hawaii Revised Statutes, to exclude these same classes of employees from civil service once the transfer occurs.

Your Committees find that the Department of Education is working on the infrastructure needed to effectuate the transfer and the issues associated with converting the positions from civil service to exempt status.

Your Committees understand that the measure, as drafted, is confusing and could be construed as affecting the employment status of employees who are not to be transferred under the jurisdiction of the Department of Education. Your Committees believe that this is not the intent of measure and that any confusion that may arise from such an interpretation is inadvertent. Consequently, your Committees respectfully request that the Committee on Ways and Means, if so inclined to pass the measure out of committee, amend the measure to clarify that only the abovementioned classes of employees are to be affected by this measure.

As affirmed by the records of votes of the members of your Committees on Labor and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3008 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Chumbley, Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 2292 Labor on S.B. No. 2127

The purpose of this measure is to provide special compensation payments to pensioners aged seventy years and older with at least twenty years of service.

Testimony in support of the measure was received by the Hawaii Government Employees Association Retirees Unit, the United Public Workers, the Oahu Retired Teachers Association, and a private citizen. The Director of the Department of Budget and Finance testified in opposition to the measure and the Administrator of the Employees Retirement System provided comments.

Your Committee finds that many older retirees face rising health care and cost of living expenses. The measure provides much needed assistance to these older retired public servants living on a fixed income by providing a formula that systematically attempts to keep pace with the rising costs of living.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2127 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Hanabusa, Kanno, Matsuura).

SCRep. 2293 Labor on S.B. No. 2718

The purpose of this measure is to extend the payment period to liquidate the Employees' Retirement System's unfunded accrued liability from fifteen years to twenty-nine years beginning in plan year 2001.

Testimony in support of the measure was received from the Department of Budget and Finance. The Hawaii State Teachers Association – Retired testified in opposition to the measure. The Employees' Retirement System submitted comments.

Your Committee finds that the tragic terrorist attacks in New York City and Washington D.C. have resulted in grim economic effects in the country and in Hawaii. On November 14, 2001, the Council of Revenues amended its previous projections by reducing

the fiscal year 2001-2002 projection from 4.1 per cent to -7 per cent and the fiscal year 2002-2003 projection from 5.2 per cent to 5.1 per cent. These reductions and out-year projections result in a general fund reduction of approximately \$1,186.8 million over the planning period.

The contrary situation of reduced revenues and increased funding requirements require an in-depth review of both resources and costs. The magnitude of the State's economic downturn requires that all areas, including non-discretionary expenditures, be reviewed.

Your Committee finds that this measure will reduce the State and counties' annual payments by amortizing the liability over a longer time frame.

Your Committee has amended the measure 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 Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2718, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2718, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Ihara, Kanno, Kawamoto, Sakamoto).

SCRep. 2294 Labor on S.B. No. 2758

The purpose of this measure is to make housekeeping amendments to Act 253, Session Laws of Hawaii 2000 (Act 253), otherwise known as the Civil Service Modernization Act.

Testimony in support of the measure was received from the Department of Human Resources Development. The Hawaii State Teachers Association supported the measure but asked that the measure be amended to repeal the fact finding provisions of Chapter 89, Hawaii Revised Statutes, relating to collective bargaining.

Your Committee finds that the amendments contained in this measure are necessary to further effectuate the Legislature's intent when it embarked on its quest to modernize Hawaii's civil service system.

The measure accomplishes this by correcting statutory references or language changes that were inadvertently left out and subsequently identified by the Department of Human Resources Development and the Legislative Reference Bureau as extraneous, unnecessary, or in need of clarification.

Your Committee has amended the measure by:

- (1) Adding a section to the measure that deletes section 89-12(c), Hawaii Revised Statutes (HRS), to reflect the repeal of the "essential worker" statutes in Act 253; and
- (2) Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Kanno, Matsuura, Sakamoto).

SCRep. 2295 (Majority) Labor on S.B. No. 2983

The purpose of this measure is to enable the Employees' Retirement System to invest in Economically Targeted Investments (ETI's) and to require that a certain percentage of its investment portfolio be dedicated to this purpose.

Testimony in support of the measure was received from the High Technology Development Corporation and four private citizens. The Employees' Retirement System was unable to comment on the measure and stated that it was researching the issue.

The measure also requires the Employees' Retirement System's Board of Trustees to execute all shareholder proxies and voting instructions in a manner that supports corporate governance, social justice, and environmental protection issues unless such a vote would result in the long term harm of the company.

Your Committee finds that ETI's are investments that are selected for economic benefits to a specific region in addition to its investment return value.

Your Committee also finds that the measure encourages investments in intellectual property, which in turn will support the State's efforts to diversify Hawaii's economy. By building a technology-based economy and improving opportunities in research and development, the State's economy will be in a better position to implement the commercialization of the intellectual property through licensing or other means, resulting in wealth creation and increased job opportunities.

Your Committee believes that having the Employees' Retirement System's Board of Trustees execute all shareholder proxies and voting instructions in a reasonably socially conscious manner is prudent and will ensure that the Board will be more aware of the governing of its assets.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2983 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 4 (Ihara, Kanno, Kawamoto, Sakamoto).

SCRep. 2296 (Joint) Transportation, Military Affairs, and Government Operations and Agriculture on S.B. No. 2134

The purpose of this measure is to continue the exemption of the transportation of seed corn to a processing facility from the public utility commission rate in perpetuity.

Testimony in support of this measure was submitted by the Board of Agriculture, Hawaii Crop Improvement Association, Hawaii Agriculture Research Center, Hawaii Farm Bureau, and Kauai County Farm Bureau. The Department of Budget and Finance submitted comments on this measure.

Your Committees find that the infant seed industry, ninety-three per cent of which is corn seed, has accomplished visible and significant progress since 1997. This industry has grown in sales from an estimated \$25 million in 1997 to \$35 million in 2001. Over the same period, out-of-state shipments of seed corn increased from three million pounds to 4.4 million pounds, commanding a ten per cent annual growth rate. Therefore, your Committees feel that repealing the sunset date of this measure will be of great benefit to our local farmers which in turn, benefits the State.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2134 and recommend that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 7 (Chun, Kanno, Matsuura, Menor, Tam, Hemmings, Hogue).

SCRep. 2297 (Joint) Transportation, Military Affairs, and Government Operations and Economic Development and Technology on S.B. No. 2309

The purpose of this measure is to prohibit the operation within the waters of the State of any vessel or watercraft unless it is equipped with a certified radio or emergency position indicating radio beacon.

Testimony in support of this measure was received from the Board of Land and Natural Resources and two private individuals. Testimony in opposition was received from the EXPEDITIONS, Kauai Sea Tours, and Maui Ocean Activities.

Your Committees find that this measure has the potential to drastically reduce search and rescue missions at sea. A certified radio or emergency beacon would immediately enable authorities to pinpoint the location of the person, whose life could be saved by having such equipment on board.

In view of the opposition from near shore recreational companies, your Committees have amended this measure by specifying that the radio or beacon is required only if the vessel is more than one mile from shore.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2309, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2309, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Kanno, Matsunaga, Menor, Hemmings, Slom).

SCRep. 2298 (Joint) Transportation, Military Affairs, and Government Operations and Economic Development and Technology on S.B. No. 2382

The purpose of this measure is to appropriate funds for a National Korean War Museum in Hawaii.

Your Committees received testimony in support of this measure from the Department of Business, Economic Development and Tourism, the Office of Veterans' Services, the West Hawaii Korean Veterans Chapter Kailua-Kona, and two honored veterans.

Your Committees find that veterans who served the United States to protect freedom and democracy deserve our utmost honor and respect. Your Committees further find that the State of Hawaii has the highest percentage of casualties from the Korean War of any state, making Hawaii the most appropriate venue for a memorial.

Your Committees amended this measure to leave the appropriation amount blank for determination by your Committee on Ways and Means. Your Committees also made several technical, nonsubstantive amendments for clarity and accuracy.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2382, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2382, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Kanno, Matsunaga, Menor, Hemmings, Slom).

SCRep. 2299 (Joint) Transportation, Military Affairs, and Government Operations and Labor on S.B. No. 2486

The purpose of this measure is to re-enact the leave of absence law relating to the pay of officers and employees on active military service and nonforfeiture for absence.

Testimony in support of this measure was submitted by the Department of Defense. The Department of Human Resources Development submitted comments on this measure.

Your Committees find that Act 253, Session Laws of Hawaii 2000, threatens to reduce both the recruitment and retention of national guard members in Hawaii, as well as other military reserve components at the very time when their services are needed. Since the September 11, 2001, attacks, there has been a great need to protect our essential state facilities including the State's airports and the Hawaii Convention Center. Your Committees find that military and national guard services are needed to assist in the State's security efforts, and this bill is appropriate.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2486 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Chumbley, Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 2300 Transportation, Military Affairs, and Government Operations on S.B. No. 2487

The purpose of this measure is to amend the traffic code to promote pedestrian safety by increasing the penalties for violating pedestrian safety laws and by imposing additional requirements on pedestrians crossing roadways.

Your Committee received testimony in support of the measure from the Department of Transportation and the Honolulu Police Department.

Your Committee finds that the increasing number of pedestrian injuries and fatalities in Hawaii is a serious concern. This measure clarifies and strengthens the pedestrian laws to alleviate this growing problem.

Your Committee has amended the measure by lessening the penalty amounts and providing for possible imprisonment in the schedule of penalties.

In addition, based on the recommendation of the Honolulu Police Department, your Committee amended this measure to specify that the additional pedestrian responsibilities are not mandatory. Your Committee finds that many of the additional responsibilities include a state of mind and would be difficult to enforce. Since pedestrian safety is largely about education and awareness, your Committee finds that this measure can still have a significant impact on pedestrian safety even if the additional pedestrian responsibilities are not mandatory.

Your Committee also made several technical, nonsubstantive amendments for accuracy and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 Second Reading in the form attached hereto as S.B. No. 2487, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2301 Transportation, Military Affairs, and Government Operations on S.B. No. 2600

The purpose of this measure is to amend section 102-10, Hawaii Revised Statutes, to provide a permanent mechanism whereby relief can be granted to airport concessionaires whose businesses are harmed by events such as last year's terrorist attacks.

Your Committee received testimony in support of this measure from DFS Galleria, Island Heritage, Smarte Carte, Inc., Catrala-Hawaii, Thomas Cook Currency Services, Inc., APCOA, the Airport Concessionaires Committee, and Host International. Testimony in opposition to this measure was submitted by the Department of Transportation (DOT) and the Airlines Committee of Hawaii.

Your Committee finds that the tragic events of September 11, 2001, and the enormous resulting decline in air travel had a devastating impact on many airport concessionaires. In response, the Legislature convened in special session and passed legislation

authorizing the Governor to provide immediate emergency relief to airport concessionaires that were unable to make payments under existing contracts with the State. Act 15, which authorized such emergency relief, will be repealed automatically on April 30, 2002.

Your Committee supports emergency relief for airport concessionaires when events warrant, and supports this measure for the purpose of further discussion on the issue of whether it is appropriate to codify a mechanism for providing such emergency relief.

Your Committee amended this measure by inserting amendments to section 102-2(b), Hawaii Revised Statutes. These amendments allow the DOT to extend revocable permits at the airport for up to one year in the event of a natural disaster or an economic crisis.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2600, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2600, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2302 Transportation, Military Affairs, and Government Operations on S.B. No. 2601

The purpose of this measure is to define "electric personal assistive mobility device" and to exclude such devices from state laws regulating traffic and motor vehicles.

Your Committee received testimony in support of this measure from Segway LLC. The Department of Transportation (DOT) and the Honolulu City and County Police Department submitted testimony in opposition to this measure.

Your Committee finds that the device that is the subject of this measure is a recent invention by Dean Kamen, who has gained renown for other inventions during the past thirty years. The "electric personal assistive mobility device" is a two-wheeled, self-balancing device that travels up to fifteen miles per hour.

Your Committee has taken into account the concerns raised by the Honolulu Police Department and the DOT, but supports this measure, at least for the purposes of further discussion. Your Committee believes that further review is needed to determine whether this device should be subject to general traffic and motor vehicle laws.

Your Committee has amended this measure by replacing its contents with a single section to be inserted in chapter 291C, which defines the device and establishes lawful uses.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2601, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2303 (Joint) Transportation, Military Affairs, and Government Operations and Labor on S.B. No. 2736

The purpose of this measure is to exempt and exclude employees of the Hawaii National Guard Youth Challenge Academy from civil service and collective bargaining.

Testimony in support of this measure was submitted by the Department of Defense.

Your Committees find that the master cooperative youth agreement between the State and federal government, which governs the conduct of the youth challenge academy, identifies the number of positions the program can staff and the pay ceiling for each position. These ceilings correspond to the federal pay scales. This bill will give the program the flexibility to develop a pay table that complies with the agreement requirements and will ensure pay equity among all employees.

Your Committees further find that this measure adds a new exemption category for youth challenge academy employees. Since its inception, the employees of the youth challenge academy have been exempt because the program was considered a pilot program. However, Congress established this program as permanent, thus our statutes need to be accordingly adjusted.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2736 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 7 (Chumbley, Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 2304 (Joint) Transportation, Military Affairs, and Government Operations and Labor on S.B. No. 2785

The purpose of this measure is to delete the inspection intervals for inspections for boiler or pressure systems and elevators.

Testimony in support of this measure was received from the Department of Labor and Industrial Relations (DLIR).

This measure comes with a long history of the DLIR trying to reduce its inspections of boiler, pressure systems, and elevators. The basic reason is a lack of resources, i.e., trained inspectors. Furthermore, the DLIR has stated that its inspection is unnecessary because building owners typically are required by their liability insurers to have the elevators regularly inspected.

Your Committees respectfully disagree with the DLIR. Particularly with respect to elevators, there really needs to be regular inspections by the State. Where public safety is involved, the State should not relegate the responsibility to private parties.

Your Committees have amended this measure by:

- (1) Restoring the inspections;
- (2) Specifying that the elevator and kindred equipment be inspected not more than at one-year intervals rather than eight months; and
- (3) Making technical changes to conform with clarity and style, and to correct statutory language.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2785, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2785, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Chumbley, Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 2305 Health and Human Services on S.B. No. 2024

The purpose of this measure is to place the dental health division within the Department of Health's health resources administration, reduce the number of employees of the dental health division, and redirect dental health division funds to be used for the purchase of services to monitor dental advocacy.

Testimony in support of this measure was submitted by the Hawaii Primary Care Association. Testimony in opposition to this measure was submitted by the Department of Health, Department of Human Services, State Health Planning and Development Agency, the Hawaii Dental Hygienists' Association, Hawaii Government Employees Association, Special Olympics Hawaii, Mental Health Association in Hawaii, Hawaii Dental Association, and thirty-five private citizens.

Your Committee finds that Hawaii is in the midst of a crisis involving very poor dental care as the services being currently provided are not enough to service the residents who qualify. It is not this Committee's intention to eliminate dental services, it is quite the opposite. Sometimes, things need to be changed before they can get better. This measure is a step in making dental care in Hawaii more accessible to all of its qualifying residents.

Upon further consideration, your Committee has amended this measure by delaying the effective date three years, and requiring the dental health division to report to the 2003 and 2004 legislature with recommendations for a more comprehensive dental health plan as well as proposed legislation.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2024, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2024, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2306 Health and Human Services on S.B. No. 2087

The purpose of this measure is to redefine pharmacy to include a wide range of activities.

Your Committee received testimony in favor of this measure from the Department of Commerce and Consumer Affairs - Board of Pharmacy, Department of Health, Kaiser Permanente, American Society of Health-System Pharmacists, Healthcare Association of Hawaii, Hawaii Primary Care Association, Longs Drugs, Hawaii Pharmacists Association, and six individuals. Your Committee received comments on this measure from Hawaii Medical Association, and opposing testimony from the Department of Commerce and Consumer Affairs - Professional and Vocational Licensing Division and an individual.

Your Committee finds that broadening the scope of practice for pharmacists who are adequately trained and competent to perform tasks such as administering drugs orally, topically, or by injection pursuant to a practitioner's order, initiating or adjusting the drug regimen of a patient pursuant to an order or authorization by the patient's licensed medical doctor and providing consultation, information, or education to patients and health care professionals, will provide better monitoring and treatment for his or her patients.

Your Committee amended this measure by removing from the definition of "practice of pharmacy" the requirement that pharmacy procedures or functions be in concurrence with a health care facility. Nonsubstantive, technical amendments have been made as well.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Second Reading in the form attached hereto as S.B. No. 2087, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2307 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on S.B. No. 2093

The purpose of this measure is to prohibit insurance fraud in connection with health insurance claims.

Testimony in support of this measure was received from the Hawaii Medical Service Association (HMSA) and State Farm Insurance Companies. Comments on this measure were submitted by the Public Defender, Insurance Commissioner, and Office of Information Practices.

This measure is intended to detect, punish, and deter insurance fraud in connection with health insurance claims to obtain benefits or recover compensation for services provided. According to testimony of HMSA, insurance fraud is on the rise nationally and locally. HMSA estimates that Hawaii's health industry loses over \$600 million annually as a result of fraud and abuse.

Your Committees note that this measure targets the individual making the claim and any provider of covered services. For example, an accident victim could make a fraudulent claim and could be assisted by a health provider to substantiate that claim. The health provider could also act alone in submitting fraudulent claims for reimbursement.

Your Committees have amended this measure by:

- (1) Deleting references to criminal penalties;
- (2) Conferring immunity from criminal culpability to insurance company investigators; and
- (3) Correcting a chapter number reference.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2093, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2093, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Kim, Kokubun, Matsunaga, Nakata).

SCRep. 2308 Health and Human Services on S.B. No. 2142

The purpose of this measure is to appropriate funds for respite care services for families of individuals with special needs.

Testimony in support of this measure was submitted by the Department of Health, State Planning Council on Developmental Disabilities, Disability and Communication Access Board, Hawaii Early Intervention Coordination Council, The Arc in Hawaii, Hawaii Respite Coalition, Easter Seals, and ten private citizens.

Your Committee finds that due to additional care required by individuals with special needs, families often identify respite care as a basic need. Respite care provides temporary relief for families and caregivers. It allows a family to engage in daily activities and thus decrease their feelings of isolation and improves the family's ability to cope with daily responsibilities. Your Committee further finds that the Respite Program is one of few programs in which the majority of its budget goes directly to servicing families.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2142 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2309 Health and Human Services on S.B. No. 2148

The purpose of this measure is to establish the Hawaii respite services trust fund (fund).

Testimony in support of this measure was received from the Department of Health (DOH), Executive Office on Aging, State Planning Council on Developmental Disabilities, ARC in Hawaii, Child and Family Service, and Hawaii Respite Coalition.

Respite services provide temporary relief for caregivers from the ongoing responsibility of caring for an individual of any age with special needs, or who may be at risk of abuse or neglect. The fund would be administered by the Hawaii Community Foundation. Moneys from state, county, or federal government, and private contributions would be deposited into the fund. Moneys in the fund would be expended for grants to caregivers for respite care.

Your Committee finds that respite care is a necessary part of care for the elderly and disabled. Respite care rejuvenates and refreshes the caregiver who is often at home with the patient around the clock. This measure would enable caregivers to afford to pay for occasional respite care services.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2148 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2310 Health and Human Services on S.B. No. 2175

The purpose of this measure is to appropriate \$632,214 in fiscal year 2002-2003 for thirteen new positions to staff adult protective services.

Testimony in support of this measure was submitted by the Department of Human Services and the Executive Office of Aging.

Your Committee finds that there are 207,001 older adults over the age of sixty in this State according to the latest Census. Overall, abuse has been estimated to affect 2,000 or less of the aged and disabled population. The Department of Human Services is in charge of investigation and curbing financial exploitation of dependent adults, and currently they are under staffed.

Although the Department testified that the appropriation is not necessary at this time because of federal funds availability, your Committee believes that this is an important issue and this legislature should ensure that state funds will be provided. Your Committee further finds that this measure is more comprehensive in hiring thirteen new hires, while the federal funds will only provide for three. Your Committee would like to see these services reach the neighbor islands and this measure provides specific language to ensure this.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2175 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2311 Health and Human Services on S.B. No. 2274

The purpose of this measure is to appropriate funds to support the case management program of the Maui AIDS Foundation.

Testimony in support of this measure was submitted by the Department of Health and Maui AIDS Foundation.

Your Committee finds that the Maui AIDS Foundation has experienced significant funding cuts over the past number of years, while their caseload continues to increase. This foundation relied heavily on funds from the Office of Hawaiian Affairs and from the National Native American AIDS Prevention Center. With funding cuts from these organizations the Maui AIDS foundation is finding it difficult to maintain this very important program.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2274 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2312 Health and Human Services on S.B. No. 2276

The purpose of this measure is to appropriate \$100,000 to the Maui Food Bank.

Testimony in support of this measure was submitted by the Maui Food Bank and two members of the Maui County Council.

Your Committee finds that due to the September 11, 2001, terrorist attacks, thousands of workers lost their jobs or suffered a reduction in work hours. Your Committee further finds that due to welfare reform, many families were considered to be "in crisis" and needed additional help from the food banks. Your Committee believes that this measure will ensure, through innovative programs, that the Food for Families, Mobil Pantry, community distribution programs and other initiatives will continue to reach those in need and provide barrier-free access to high quality nutritional food on an ongoing, reliable bases.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2276 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2313 Health and Human Services on S.B. No. 2721

The purpose of this measure is to make permanent Act 132, Session Laws of Hawaii (SLH) 2001, relating to regulation of dental service corporations and dental service organizations.

Your Committee received testimony in favor of this measure from the Department of Commerce and Consumer Affairs and HMSA. Your Committee received testimony opposing this measure from the Hawaii Dental Service.

Your Committee finds that this measure continues to allow dental insurance to be regulated in the same manner as health and accident insurance. Act 132, currently to be repealed on July 1, 2002, was an attempt to even the regulatory field among dental plans. Prior to Act 132, some of Hawaii's dental plans were regulated and some were not. Your Committee believes all dental plan consumers should have the same assurances and protections afforded to health plan consumers.

Your Committee has amended this measure by extending the repeal date to July 1, 2003, and by providing that actions taken under Act 132, SLH 2001, shall continue in force under the Act until the conclusion of the complaint.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2721, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2721, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2314 Health and Human Services on S.B. No. 2762

The purpose of this measure is to extend the sunset provision contained in Act 202, Session Laws of Hawaii 1988 ("Act 202"), as amended by various subsequent Acts, until July 1, 2004.

Your Committee received testimony in support of this measure from the Department of Health, the Hawaii Psychological Association, Equal Insurance Coalition, the Mental Health Association in Hawaii, the National Association of Social Workers, the Community Alliance on Prisons, and a concerned citizen. The Hawaii Psychiatric Medical Association submitted comments. The Hawaii Medical Association submitted testimony in opposition to this measure.

Your Committee finds that the disabilities caused by untreated mental illness and substance abuse are extremely costly in both monetary and human terms.

Your Committee further finds that the mental health and alcohol and drug abuse treatment insurance benefits established by Act 202 have been beneficial. Therefore, your Committee agrees with the intent of this measure, and further believes that Act 202's sunset date should be repealed. Your Committee has amended this measure accordingly.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2762, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2762, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2315 Health and Human Services on S.B. No. 2765

The purpose of this measure is to convert the existing paper-based divorce and annulment registration process to an electronic process and shift the responsibility for inputting this information from the Department of Health staff to the attorneys, parties, or court staff.

Testimony in support of this measure was submitted by the Department of Health and the Office of the Lieutenant Governor. Testimony in opposition to this measure was submitted by the Judiciary.

Your Committee finds that this measure will modernize and thus streamline the divorce and annulment process. The present process is a two-step process that is paper-based. The elimination of any preparation and routing of paper work in the registration process results in quicker creation of divorce records and eliminates the needs to bind and store paper divorce records.

Upon further consideration, your Committee has amended this measure by deleting the requirement that the court staff would be responsible for the data inputting if the person is pro se, and reverting back to the ten-day time limit for the certificate completion.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Nakata).

SCRep. 2316 Health and Human Services on S.B. No. 2773

The purpose of this measure is to make an emergency appropriation to the Child and Adolescent Mental Health Division to provide services to Felix eligible children and adolescents.

Testimony in support of this measure was received from the Attorney General, Department of Health (DOH), and Mental Health Association of Hawaii.

The DOH is the agency responsible for providing mental health services to children in need of special education under the Individuals with Disabilities Act or Section 504 of the Rehabilitation Act, more commonly known today in Hawaii as the Felix children.

According to testimony of the DOH, it is very committed to requesting only those funds that are absolutely necessary, and it continues to evaluate how current funding could meet funding needs under the consent decree in Felix v. Cayetano.

Your Committee has amended this measure on the recommendation of the DOH by substituting the amount of \$1, to give the DOH time to make revisions to the original amount of \$8,750,603. However, your Committee believes that funding should be allocated in the following amounts:

1. \$1 million to the Department of Human Services' (DHS) State's children's health insurance program (S-CHIP) for two-year temporary hires;
2. \$1 million for DHS' preemptive eligibility program for QUEST coverage for pregnant women;
3. \$1 million for DOH's neo-natal preventative services for potential Felix children;
4. \$1 million for DOH's poison center;
5. \$2 million for a DOH pilot project for servicing Felix children through community health centers on the neighbor islands; and
6. \$500,000 for the birth defects program.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Second Reading in the form attached hereto as S.B. No. 2773, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2317 Health and Human Services on S.B. No. 2867

The purpose of this measure is to require the Department of Human Services (DHS) to revise the formula for determining Medicaid reimbursement amounts to providers.

Testimony in support of this measure was received from the Hawaii Health Systems Corporation, Hawaii Medical Association, Hawaii Psychiatric Medical Association, Queen's Medical Center, Healthcare Association of Hawaii, Hawaii Long Term Care Association, and a private citizen. Testimony in opposition was received from the DHS.

This measure also makes appropriations, as follows:

- (1) To bring reimbursements to providers closer to the actual costs of care for the aged, blind, and disabled Medicaid population; and
- (2) To increase health care payments for the QUEST program.

Your Committee agrees with the preamble to this measure, that a financial crisis exists in the State's Medicaid payment system to reimburse providers. This measure is intended to rescue Medicaid providers from financial ruin and to maintain access to essential health care services. Because federal moneys subsidize the Medicaid program, federal approval is necessary for the State's reimbursement amounts. This measure essentially requires the DHS to amend its Medicaid plan submissions to the federal government, which would increase reimbursements to providers.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2867 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2318 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on S.B. No. 2871

The purposes of this measure are to require a company providing health insurance coverage that claims a general excise tax (GET) exemption to submit a timely annual financial report to the Department of Taxation (DOTAX), and to require a mutual benefit society claiming a tax exemption to submit the same financial report.

Your Committees received testimony in opposition to this measure from DOTAX and the Hawaii Medical Service Association. The Tax Foundation of Hawaii and Kaiser Permanente submitted comments.

Your Committees find that health insurance companies provide a public service that is largely privately financed. Every person who can afford to do so obtains health insurance coverage, and in that sense, health insurance companies have a captive audience. In addition, medical care is one of the most basic human needs.

Your Committees believe that the State must carefully oversee the companies providing health care insurance in Hawaii. Therefore, your Committees believe that it is appropriate to require health care providers claiming tax exemptions to provide annual financial reports to DOTAX.

In addition, your Committees amended this measure to require the Auditor to conduct regular audits of all companies within the health care industry, for the same reasons stated above.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2871, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2871, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Kim, Kokubun, Matsunaga, Nakata).

SCRep. 2319 Health and Human Services on S.B. No. 2881

The purpose of this measure is to extend the repeal date of the PACE demonstration project at Maluhia Hospital.

Testimony in support of this measure was received from the Department of Human Services, Chamber of Commerce of Hawaii, Hawaii Health Systems Corporation, and a private citizen.

This measure also makes conforming amendments to the federal agency's new name, Center for Medicare and Medicaid Services, and the Department of Health branch's new name, Office of Health Care Assurance Branch.

Act 211, Session Laws of Hawaii 1992, established a demonstration project at Maluhia Hospital known as the program for all-inclusive care for the elderly (PACE). PACE provides a complete package of health services that enhances the quality of life for the elderly at a capitated rate structure, costing less than Medicare and Medicaid.

The extension of the sunset date from June 30, 2002, to June 30, 2005, provides the necessary transition period into the new permanent status when PACE is granted a permanent provider status by the federal government.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2881 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2320 Health and Human Services on S.B. No. 2941

The purpose of this measure is to specify that moneys in the hospital and medical facilities special fund (fund) be used for enhancing the capacity of hospital and medical facilities to improve public outreach and educate the public, staff, and regulated industries.

Testimony in support of this measure was received from the Department of Health (DOH), Alliance of Residential Care Administrators, and United Group of Home Operators.

This measure also:

- (1) Specifies that not more than an unspecified amount of money may be used for education in any fiscal year;
- (2) Specifies that any amount over an unspecified amount on June 30 of each year would be deposited into the general fund;
- (3) Requires the DOH to submit an annual report to the legislature before each regular session concerning the status of the fund; and
- (4) Requires that administrative penalties be deposited into the State general fund.

Moneys collected by the DOH from licensure and certification of medical facilities are deposited into the fund, to be used to offset program expenses of the hospital and medical facilities branch such as inspections. This measure adds educational programs intended to benefit licensees to help them meet licensing and certification requirements. Your Committee believes that the educational use of the moneys is fair and reasonable.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2941 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2321 Health and Human Services on S.B. No. 2944

The purpose of this measure is to appropriate funds to ensure the enduring viability of the nonprofit, community-based health care system so that they may maintain cost-effective services for the uninsured.

Testimony in support of this measure was submitted by the Department of Health, Aloha Care, Hawaii Primary Care Association, Health Care Association of Hawaii and Kokua Council.

Your Committee finds that these nonprofit community centers provide a great service to our State. Not only do they provide cost-effective care to the uninsured, but this care prevents more serious and costly health conditions in this vulnerable population. Due to the recent hard times that hit many Hawaii residents, many people lost their job, or suffered a reduction in work hours, thus losing their health care coverage. This measure will ensure that those without health care can afford the services they need.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2944 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2322 Health and Human Services on S.B. No. 2955

The purpose of this measure is to establish a state funded food assistance program for income qualified immigrant children and immigrants 65 years of age and older ineligible under federal law for food stamps.

Testimony in support of this measure was submitted by Na Loio and Kokua Council. Testimony in opposition to this measure was submitted by the Department of Human Services and two private individuals.

Your Committee finds that income qualified immigrants are greatly deprived because of federal government regulations that deny them food stamps. Hawaii has traditionally been the State to welcome all immigrants, thus making this State the world's melting pot. These immigrants are welcomed in Hawaii, and need to have access to nutrition for themselves and their families.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2955 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2323 Health and Human Services on S.B. No. 2985

The purpose of this measure is to establish a tax credit for qualified costs incurred by a taxpayer who owns a federal qualified health center.

Your Committee received testimony in support of this measure from the Waianae Coast Comprehensive Health Center. Testimony in opposition to this measure was submitted by the Department of Taxation. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that the downturn in the economy has impacted Hawaii's health centers in many ways. Most importantly, revenues for health centers are down, while demand for safety net services has increased.

Your Committee further finds that this tax credit targets capital improvements in the most depressed communities in the State. In order to be classified as a federally qualified health center, a community must be low income with a high incidence of medical problems with few alternative resources.

Your Committee supports a tax credit for improvements to qualified health centers, as a way to encourage capital improvements and improve the overall provision of health care services in the State.

Your Committee amended this measure so that it can be properly administered. The proposed amendments to section 237-24, Hawaii Revised Statutes, have been deleted and the appropriate language has been inserted to allow a claim of the credit against the

general excise tax. Double tax benefits are eliminated by preventing claims for other tax credits involving the same costs for which a tax credit is allowed under this bill.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2324 Health and Human Services on S.B. No. 3022

The purposes of this measure are to:

- (1) Authorize the State Health Planning and Development Agency (SHPDA) to monitor and audit services for persons with developmental disabilities or mental retardation;
- (2) Authorize the SHPDA administrator to appoint staff;
- (3) Remove the certificate of need exemption for projects that are wholly dedicated to meeting the State's obligations under court orders; and
- (4) Transfer the Office of Health Care Assurance from the Department of Health to SHPDA.

Testimony supporting this measure was received from the Hawaii Disability Rights Center and Opportunities for the Retarded, Inc. Comments on this measure were received from the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, and the State Health Planning and Development Agency. Testimony opposing this measure was received from the Department of Health and the State Planning Council on Developmental Disabilities.

Your Committee finds that there needs to be a mechanism to assure the public that Hawaii's health care system is sound, just, and responsive to the needs of the public. Since its establishment, SHPDA has served an important role by assuring that health care services are effective, efficient, and appropriate. Your Committee finds that SHPDA's good performance indicates that it has the ability to manage other related responsibilities. This measure provides SHPDA with additional authority, duties, and powers that will further ensure that Hawaii's health care system meets the growing needs of Hawaii residents.

Your Committee understands that the provisions of this measure need to undergo further scrutiny during the legislative process. Regardless, your Committee believes that SHPDA is an entity that provides services and functions that should be permanently integrated into Hawaii's health care system in the future.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3022 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2325 Health and Human Services on S.B. No. 3047

The purpose of this measure is to appropriate funds for the operation of the Waipahu Community Adult Day Health Center and Youth Day Care Center pilot project.

Testimony in opposition to this measure was submitted by the Department of Health.

Your Committee finds that the establishment of an adult day health center allows the elderly to obtain rehabilitation and wellness services in a non-institutionalized, community setting. Your Committee further finds that these centers equal lower cost of long-term care for the frail and elderly population.

The Waipahu Community Center will be complete in the summer of 2002. Along with the rehabilitation and services for the frail and elderly, this center will be home to a pilot project of intergenerational activities to benefit both the children and adults. This Committee believes that these services are necessary in light of the long-term care crises in Hawaii and believes that the community center may be a model for the rest of the State.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3047 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2326 (Joint) Health and Human Services and Judiciary on S.B. No. 3072

The purpose of this measure is to appropriate bridge funds to keep the Obligation Restitution Behavior Insight Training Success (ORBITS) program running.

Your Committees received testimony in favor of this measure from the Department of Human Services, Simple Office Solutions, and verbal testimony from four individuals. The Judiciary provided comments on this measure.

Your Committees find that the ORBITS program is based on the philosophy of Balanced and Restorative Justice (BARJ), which balances the needs of the community, the offender, and the victim. The intent of BARJ is to teach the offender accountability, and to assist the offender in developing competencies and how to understand the importance of community safety. The appropriation is to be used primarily to fund First and Third Circuit Court ORBITS contracts, and to expand the ORBITS program to Kauai, Maui, and Molokai.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3072 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Fukunaga, Ihara, Kanno, Kokubun).

SCRep. 2327 Health and Human Services on S.B. No. 3077

The purpose of this measure is to require the Department of Health to include in the standards for emergency medical services (EMS), standards requiring ambulance service providers licensed by the State to establish and maintain an alcohol and substance abuse policy for employees that is comparable to those holding commercial drivers' licenses.

Your Committee received testimony in favor of this measure from the Department of Health and Honolulu Emergency Service Department. Your Committee received testimony opposing this measure from the United Public Workers Hawaii.

Your Committee finds that this measure will help those employees who abuse drugs and alcohol while maintaining quality care for our citizens and a safe working environment for all EMS employees.

Your Committee has amended this measure to also require the establishment of an "employee wellness program" for EMS employees.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3077, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3077, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2328 Labor on S.B. No. 2571

The purpose of this measure is to enable retirants of the Employees' Retirement System who either continue service or are re-employed by the State or a county, and who maintain their retired status, to participate in the State's Deferred Compensation Plan.

The Department of Human Resources Development submitted comments on the measure.

Your Committee believes that if a retirant of the Employees' Retirement System is allowed to continue or return to public service, other than in an emergency hire or contract basis, while still maintaining retired status, such as many teachers, that retirant should be able to participate in the State's Deferred Compensation Plan.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2571, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Ihara, Kanno, Kawamoto, Sakamoto).

SCRep. 2329 (Joint/Majority) Hawaiian Affairs and Judiciary on S.B. No. 2043

The purpose of this measure is to establish a temporary advisory task force to study the legal ramifications of integrating the practice of hanai into statutory law and propose legislation for consideration by the 2004 Legislature.

Testimony in support of the measure was received from the Department of Human Services, asking that it not be the administering agency for the project, the Hawaii State Commission on the Status of Women, Volunteer Legal Services Hawaii, the GLEA Foundation, the Civil Unions – Civil Rights Movement, Blueprint For Change, and a private citizen. The Judiciary took no position on the measure but submitted comments.

Your Committees find that adoption has been an integral part of ancient Hawaiian life and has served as a customary way of life to the present day. Perhaps the most generally recognized form of adoption is hanai, meaning "to feed".

Hanai refers to a child who is reared, educated, and loved by someone other than the natural parents. The hanai relationship occurs most often within the family, so the child is rarely raised by strangers.

Traditionally, the permanent quality of the hanai relationship made it a near equivalent of legal adoption. However, early Hawaii cases recognized that not all hanai relationships carried with them proprietary and other rights, such as the right to inherit property.

In 1841, the Hawaii Legislature enacted the first written law of adoption, and subsequently, Hawaii courts refused to give legal recognition of hanai or other customary adoptions unless the statutory adoption procedures had been followed.

Today, Hawaii's courts continue to distinguish between legal adoption and hanai relationships. In Maui Land and Pineapple Co. v. Naiapaakai Heirs of John Keola Makeelani, 69 Haw. 565, 751 P.2d 1002 (1988), the Hawaii Supreme Court refused to reconsider the case law surrounding customary adoptions, holding that, "... while adoption by custom was recognized in early times beginning in 1841 and continuing until the present time, ... there were written statutes of adoption which had to be followed in order to constitute the adoptee's legal heirs of the adopters ... Even prior to the enactment of any statutes on the subject of adoption, the mere fact that one was a 'keiki hanai' did not, by Hawaiian custom, carry with it a right of inheritance."

Despite this, it is not uncommon for families to enter children into hanai relationships without a clear understanding of the legal ramifications involved. Questions then arise to the legal guardianship and custody of the "keiki hanai" compounding the difficulties experienced by state agencies, the courts, and most especially the families and children involved.

Your Committees further find that the State is mandated to protect and preserve the customs and traditions of native Hawaiians. Article XII, section 7, of the Constitution of the State of Hawaii states, "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights."

Clearly, the hanai relationship is a customary and traditional practice that has been perpetuated through generations within our island state. However, your Committees believe that there is a need to confront the differences between native Hawaiian cultural practices and the western judicial system.

Your Committees note that hanai relationships are not solely practiced by those of Hawaiian descent within our community. Many ethnic groups in Hawaii have embraced this practice for generations.

Your Committees also note that testimony indicated that the cost of studying this issue has been estimated at approximately \$50,000. However, rather than amend the measure to reflect this estimated amount, your Committees defer to the Committee on Ways and Means to make a final monetary determination.

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 S.B. No. 2043, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Majority Leader and Chair on behalf of the Committees.
Ayes, 5. Noes, 2 (Hemmings, Slom). Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2330 (Joint) Agriculture and Water, Land, Energy, and Environment on S.B. No. 2971

The purpose of this measure is to establish a state administrator/coordinator to orchestrate efforts to control invasive species in Hawaii.

Testimony supporting this measure was received from the Department of Land and Natural Resources, Maui Invasive Species Committee, and three individuals. Testimony opposing this measure was received from the Department of Agriculture, Abandoned and Feral Cat Friends, Animal Rights Hawaii, and three individuals.

Your Committees find that Hawaii's agriculture industry is experiencing tremendous growth. However, alien invasive species are causing substantial economic damage to the agriculture industry and environmental damage to Hawaii's native species of plants and animals. In the past, combating alien invasive species has consisted of a hodgepodge of uncoordinated efforts by different agencies. The results have been less than adequate to fully control alien invasive species in Hawaii. Your Committee finds that this measure establishes a single entity that can coordinate interagency efforts to manage and control invasive species efficiently, effectively, and successfully.

Your Committee has amended this measure by:

- (1) Administratively attaching the administrator/coordinator for invasive species to the Research Corporation of the University of Hawaii rather than the Office of the Governor;
- (2) Eliminating the authority of the nominating committee to dismiss and replace the administrator/coordinator for cause;
- (3) Deleting redundant and unnecessary language regarding the advisory, consulting, coordinating, and advocacy duties of the administrator/coordinator and allowing the administrator/coordinator to advise, consult, and coordinate efforts with other agencies;

- (4) Eliminating the administrator/coordinator's authority to deputize the U.S. Department of Agriculture's plant protection and quarantine inspectors to enforce Hawaii's laws;
- (5) Providing that the administrator/coordinator shall head and administer the emergency environmental workforce established by Act 4, Third Special Session of 2001;
- (6) Adding fireweed as an invasive species that shall be a targeted by the emergency environmental workforce;
- (7) Deleting language that limited workforce recruitment and information dissemination consulting efforts to private employers affected by the terrorists attacks on the United States on September 11, 2001;
- (8) Adding another part to this measure that:
 - (a) Directs a portion of the conveyance tax collections to invasive species programs;
 - (b) Allocates one per cent of landing fees collected for invasive species control and prevention at all state air transportation facilities;
 - (c) Allocates one per cent of port entry, wharfage, and demurrage fees collected for invasive species control and prevention at all state harbor and wharf facilities; and
- (9) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2971, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2971, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Hanabusa, Ihara, Kawamoto, Matsunaga, Nakata, Hemmings).

SCRep. 2331 Agriculture on S.B. No. 2931

The purpose of this measure is to appropriate funds for various capital improvement projects for irrigation systems throughout the State.

Testimony supporting this measure was received from the Department of Agriculture, Department of Hawaiian Home Lands, Hawaii Farm Bureau Federation, and Pineapple Growers Association of Hawaii. Ka Lahui Hawaii submitted testimony opposing a specific portion of this measure.

Your Committee finds that the agriculture industry represents a significant portion of Hawaii's economy. Since the initiation of diversification of Hawaii's agriculture industry, new farming enterprises are sprouting throughout the State. Unfortunately, the State's irrigation systems have not been adequately maintained and they may not be prepared to support Hawaii's growing agriculture industry. In some cases, the irrigation systems are failing to meet the minimum needs of current agricultural enterprises. The purpose of this measure is to provide the funds necessary to repair, renovate, and rehabilitate the State's irrigation systems to increase their efficiency and capacity to support Hawaii's growing agriculture industry.

Your Committee has amended this measure by:

- (1) Appropriating an additional \$45,000,000 for improvements to existing agricultural water infrastructure, including, but not limited to renovating, rehabilitating, replacing, improving, converting, and updating the irrigation water delivery systems of existing agricultural regions in the counties of Kauai, Maui, Hawaii, and the city and county of Honolulu, together with temporary relief subsidies for the operational costs of these agricultural systems; provided that \$5,000,000, shall be for federal aid financing or reimbursement;
- (2) Changing the source of funding for the capital improvements from general revenues to the issuance of general obligation bonds; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2931, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2931, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chun, Kawamoto).

SCRep. 2332 (Joint) Agriculture and Tourism and Intergovernmental Affairs on S.B. No. 2913

The purpose of this measure is to appropriate funds for the enhancement of agricultural tourism venues.

Testimony supporting this measure was received from the Department of Agriculture, Hawaii Tourism Authority, County of Hawaii Department of Research and Development, Hawaii Island Economic Development Board, and the Hawaii Farm Bureau Federation.

Your Committees find that Hawaii's agriculture industry is blossoming as agricultural enterprises diversify. One promising area of the agricultural industry is agricultural tourism. These innovative ventures create new economic opportunities for Hawaii's farmers and allow them to maximize the economic potential of their agricultural lands. This measure provides the necessary funds to further stimulate the agricultural tourism industry in Hawaii.

Your Committees have amended this measure by:

- (1) Changing the source of the funds from the general treasury to the tourism special fund; and
- (2) Specifying the amount of the appropriation to be \$500,000.

To ensure the success of this program, your Committees encourage the Departments of Agriculture and Land and Natural Resources to conduct informational and training sessions with the Hawaii Tourism Authority and the community on Hawaii's agriculture industry.

As affirmed by the records of votes of the members of your Committees on Agriculture and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2913, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2913, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair and Majority Leader on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Sakamoto).

SCRep. 2333 (Joint) Agriculture and Water, Land, Energy, and Environment on S.B. No. 2242

The purpose of this measure is to authorize the Board of Land and Natural Resources to extend an agricultural lessee's lease to amortize the lessee-financed improvements made to the land or to allow the lessee additional time to make productive use of the land when productivity was negatively affected by special circumstances.

Testimony supporting this measure was received from the Hawaii Farm Bureau Federation and Hawaii Cattlemen's Council, Inc. Testimony opposing this measure was received from the Department of Land and Natural Resources.

Your Committees find that current laws regarding the extension of an agricultural public land lease does not adequately address the needs of Hawaii's farmers. Current law requires an agricultural lessee to obtain a loan or mortgage for improvements in order to qualify for a lease extension. This is an unnecessary burden, particularly when the farmer has the necessary capital to make the improvements without the need for a loan or mortgage. Your Committees find that this measure provides for additional opportunities for farmers to obtain an extension to their lease while preserving the State's interests in public land.

Your Committees have amended this measure by:

- (1) Providing that a lease extension based on lessee financed improvements shall be determined by the board or an independent appraiser rather than an independent appraiser hired by the lessee and approved by the board;
- (2) Eliminating the requirement that the independent appraiser shall account for the economic life of the lessee financed improvements prior to the application for extension;
- (3) Replacing the provisions that authorize lease extensions to allow the lessee additional time to make productive use of the land when productivity was substantially and directly hampered by special circumstances with provisions that:
 - (a) Specify that any agriculture, intensive agriculture, aquaculture, commercial, mariculture, special livestock, pasture, or industrial lease may be extended or modified upon a showing of significant economic hardship directly caused by natural disaster or a taking of a portion of the area of the lease by government action by eminent domain, withdrawal, or conservation easement; and
 - (b) Require that lease extensions shall require that the demised premises be used substantially for the purposes for which they were originally leased, the aggregate initial term and the extended term shall not exceed fifty-five years, the rental shall not be less than the rental for the preceding term, and that the lease extension complies with rules that ensure and promote the purposes of the demised lands; and
- (4) Making technical and nonsubstantive changes for purposes of style and clarity.

Your Committees further find that this measure, as amended, does not change existing laws as to the qualifications of the lenders that provide lessee's with a loan or mortgage to qualify for a lease extension.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2242, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2242, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Chun Oakland, English, Hanabusa, Kawamoto, Nakata).

SCRep. 2334 (Joint) Agriculture and Economic Development and Technology on S.B. No. 2239

The purpose of this measure is to make an appropriation for the Oceanic Institute.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism (DBEDT), Oceanic Institute, Pacific Harvest, Inc., Hawaii Aquaculture Association, and a private citizen.

This measure is important to marine research in Hawaii to support the State's efforts to diversify Hawaii's economy. The Oceanic Institute is one of the world's premier marine research centers, adding to the economic vitality of the State and supporting the public goal of a diversified economy.

Moneys under this measure would be used to assist the Oceanic Institute to complete the expansion of the Center for Applied Aquaculture and Marine Technology, which would develop sustainable technologies to increase aquatic food production while promoting the responsible use of ocean resources.

Your Committees have amended this measure on the recommendation of the DBEDT by substituting the Department of Agriculture as the appropriate expending agency. In addition, your Committees changed the source of funding from the general treasury to the issuance of general obligation bonds.

As affirmed by the records of votes of the members of your Committees on Agriculture and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2239, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2239, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 6 (Hanabusa, Kawamoto, Matsunaga, Taniguchi, Hogue, Slom).

SCRep. 2335 (Joint) Agriculture and Economic Development and Technology on S.B. No. 2228

The purpose of this measure is to authorize the issuance of special purpose revenue bonds for the purchase of a sugar and molasses terminal facility at Nawiliwili, Kauai.

Testimony in support of the measure was received from the Agribusiness Development Corporation, the Chairman of the Kauai County Council, the Hawaii Agriculture Research Center, the Hawaii Farm Bureau, the Kauai County Farm Bureau, Gay and Robinson, Inc., and numerous businesses from the island of Kauai. The Department of Budget and Finance submitted concerns over the whether a sugar and molasses terminal facility qualifies as a "processing enterprise" under Part IV, Chapter 39A, Hawaii Revised Statutes, and whether the prohibition under federal tax law against refinancing taxable debt into tax-exempt debt applies.

Your Committees find that the sugar and molasses terminal facility at Nawiliwili on the island of Kauai was constructed around 1950, and prior to 1994, provided receiving, storing, and shipping services for both sugar and molasses for all five producers on the island. With the demise of four of these operations by 2000, Gay & Robinson, Inc., is the only remaining producer left to purchase the terminal facility.

Gay & Robinson, Inc., is committed to the sugar industry and is increasing its investment by farming an additional 4,300 acres of state-owned lands formerly leased to Kekaha Sugar. The company has hired forty additional employees and will hire more when the entire 4,300 acres are fully cultivated. Gay & Robinson, Inc., now employs over 300 full-time employees and provides subsidized housing for 350 current and retired employees. By remaining in business and hiring people during these depressed times, the company is contributing significantly to the economy of the island of Kauai and the State.

Your Committees have amended the measure by:

- (1) Recasting the findings and purpose section (section 1) of the measure; and
- (2) Changing references to Part IV, Chapter 39A, Hawaii Revised Statutes, to Part V, Chapter 39A, Hawaii Revised Statutes, in order to reclassify the issuance of the special purpose revenues bonds for the purpose of an industrial enterprise (Part V) rather than a processing enterprise (Part IV).

Your Committees believe that assisting Gay and Robinson Inc., would benefit the people of the island of Kauai by maintaining a significant economic engine on that island.

As affirmed by the records of votes of the members of your Committees on Agriculture and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2228, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2228, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 6 (Hanabusa, Kawamoto, Matsunaga, Taniguchi, Hogue, Slom).

SCRep. 2336 Agriculture on S.B. No. 2184

The purpose of this measure is to appropriate funds for agricultural research and development and the development of agribusiness incubators.

Your Committee received testimony in favor of this measure from the University of Hawaii, Pineapple Growers Association of Hawaii, Hawaii Farm Bureau, Hawaiian Commercial & Sugar Company, the Hawaii Macadamia Nut Association, Kilauea Agronomics, LLC, Hawaii Forest Industry Association, Aloun Farms, Hawaiian Host, Maui County Farm Bureau, and Hawaii Agriculture Research Center.

Your Committee finds that this measure provides the groundwork towards moving the State to an expanded economic base better able to withstand the turmoils of national and international downturns. Additionally, the creation of agribusiness incubators would continue efforts to increase value-added products to the base of agricultural commodities.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2184 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chun, Kawamoto).

SCRep. 2337 Agriculture on S.B. No. 2136

The purpose of this measure is to appropriate \$50,000 to implement short-term methods for the control of fireweed.

Your Committee received testimony in favor from the Board of Agriculture, Ulupalakua Ranch, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Big Island Farm Bureau, Hawaii Agriculture Research Center, and Pineapple Growers Association of Hawaii.

Your Committee finds that fireweed is a poisonous weed toxic to cattle, horses, and other livestock, and poses a growing threat to the livestock industry in Hawaii. When ingested in large quantities, it causes damage to the liver and neurological system and eventually leads to death. Because of its invasiveness, fireweed is also a threat to Hawaii's native ecosystem and plants. It is presently spreading rapidly on the islands of Hawaii, Maui, and Kauai.

The appropriation provided by this measure would assist ranchers, farmers, and county personnel who want to control fireweed but may not have the funds needed to purchase herbicides for the control work. Under the Department of Agriculture's noxious weed rules, the department could provide assistance in the form of cooperative agreements with landowners for the purpose of initiating fireweed control or eradication projects.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2136 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chun, Kawamoto).

SCRep. 2338 (Joint) Agriculture and Commerce, Consumer Protection and Housing on S.B. No. 2291

The purpose of this measure is to specify that a security interest is perfected upon purchase by a party who purchases the right to payment from an individual of winnings in a lottery or other games of chance.

Testimony in support of this measure was received from Hawaii's Commission to Promote Uniform Legislation (Commission).

According to the Commission, this measure also corrects technical errors.

The automatic perfection of a security interest to the purchaser alleviates the need to file or refile Uniform Commercial Code financing statements, according to the Commission. The effect is to streamline paper filings with the Department of Commerce and Consumer Affairs without jeopardizing any party's rights or liabilities.

As affirmed by the records of votes of the members of your Committees on Agriculture and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2291 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 6 (Chun, Hanabusa, Kim, Kokubun, Matsunaga, Tam).

SCRep. 2339 (Joint) Agriculture and Commerce, Consumer Protection and Housing on S.B. No. 2666

The purpose of this measure is to establish a seal of quality program for fresh and processed agricultural products that are produced within the State.

Testimony in support of this measure was received from the Department of Agriculture, Agribusiness Development Corporation, Hawaii Farm Bureau Federation, Kilauea Agronomics, LLC, Maui County Farm Bureau, Meadow Gold Dairies, Hawaii Agriculture Research Center, Pineapple Growers Association of Hawaii, Del Monte, Floral Resources/Hawaii, Inc., and Hawaii Tropical Flower Council.

Your Committees find that Hawaii's agricultural products inherently maintain a distinct and well-deserved reputation of freshness, value, and quality in the market. In order to compete nationally and internationally, there needs to be a consolidated and uniform method of indicating that an agricultural product originates from Hawaii and carries with it Hawaii's valuable goodwill. Your Committees find that this measure establishes a program that provides Hawaii's agriculture industry a labeling standard that preserves and enhances the value of their Hawaiian products.

Your Committees have amended this measure by:

- (1) Deleting the language that establishes a marketing alliance to develop and implement the seal of quality branding program; and
- (2) Authorizing the department of agriculture to contract with nonprofit corporations to assist in developing and implementing the seal of quality branding program.

As affirmed by the records of votes of the members of your Committees on Agriculture and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2666, as amended herein, and recommend 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 Chairs on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 6 (Chun, Hanabusa, Kim, Kokubun, Matsunaga, Tam).

SCRep. 2340 Water, Land, Energy, and Environment on S.B. No. 2243

The purpose of this measure is to establish green marketing programs for green power electricity produced by wind, solar energy, hydropower, landfill gas, waste-to-energy, geothermal resources, ocean thermal energy conversion, wave energy, biomass including municipal solid waste, biofuels or fuels derived entirely from organic sources, hydrogen fuels derived entirely from renewable energy, or fuel cells where the fuel is derived entirely from renewable sources.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism (DBED&T), Hawaiian Electric Company, Inc., Apollo Energy Corporation, Hawaii Renewable Energy Alliance, Life of the Land, Sierra Club Hawai'i Chapter, and one individual. The Public Utilities Commission and Kauai Electric submitted comments.

Your Committee finds that green marketing programs offer consumers the opportunity to purchase electricity from green power sources, which supports the State's energy policies. Your Committee has heard that currently about 2,700 customers are participating in a green power program, and that green marketing could increase this number significantly.

Your Committee has also heard concerns raised regarding DBED&T's ability to fund this program without additional moneys. Your Committee has addressed this and other concerns by amending this measure to:

- (1) Require DBED&T to develop a request for proposals (RFP) and to contract for the green marketing plan;
- (2) Add electric utilities to the groups working on development of the RFP; and
- (3) Require an annual report by DBED&T to the Governor and the Legislature.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2243, S.D. 1, and be referred to the Committees on Economic Development and Technology and Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 2341 (Joint) Water, Land, Energy, and Environment and Commerce, Consumer Protection and Housing on S.B. No. 2615

The purpose of this measure is to implement the recommendations of the Energy Policy Task Force, including restricting energy tax credits to renewable energy technologies and requiring the Department of Business, Economic Development, and Tourism to support efficiency and renewable energy education programs.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism (DBED&T), the Energy-Efficiency Policy Task Force, Hawaiian Electric Company, Inc., The Gas Company, Hawaii Renewable Energy Alliance, Hawaii Solar Energy Association, Inter-Island Solar Supply, Covanta Energy Group, The Hydrogen Renewable Energy Enterprise, LLC, Pacific Wind Energy, LLC, Vertical Wind Turbine Technologies, LLC, Building Industry Association

Hawaii, and Sierra Club Hawai'i Chapter. The Department of Taxation testified in opposition. PowerLight Hawaii submitted comments.

Your Committees find that in 1998, Act 163 called for DBED&T to establish a task force to explore alternatives for supporting increased energy efficiency and sustainability. DBED&T established the Energy-Efficiency Policy Task Force (Task Force) composed of eleven representatives from public and private organizations. The Task Force held at least thirty-five meetings; sponsored a symposium with sixteen local, national, and international presenters; invited a number of speakers to discuss concerns; directed economic analyses of various technologies; directed peer review of the economic analyses; consulted various state statutes for policy guidance; and discussed seven approaches to alternatives to support increased energy efficiency and sustainability.

Your Committees have heard that continuing the policy of tax credits for selected renewable technologies, with dollar caps, was one of the major recommendations of the Task Force.

Your Committees commend the Task Force for its works, and particularly for its recognition of the many fiscal concerns facing the State, energy producers, and consumers. Your Committees have amended this measure to:

- (1) Begin the tax credit for systems installed after June 30, 2003;
- (2) Add a provision to ensure that a taxpayer cannot claim more than one credit;
- (3) Clarify that the claim must be filed by the end of the twelfth month following the taxable year in which the credit is claimed; and
- (4) Clarify that the credit applies to taxable years beginning after December 31, 2002.

Your Committees have not addressed the percentages or dollar amount caps for the tax credits. These will vary depending on the type of renewable energy technology, and between residential, multi-family, and commercial. Your Committees believe the ranges and the amount of the caps warrant further discussion.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2615, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2615, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 6 (Chumbley, Chun, Kokubun, Nakata, Hemmings, Hogue).

SCRep. 2342 Water, Land, Energy, and Environment on S.B. No. 2803

The purpose of this measure is to allow for the direct negotiation of leases or master leases on industrial parks developed under a joint venture or development agreement.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR).

Your Committee finds that DLNR is taking a more proactive approach to managing public lands, including planning for their use in a more efficient and productive manner. As part of this planning effort, DLNR has identified several sites with possible development potential as industrial parks.

Your Committee has heard that DLNR will seek to develop industrial parks under a joint venture or development agreement with a private developer or an association comprised of the tenants of the industrial park. The authority to develop industrial parks under a joint venture or development agreement is provided in section 171-135, Hawaii Revised Statutes (HRS), which also gives the Board of Land and Natural Resources exclusive authority to issue leases or master leases within the industrial park under the joint venture or development agreement. The statute, however, is silent with respect to the disposition process for such leases or master leases.

Your Committee supports this additional provision, and has amended this measure at the request of DLNR to require that if an industrial park is developed in partnership with a private party, that the selection of the private party is made in accordance with chapter 103D, HRS.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2803, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2803, S.D. 1, and be referred to the Committees on Economic Development and Technology and Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 2343 Judiciary on S.B. No. 1381

The purpose of this measure is to change the reporting time for the Elections Appointment and Review Panel (Panel) to report to the legislature from every odd-numbered year to even-numbered year.

Testimony in support of this measure was received from the Panel.

Current law requires the Panel to submit its findings and recommendations from the biennial performance evaluation to the legislature twenty days before the convening of a session in an odd-numbered year. Your Committee finds that because election operations begin in February of every even-numbered year and end twenty days after the general election, the Panel has only one month to prepare the report.

Your Committee further finds that one month is insufficient time for the Panel to do a complete and accurate report, particularly immediately after the high stress and high volume activity of an election.

Your Committee has amended this measure by:

- (1) Changing the amount of the appropriation from \$25,000, to \$25,245, based on itemized figures submitted of the Panel; and
- (2) Making the appropriation effective upon approval, to enable the Panel to immediately expend the funds in preparation for the 2002 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 intent and purpose of S.B. No. 1381, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1381, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2344 (Majority) Judiciary on S.B. No. 2206

The purpose of this measure is to allow the Department of Education (DOE) to utilize and hire attorneys other than the Attorney General (AG).

Your Committee received testimony in support of this measure from the DOE and HGEA-AFSCME. Testimony in opposition was received from the AG.

Your Committee agrees with the finding of the Committee on Education that the current requirement of utilizing the AG's office precludes timely advice and assistance for the DOE.

Your Committee has amended this measure by making technical changes for proper drafting style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2206, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.B. No. 2206, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2345 Judiciary on S.B. No. 2223

The purpose of this measure is to appropriate funds for the State's Commission to Promote Uniform Laws, and to pay the State's dues to National Conference of Commissioners on Uniform State Laws.

Your Committee heard testimony in support of the measure from the Commission to Promote Uniform Laws.

Your Committee finds that work of the Commission to Promote Uniform Laws has produced numerous valuable measures for consideration during this legislative session and continues to be vital to the legislative process of the State of Hawaii. Commissioners devote such time as is necessary for drafting, processing, and enacting bills as volunteers without compensation. Like the members of most other state boards and commissions, the commissioners' basic expenses directly related to their work, such as air fare, per diem allowances, and membership dues should be covered by the State. This is especially important as regards conference participation by the members of the commission because they may then have the benefit of participation in the debate, discussion, and explanation of the uniform acts. This provides background and information that commissioners can then bring back to the State of Hawaii when a uniform proposal is considered by the legislature.

Further, each state, including Hawaii, pays dues to the National Conference of Commissioners on Uniform State Laws and the amount requested is also used for this purpose.

As affirmed by the record of votes of 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. 2223 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2346 Judiciary on S.B. No. 2365

The purpose of this measure is to appropriate funds to the Hawaii Paroling Authority (HPA) to improve efficiency and services of the authority.

Testimony in support of this measure was received from the Department of Public Safety, HPA, and Government Efficiency Teams, Inc.

These appropriations would enhance the functioning of the HPA to enable it to fulfill its legal duties and obligations to rehabilitate parolees. Most of these appropriations would go to providing rehabilitation services to parolees upon their release from prison. The reality is that prison confinement does not serve all inmates well in terms of rehabilitation, especially when drug addiction is involved. By ensuring a parolee receives adequate and necessary rehabilitation services, recidivism would decrease along with the costs to the State in reduced crime and in building prison facilities.

Your Committee has amended this measure on recommendation of the HPA by inserting appropriation 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 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2347 (Majority) Judiciary on S.B. No. 2400

The purpose of this measure is to create an office of civil process commission for the regulation of civil process servers.

Testimony in support of this measure was received from the Hawaii Deputy Sheriffs' Association. Testimony in opposition was received from the Judiciary, Department of Public Safety, Maui Collection Service, Inc., Credit Associates of Maui, Ltd., Hawaiian Collectors Association, Kauai Credit Adjusters, Ltd., Doctors Business Bureau, Collection Agency of Hawaii, Inc., Process Servers Exclusive, Reliable Process Service, Honolulu Information Service, and two private citizens. Commentary was submitted by the Insurance Commissioner.

This measure also requires a certificate of registration for persons who serve more than ten services of process in one year, and for civil court officers (persons certified as civil deputies under the Department of Public Safety civil branch and listed with the Judiciary as a civil deputy as of November 1, 2001).

While testimony was heavily in opposition to this measure, your Committee finds that this measure would serve to organize and professionalize civil process servers.

Your Committee has amended this measure by adding an unspecified appropriation to the Judiciary for start-up costs for the office of civil process 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. 2400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2400, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2348 Judiciary on S.B. No. 2438

The purpose of this measure is to prohibit employer discrimination against actual or perceived victims of domestic or sexual violence but also recognize legitimate employer interests related to the safety of all persons in the workplace.

Testimony in support of this measure was submitted by the Department of Labor and Industrial Relations and Hawaii State Coalition Against Domestic Violence. The Unemployment Insurance Division submitted comments on this measure.

Your Committee finds that this measure:

- (1) Enables a victim of domestic or sexual violence to take paid or unpaid leave, seek medical treatment, obtain abuse-related services, counseling, relocate, or take legal action;
- (2) Upholds the provisions of collective bargaining agreements or employment agreements that contain equal or better benefits or rights regarding protection from domestic or sexual abuse;
- (3) Prohibits an employer from discriminating against an employee who is a victim of domestic or sexual abuse;
- (4) Enables a victim of domestic or sexual abuse to obtain unemployment insurance benefits if the victim suffers a loss of employment status as a consequence of the abuse;

- (5) Provides training for unemployment insurance claims reviewers and hearings officers to understand and recognize symptoms and patterns of domestic or sexual abuse; and
- (6) Establishes a workplace safety tax credit (nonrefundable) of up to forty per cent of the costs associated with domestic and sexual violence safety and education training as an incentive for employers to help prevent domestic and sexual abuse.

Your Committee finds that domestic violence crimes account for approximately fifteen per cent of total crime costs in the United States each year. Violence against women has been reported to be the leading cause of physical injury, having a devastating impact on women's physical and emotional health and financial security. This measure comprehensively addresses the many concerns of working victims of domestic violence. However, as noted in the previous Committees, this measure needs further discussion to address the U.S. Department of Labor's concerns.

As affirmed by the record of votes of 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. 2438, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2349 Commerce, Consumer Protection and Housing on S.B. No. 2172

The purpose of this measure is to authorize the establishment of a two-year pilot program that provides grants to homeowners to install wind damage mitigation devices.

Your Committee received testimony in support of this measure from the Hawaii Hurricane Relief Fund (HHRF) Board, Hurricane Hazard Mitigation Ad Hoc Task Force, Hawaii Security Shutters, LLC, Hawaii Independent Insurance Agents Association, Building Industry Association, and three individuals.

Your Committee finds that the installation of wind damage mitigation devices will reduce the risk of property loss due to hurricanes, tropical storms, and strong winds. This measure would encourage the installation of wind damage mitigation devices by providing dollar-for-dollar matching grants up to \$3,500 to homeowners who retrofit their homes with devices approved by the HHRF.

The HHRF Technical Advisory Committee on Hazard Mitigation (TAC), which was requested by the Legislature to study the issue of hazard mitigation, reported that a matching grant program is both feasible and cost effective. A grant program is also consistent with the duty of the HHRF to create loss mitigation incentives.

Upon careful consideration, your Committee has amended this measure by replacing its contents with the contents of a similar measure, S.B. No. 2220. As amended, this measure incorporates the recommendations of the TAC by:

- (1) Establishing a three-year, rather than a two-year, grant program to provide sufficient time to initiate and market the program;
- (2) Placing the program in the Insurance Division, rather than under the jurisdiction of the HHRF, which is winding down;
- (3) Providing additional guidelines or parameters for grant applications, including the specification of approved wind resistive devices;
- (4) Providing a maximum grant amount of \$2,100;
- (5) Creating a loss mitigation grant fund as a depository for program moneys;
- (6) Providing for immunity for transfers of moneys between the hurricane reserve trust fund (HRTF) and the loss mitigation grand fund; and
- (7) Appropriating a total of \$30,000,000 for the grant program, but from general revenues, rather than from the HRTF.

Your Committee has also amended this measure by inserting an effective date of July 1, 2050, and by making technical, nonsubstantive changes to reflect preferred drafting style.

It is your Committee's intent that any funds used from the HRTF to provide grants under this program be limited to investment earnings, and that the fund corpus not be utilized for this purpose.

Finally, your Committee recommends that as this measure proceeds through the legislative process, it continue to be brought before the public for further discussion and input.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2172, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2172, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chumbley).

SCRep. 2350 Commerce, Consumer Protection and Housing on S.B. No. 2469

The purpose of this measure is to appropriate funds to finance a state-sponsored prescription assistance plan.

Testimony in support of this measure was received from the Department of Human Services (DHS), Insurance Division, Executive Office on Aging, Policy Advisory Board for Elder Affairs, HGEA-AFSCME, Hawaii Alliance for Retired Americans, Legal Aid Society of Hawaii, American Association of Retired Persons, Kokua Council, Unity House, Inc., ILWU Local 142, La`au Makana The Medicine Bank, Hawaii Academy of Physician Assistants, Hawaii State AFL-CIO, HSTA, Hawaii Catholic Conference, and four private citizens.

This measure proposes to create the State's first prescription assistance plan. Although the measure is an appropriations bill, it has vast and far-reaching implications for the health of Hawaii's citizens, particularly retirees. This measure essentially places the plan under the Medicaid program, if possible. The DHS is required to obtain a Medicaid waiver, which would mean that about half of the cost would be federally subsidized.

Although reimbursement under the plan is modest at \$1 for each prescription written, it is movement in the right direction. Prescription drugs are often unaffordable to lower income persons and retirees on fixed incomes. Your Committee heard testimony from across the State last year on the impact of prescription drug costs on the family budget, particularly of retirees who go without the drug, take a smaller dosage of the drug than recommended by their doctor, or give up buying food. There is clearly a need for a State-sponsored prescription assistance plan for income qualified individuals.

Your Committee desires to continue discussion on this measure and to await the disposition of other prescription drug coverage bills in this Session.

Your Committee has amended this measure by changing the effective date to July 1, 2050 to continue the discussion on the prescription assistance plan.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2469, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2469, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Kim).

SCRep. 2351 Commerce, Consumer Protection and Housing on S.B. No. 2587

The purpose of this measure is to authorize the issuance of revenue bonds to build a student housing and mixed-used project at the site of the Atherton Young Men's Christian Association (YMCA).

The University of Hawaii and Atherton YMCA testified in support of this measure and comments were submitted by the Special Assistant to the Governor for Housing and the Department of Budget and Finance.

This measure authorizes the Housing and Community Development Corporation of Hawaii (HCDCH) to issue \$15,000,000 in revenue bonds and appropriates the same amount to fund the construction of a student housing and mixed-use project at the site of the Atherton YMCA. The project would replace the YMCA's aging structures and includes two hundred new dormitory rooms, meeting rooms, activity space, a restaurant, and one hundred eighty parking stalls.

Your Committee has amended this measure by:

- (1) Authorizing the Board of Regents of the University of Hawaii, rather than the HCDCH, to issue the revenue bonds;
- (2) Authorizing the University of Hawaii, rather than the HCDCH, to expend the moneys appropriated; and
- (2) Inserting a delayed effective date of July 1, 2050, to facilitate further review and discussion of this measure.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2587, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2587, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Tam, Hogue).

SCRep. 2352 Commerce, Consumer Protection and Housing on S.B. No. 2726

The purpose of this measure is to authorize the hiring of consultants to assist the Department of Commerce and Consumer Affairs (DCCA) in reviewing cemetery and pre-need funeral authority license applications and in other regulatory matters.

The DCCA testified in support of this measure.

The cemetery and pre-need funeral industry once mostly involved family-owned businesses, but over the years has grown to include multi-million dollar corporate operations. As the industry has expanded and become more complex, it has become necessary for regulatory authorities to have certain expertise and skills to provide effective industry oversight.

While the DCCA is authorized to contract with private consultants, this authority is limited to hiring a consultant to conduct a post-licensing audit of a cemetery or pre-need funeral authority's trust funds. Your Committee finds that the department may require additional expertise in pre-licensing and other post-licensing matters in order to adequately protect the interests of consumers. Therefore, this measure establishes the department's authority to retain private consultants, including attorneys, auditors, accountants, investigators, and examiners, and provides that the costs of hiring a consultant shall be paid by the licensee whose application or activities required the retention of the consultant.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Kim).

SCRep. 2353 (Majority) Commerce, Consumer Protection and Housing on S.B. No. 2735

The purpose of this measure is to establish a supplementary revenue source to help fund the costs of regulating state-chartered and licensed financial institutions.

The Commissioner of Financial Institutions testified in support of this measure. The Hawaii Bankers Association and Bank of Hawaii opposed the measure.

The Division of Financial Institutions (Division) has oversight of state-chartered and licensed financial institutions. Its operations are supported by application and renewal fees, examination fees, and by a portion of the franchise tax paid by financial institutions. At the start of the current fiscal year, a negative franchise tax balance resulted when refunds were greater than revenues, and required that the Division use general funds to meet its expenses. If franchise tax revenues continue to be at a deficit, the Division's ability to effectively supervise state-chartered and licensed institutions will be at risk.

This measure establishes a source of revenue to supplement the Division's franchise tax allocation by authorizing the assessment of fees against financial institutions regulated by the State. Your Committee finds that an assessment of fees is consistent with the national trend since a majority of state and federal regulators assess financial institutions under their jurisdiction to pay for the costs of regulation and supervision. These regulators include forty-seven state regulators, the Office of Comptroller of the Currency (OCC), the Office of Thrift Supervision, and the National Credit Union Administration (NCUA).

This measure establishes maximum assessment schedules for all state-chartered institutions based on current assessment schedules of the OCC and the NCUA, and a modified version of the West Virginia assessment schedule for consumer lenders. An institution's actual assessment, however, would vary annually dependent upon the amount of the Division's budget shortfall, if any.

Your Committee has amended this measure to reflect language provided by the Commissioner that, among other things, clarifies the assessment process. As amended, this measure:

- (1) Clarifies what constitutes a shortfall in the Division's share of the compliance resolution fund that triggers an assessment, and provides that the Division is limited to collecting assessments necessary to make up the shortfall;
- (2) Clarifies the ratio utilized to determine an institution's actual annual assessment, when this amount is less than its maximum annual assessment;
- (3) Conforms the assessment schedules so that all assessments are made on an annual basis; and
- (4) Specifies that the Division's allocation of the franchise tax is \$1,000,000, rather than an amount not to exceed \$2,000,000.

Your Committee has also amended this measure by inserting a delayed effective date of July 1, 2050, and by making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2735, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, 1 (Hogue). Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2354 (Joint) Health and Human Services and Education on S.B. No. 2143

The purpose of this measure is to establish a dedicated source of funding for youth programs that operate during non-school hours.

The Office of Youth Services (OYS) and Hawaii Youth Services Network testified in support of the measure. The Department of Budget and Finance testified in opposition to the measure.

Your Committees find that juvenile crime, drug use, and sexual activity peak during non-school hours. Therefore, it is important that children and teenagers have opportunities to engage in constructive social, educational, and recreational activities through structured programs that operate before and after school, on weekends, and during school breaks.

The Department of Human Services' OYS supports youth programs through its funding of Youth Service Centers. This measure reallocates moneys in the Hawaii tobacco settlement special fund and establishes an additional allocation to OYS to fund youth programs during non-school hours.

Your Committees have amended this measure by deleting references to specific percentages appropriated from the Hawaii tobacco settlement special fund to the emergency and budget reserve fund and OYS.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2143, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2143, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 12. Noes, none. Excused, 3 (Chumbley, Menor, Nakata).

SCRep. 2355 (Joint) Economic Development and Technology and Tourism and Intergovernmental Affairs on S.B. No. 2247

The purpose of this measure is to create a task force to transfer jurisdiction over state parks from the Department of Land and Natural Resources to the counties.

Your Committees received testimony opposing this measure from the Chairperson of the Board of Land and Natural Resources and Hawaii County Department of Parks and Recreation.

Your Committees find that there is inconsistency and overlapping of jurisdiction and programs between the State and the counties concerning state parks. The parks system would be more efficient and accountable if the counties had absolute jurisdiction over all of the parks.

Your Committees have amended this measure by creating a task force to develop an action plan for the transfer of jurisdiction, rather than a task force to transfer jurisdiction.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2247, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2247, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair and Vice Chair on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 5 (Buen, Kawamoto, Matsunaga, Sakamoto, Taniguchi).

SCRep. 2356 (Joint) Economic Development and Technology and Transportation, Military Affairs, and Government Operations on S.B. No. 2254

The purpose of this measure is to appropriate \$40,000 for legislative media steaming to provide audio and video streaming of legislative proceedings over the Internet.

Your Committees received testimony in favor of the measure from Common Cause Hawaii, the League of Women Voters, and a private individual.

Your Committees find that public access to legislative proceedings is of the utmost importance. Considering the rapid proliferation of the Internet into the homes and workplaces of the general public, the Legislature must move proactively to disperse information through this new media.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2254 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 6 (Kanno, Matsunaga, Menor, Taniguchi, Hemmings, Slom).

SCRep. 2357 (Joint) Economic Development and Technology and Transportation, Military Affairs, and Government Operations on S.B. No. 2255

The purpose of this measure is to provide that boards of cable television access are not to be selected by the Department of Commerce and Consumer Affairs (DCCA).

Your Committees received testimony in favor of this measure from Common Cause Hawaii, the Kokua Council, Akaku: Maui Community TV, Community Television Producers Association, Hawaii Public Access Media, and one individual. Your Committees received testimony opposing this measure from Olelo Community Television, Ho'ike Kauai Community Television, and comments from the Department of Commerce and Consumer Affairs.

Your Committees find that a local community-based board appointment process, rather than the DCCA appointment process, would provide continuity and consistency for the local governance of community media. The need for ongoing accountability to the local community is enhanced while the interests of the State are protected in the provisions of their contracts with the private nonprofit media access providers.

Your Committees have amended this measure by requiring that cable stations comply with chapter 92, Hawaii Revised Statutes, and by making nonsubstantive, technical changes.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2255, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2255, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Kanno, Matsunaga, Menor, Taniguchi, Hemmings, Slom).

SCRep. 2358 (Joint) Economic Development and Technology and Education on S.B. No. 2412

The purpose of this measure is to appropriate funds to expand the Economic Development Program of the Small Business Development Center at the University of Hawaii at Hilo.

Testimony in support of the measure was received from the Small Business Development Center at the University of Hawaii at Hilo.

Your Committees find that the measure will provide funds to the Small Business Development Center to expand its staff of management consultants by ten and its support staff by six. All but four positions will be situated on Oahu, which is the most severely underserved area of the State. Two positions will be situated at the island of Hawaii Small Business Development Center's Rural Development Center to assist in the diversification of agricultural enterprises statewide. Three positions will be utilized to establish a High Technology Center.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2412 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 4 (Chun Oakland, Menor, Taniguchi, Slom).

SCRep. 2359 (Joint) Economic Development and Technology and Transportation, Military Affairs, and Government Operations on S.B. No. 2949

The purpose of this measure is to require the executive branch to provide the legislature with electronic access to executive budget data.

Testimony in support of the intent of the measure was received from the Department of Accounting and General Services. The Department of Budget and Finance submitted testimony in opposition.

Your Committees find that electronic access to executive branch budget data would be beneficial to the legislature in its deliberations on the many appropriation measures that committees must consider, and which may or may not be directly related to executive branch expenditures. With the rapid advances in technology, this information should be both readily accessible and timely.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2949 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Kanno, Matsunaga, Menor, Taniguchi, Hemmings, Slom).

SCRep. 2360 (Joint) Economic Development and Technology and Tourism and Intergovernmental Affairs on S.B. No. 3014

The purpose of this measure is to require the stadium authority to review and compare the current artificial turf with more technologically advanced turf products.

Testimony in support of this measure was submitted by the University of Hawaii. Oral testimony in support of this measure was given by the Stadium Authority and the Department of Accounting and General Services. Testimony in opposition to this measure was submitted by the Hawaii Tourism Authority.

Your Committees find that some forms of artificial turf have been the cause of sports injuries. Your Committees further find that the NFL Pro Bowl contract includes a provision that requires the Hawaii Tourism Authority to use best efforts to provide a natural turf playing surface. While some efforts have been made to ban the use of artificial turf, advances in technology have improved the safety features of synthetic surfaces. Therefore, this measure requiring review of the current artificial turf at Aloha Stadium would greatly enhance the safety of all athletes playing at our stadium.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3014 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair and Vice Chair on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Buen, Kawamoto, Matsunaga, Sakamoto, Taniguchi).

SCRep. 2361 Education on S.B. No. 2055

The purpose of this measure is to clarify that the Hawaii Teacher Standards Board has sole jurisdiction over all matters concerning the issuance and revocation of teacher licenses.

Your Committee received testimony in support of the measure from the Lieutenant Governor, Superintendent of Education, and Hawaii Association of Independent Schools. Your Committee received testimony in opposition to the measure from a private individual.

Your Committee finds that, while the Department of Education has a continuing responsibility under law to conduct general employment functions and maintain its current staff, the department's former teacher licensing functions have been superseded by those of the Hawaii Teacher Standards Board. Although the department has transferred one position to the board, a separate entity administratively attached to the department, it is clear that, in the future, the board will be hiring its own staff with funds allocated by the legislature.

Your Committee has amended the measure to delete a reference to the transfer of positions from the department to the board.

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. 2055, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2362 (Joint) Education and Transportation, Military Affairs, and Government Operations on S.B. No. 2068

The purpose of this measure is to provide funds for fiscal year 2002-2003 for a position in the Department of Accounting and General Services to coordinate public and private efforts to repair and maintain public schools.

Your Committees received testimony in favor of this measure from the Department of Accounting and General Services, Department of Education, Waianae Intermediate School, Wahiawa Middle School, Chamber of Commerce of Hawaii, General Contractors Association of Hawaii, Hawaii Government Employees Association, Hawaii State Teachers Association, and Hawaii 3 R's.

Your Committees find that current services provided by this position has proven to be very beneficial in addressing the current \$600,000,000 backlog. This position is required to coordinate the administration of the program.

Your Committees have amended this measure by increasing the funding of the position to \$51,312, and by making nonsubstantive, technical amendments.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2068, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2068, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 4 (Kanno, Menor, Taniguchi, Hemmings).

SCRep. 2363 (Joint/Majority) Education and Judiciary on S.B. No. 2084

The purpose of this measure is to limit the liability of educational officers and teachers who provide services to exceptional children and members of the plaintiff class under the Felix consent decree.

Testimony in support of this measure was received from the Department of Education and the Hawaii Government Employees Association, HGEA/AFSCME, Local 152, AFL-CIO. Testimony opposing this measure was received from the Disability and Communication Access Board.

Your Committees find educational officers and teachers provide valuable and needed services for Hawaii's exceptional children. However, many find themselves vulnerable to personal legal actions for doing their job. As a result, current and potential educational officers and teachers may decide not to expose themselves to possible personal legal liability and forego a career in special education. This measure limits their liability and allows educational officers and teachers to help Hawaii's exceptional children without fear of legal action.

Your Committees have amended this measure by:

- (1) Replacing the term "exceptional children" throughout chapter 302A, Hawaii Revised Statutes, with the term "children with disability" and a more appropriate definition in response to the sensitivity concerns raised by the testimony of the Disability and Communication Access Board. Your Committees, however, understand that the definition provided by this measure should undergo further scrutiny during the legislative process to ensure consistency with applicable federal and state laws;
- (2) Affording "classified personnel" the same limited liability provided to educational officers and teachers by this measure;
- (3) Defining "classified personnel" as persons that provide direct educational assistance to students under the direction of teacher or provide professional services to children with a disability;
- (4) Specifying that suits against educational officers, classified personnel, or teachers may only be brought against the departments of education and health, except for suits claiming gross negligence;
- (5) Clarifying that the limited liability applies to educational officers, classified personnel, and teachers who provide services to children with a disability and members of the plaintiff class under the Felix consent decree; and
- (6) Making technical, nonsubstantive changes for purposes of style and clarity.

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. 2084, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2084, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, 3 (Chumbley, Hogue, Slom). Excused, 5 (Ihara, Matsuura, Menor, Nakata, Tam).

SCRep. 2364 Education on S.B. No. 2067

The purpose of this measure is to fund University of Hawaii activities to recruit and retain students from underrepresented ethnic groups.

The University of Hawaii testified in support of this measure.

Your Committee finds that certain ethnic groups are underrepresented in the University of Hawaii's student population, and that the University requires funding to conduct recruitment and retention activities directed at these groups, including the provision of financial assistance, academic support, and student support services.

This measure proposes to provide the necessary funding by repealing the Hawaii Opportunity Program in Education (HOPE) endowment special fund and transferring the balance of the fund to the University of Hawaii student tuition and fees special fund. The transferred funds would be used to recruit and retain financially needy students with priority given to students from underrepresented ethnic groups.

The HOPE endowment special fund was originally established to provide scholarships for financially needy students from underrepresented ethnic groups through the use of interest income. But a limited fund corpus generates insufficient interest to support the provision of scholarships. By authorizing the transfer of the fund balance to the University of Hawaii tuition and fees special fund, the University will be better able to utilize these moneys to support activities aimed at achieving student diversification.

Your Committee has amended this measure to provide that the University of Hawaii, rather than the Director of Finance, is responsible for transferring the balance of the HOPE endowment special fund to the University of Hawaii tuition and fees special fund.

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. 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2365 Education on S.B. No. 2069

The purpose of this measure is to appropriate funds for a grant-in-aid to the Hawaii Educational Policy Center to prepare and distribute original research, reports, and summaries of existing research to help inform education policy in Hawaii.

Testimony supporting this measure was received from the Department of Education, University of Hawaii, and six individuals.

Your Committee finds that research on the educational policies, methods, and practices is a valuable resource for teachers, parents, and policy makers. The Hawaii Educational Policy Center, established by the Hawaii Institute for Educational Partnerships, is highly regarded in the education community for producing relevant educational research and reports to assist policy makers. Your Committee finds that their work provides substantial benefit to the public and the education profession and that this measure will assist in continuing to provide Hawaii's policy makers with relevant educational research.

Your Committee has amended this measure by:

- (1) Changing the character of the appropriation from a grant-in-aid to an appropriation directly from the general treasury; and
- (2) Changing the expending agency from the Department of Education to the Research Corporation of the University of Hawaii.

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. 2069, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2069, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2366 Education on S.B. No. 2073

The purpose of this measure is to appropriate funds to the University of Hawaii for the satisfaction of claims.

Your Committee received testimony in favor of this measure from the University of Hawaii.

Your Committee finds that Act 115, Session Laws of Hawaii 1998, authorized the Board of Regents of the University of Hawaii to settle claims and lawsuits filed against the University. Act 102, Session Laws of Hawaii 1999, clarified that the authorization to settle claims in Act 115 did not preclude the University from requesting and securing legislative appropriations to fund settlements entered into by and judgments against the University. This measure shall fund the settlement of Silva v. University of Hawaii, et al. Your Committee is referring this bill to the Committee on Ways and Means to provide the proper appropriation.

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. 2073 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2367 Education on S.B. No. 2233

The purpose of this measure is to appropriate funds to continue, implement, and develop parent-community networking centers (PCNC) in the public schools.

Testimony in support of this measure was received from the Department of Education (DOE) and a private citizen.

According to the testimony of the DOE, PCNC focuses on family support which has an integral role in the DOE's Comprehensive Student Support System and the DOE's implementation of the Hawai'i Content and Performance Standards.

Act 262, Session Laws of Hawaii (SLH) 2001, provided the initial funding for the PCNC system of support for students, parents, and teachers. The system was designed to be implemented in four phases. So far, only phases I and II have been implemented, and in some cases not at all.

The concept of the PCNC, as stated in Act 262, SLH 2001, is that satisfying teacher-parent partnerships at the classroom level while fostering a highly supportive sense of community at the school-building level results in higher student achievement, which has been affirmed in each of the past three years as indicated by a three-year longitudinal report of student SAT scores. The crucial factor is family support, which is based on the principles of:

- (1) Parents are the first and foremost teachers of their children in life; and
- (2) The parents' qualitative involvement in schools are critical to the success of their children, schools, and communities.

Your Committee agrees with the preamble of Act 262, SLH 2001: "The legislature also finds that there is overwhelming research evidence of the critical need for an integrated, comprehensive system of family support, parent education, teacher-parent partnerships, and volunteer and resource development at the neighborhood/school and classroom/family levels."

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. 2233 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2368 (Joint) Education and Transportation, Military Affairs, and Government Operations on S.B. No. 2332

The purpose of this measure is to appropriate funds for the development of a center for research on transportation and infrastructure issues at the University of Hawaii at Manoa.

Testimony in support of this measure was received from members of the University of Hawaii Department of Civil and Environmental Engineering. The Department of Transportation submitted comments.

Your Committees find that the creation of a transportation research center will allow the University to pursue federal funding that is available only to universities with such centers. While your Committees support increased research opportunities for the University and its students, members are in agreement that it should not be funded through the state highway fund.

Your Committees have amended this measure to reduce the appropriation to zero dollars, appropriated from the general fund.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2332, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2332, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 5 (Chumbley, Kanno, Menor, Taniguchi, Hemmings).

SCRep. 2369 Education on S.B. No. 2355

The purpose of this measure is to establish a University of Hawaii nursing scholarship program.

Your Committee received testimony in favor of this measure from the University of Hawaii, Hawaii Nurses' Association, Hawaii Government Employees Association, Kaiser Permanente, and the Queen's Medical Center.

Your Committee finds that this measure will increase the number of applications to University of Hawaii baccalaureate nursing programs, and these graduates will improve the quality of health in the State.

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. 2355 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2370 Education on S.B. No. 2424

The purpose of this measure is to establish procedures to allow the Department of Education (DOE) to award competitive grants to fund the further development, improvement and enlargement of exemplary vocational-technical education programs. The measure also appropriates \$1,000,000 for FY 2002-2003 to fund the grant program.

Your Committee received testimony in support of the measure from the DOE.

Your Committee finds that in today's rapidly changing economic climate it is more imperative than ever to provide innovative job training programs to the youth of Hawaii so that they can find fulfilling careers that will foster their economic self-sufficiency and improve the social welfare as a whole. As the DOE was reluctant to embrace this initiative, your Committee recommends that the appropriation associated with this measure be transferred to the community colleges of the University of Hawaii to enhance their vocational-technical training programs and those operated by them in conjunction with public high schools.

Your Committee has amended the measure by transferring the appropriation and related administrative functions to the University of Hawaii, removing all references to the incentive and innovation grant award panel which is under the DOE, and removing the requirement that rules be adopted to give priority to geographic exception.

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. 2424, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2371 Education on S.B. No. 2579

The purpose of this measure is to create a Pacific Center for Ecosystem Science.

Your Committee received testimony in support of this measure from the Board of Land and Natural Resources, the Director of the USGS Pacific Island Ecosystem Research Center, Maui Pineapple Company, Ltd., the Nature Conservancy of Hawaii, the statewide coordinator of Hawaii's Coordinating Group on Alien Pest Species, the Secretariat for Conservation Biology, a Conservation Biologist from the University of Hawaii at Manoa, a UH Zoology professor, a Field Supervisor from the U.S. Fish and Wildlife Service, five UH students, and four concerned citizens. The University of Hawaii provided comments.

Your Committee supports the concept of a Pacific Center for Ecosystem Science that would consolidate state, private, university, and federal land management and research organizations in a new world class science center in upper Manoa.

Your Committee finds that the Hawaiian islands have been called the "biological crown jewel" of the United States. Unfortunately, Hawaii's native ecosystems are among the most endangered in the world. Your Committee believes that this project will bring much needed attention to Hawaii's ecosystems.

Your Committee amended this measure to delete sections dictating the composition of the Center's board of directors, to delete the requirement that all state agencies provide cooperation to the Center, to delete the Center's authorization to seek out ways to obtain real property, to delete the appropriation amount, to delete specific references to positions to be created within the University, and to delete specific reference to the amount of matching funds required for the University to receive State funding.

Despite deleting specific position references from this measure, your Committee believes that any funds appropriated by the State to create positions should be allocated as follows:

- (1) One FTE position focusing on biocontrol to develop a series of applied research projects to find natural enemies to attack aliens such as Miconia;
- (2) One FTE position focusing on big mammals to develop extramurally funded cooperative projects with state, federal, and private organizations to study the populations and basic biology of these species and to make recommendations on their management to land managers;
- (3) One FTE position focusing on endangered plants to develop extramurally funded cooperative projects with state, federal, and private organizations to study the populations and basic biology of these endangered plant species and to make recommendations on their management to land managers;
- (4) One FTE position focusing on invasive alien weed ecology to develop extramurally funded cooperative projects with state, federal, and private organizations to study the basic biology and control of these invasive species and to develop management methods for land managers; and
- (5) One FTE position focusing on disease, to conduct extramurally funded cooperative projects with state, federal, and private organizations to determine which diseases are present, what diseases could become established, and the potential effects.

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. 2579, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2579, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2372 (Joint) Education and Transportation, Military Affairs, and Government Operations on S.B. No. 2680

The purpose of this measure is to clarify the project specification requirements of state educational facilities repair and maintenance projects.

Testimony in support of this measure was received from the Department of Accounting and General Services (DAGS), Department of Education, and HSTA.

Current law requires the comptroller to develop project specifications based on qualified products lists and standard commercial products. This measure would change reference to "qualified products lists" to "generic specifications or prescriptive specifications" using standard commercial products.

According to testimony of DAGS, this measure is intended to open up the competition to bidding and result in better quality with the potential for savings.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2680 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 5 (Chumbley, Kanno, Menor, Taniguchi, Hemmings).

SCRep. 2373 Education on S.B. No. 2738

The purpose of this measure is to establish a School Bus Fare Special Fund into which school bus fares collected by schools from students, parents, and guardians will be deposited.

Your Committee received testimony in support of the measure from the Department of Education.

Your Committee finds that the establishment of a School Bus Fare Special Fund will allow statewide bus fare collections to be deposited into a single account and utilized to pay for contracted school bus services. Such a special fund will increase the department's accountability for a source of funds previously collected and reported by the contractors. Furthermore, the special fund will help the school bus program avoid exceeding its general fund appropriation.

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. 2738 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2374 Education on S.B. No. 2741

The purpose of this measure is to establish a state income tax checkoff block on the State's tax return form to allow public support for educator scholarships.

Your Committee received testimony in favor of this measure from the Department of Education, Hawaii Association of Independent Schools, Hawaii State Teachers Association, and comments on this measure from Tax Foundation of Hawaii.

Your Committee finds that public education faces a critical shortage of teachers in the coming decade. These scholarships will allow students to obtain their teaching degrees, and then these educators would be expected to teach in the Hawaii public school system for at least four years. The program would help ensure that there will be an adequate number of well-trained teachers to benefit the children in our public school system.

Your Committee has amended this measure by using the term "refund" rather than "liability" to prevent a reduction of revenues going to the general fund. Nonsubstantive, technical amendments have been made as well.

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. 2741, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2741, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2375 Education on S.B. No. 2790

The purpose of this measure is to establish a check-off block on the State's income tax return to allow public support to the Hawaii State Public Library System's need for additional funds for library books and materials.

Your Committee received testimony in favor of this measure from the State Librarian, and comments on this measure from the Department of Taxation.

Your Committee finds that the costs of library materials have risen about eleven per cent annually since 1992, and the special funds for fines and enhanced service fees have been declining. The \$2 designation will assist the Hawaii State Public Library System to purchase library books and materials to keep up with the increasing demands to provide materials in new formats, to keep up with technology, and to respond to the needs of their respective community libraries.

Your Committee has amended this measure by using the term "refund" rather than "liability" to prevent reduction of revenues going to the general fund. Nonsubstantive, technical amendments have been made as well.

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. 2790, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2790, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2376 Education on S.B. No. 2791

The purpose of this measure is to deem sex offenders ineligible for employment for any position within the Hawaii State Public Library System.

Your Committee received testimony in favor of the measure from the Attorney General and State Librarian.

Your Committee finds that heightened awareness of sexual harassment and abuse establishes a greater potential of liability and affects the morale of employees. Library patrons, as well as staff, would benefit from this measure, as year-round events (including the Summer Reading and Read—To—Me programs) serve hundreds of children and teens from pre—schools, public and private schools, and adults daily at all 50 libraries. This measure will instill confidence and a greater sense of security in employees and patrons.

Your Committee has amended the measure by:

- (1) Deleting a reference to Hawaii State Public Library System employees as a subcategory of the Department of Education staff, as similar language in another portion of the bill will suffice; and
- (2) Correcting language to accurately reflect the language in the Hawaii Revised Statutes; and
- (3) Making technical amendments to reflect preferred 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. 2791, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2377 (Joint) Education and Judiciary on S.B. No. 2792

The purpose of this measure is to transfer public safety functions and employees relating to the after hour contracts at Department of Education facilities from the Department of Public Safety to the Hawaii State Public Library System.

Your Committees heard testimony in support of the measure from the State Librarian and Director of Public Safety.

Your Committees find it to be in the public interest to maintain public libraries as safe and welcoming environments, especially in light of the amount of children served by the state library system.

Upon further consideration, your Committees have amended the measure by adding clarifying language regarding the extent of the transfer of functions and employees to Hawaii State Public Library System as it encompasses all employees performing security functions for library facilities as well as all security contracts for library facilities. Your Committees also amended this measure by correctly setting forth all of section 26-14.6, Hawaii Revised Statutes, and making technical changes.

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. 2792, as amended herein, and recommend 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 Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Kawamoto, Matsuura, Menor, Tam).

SCRep. 2378 Education on S.B. No. 2793

The purpose of this measure is to provide funding to complete Phase I for Kapolei Public Library.

Your Committee received testimony in support of the measure from the State Librarian, Makakilo/Kapolei/Honokai Hale Neighborhood Board #34, and the Estate of James Campbell.

Your Committee finds that greater Kapolei welcomes the completion of the Kapolei Public Library, as a community hub and as a safe, welcoming environment for keiki and adults to learn, develop reading skills, and improve their minds. Funding is also urgently needed to ensure that the library, coming online soon, will never suffer a period of idleness.

Your Committee has amended the measure by reducing the appropriation to zero for further consideration of 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. 2793, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2793, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2379 Education on S.B. No. 2901

The purpose of this measure is to authorize issuance of general obligation bonds and to appropriate funds to construct a new research facility for the Institute of Astronomy at the University of Hawaii.

Your Committee received testimony in support of this measure from the Director of the University of Hawaii Institute for Astronomy.

Since the dawn of man we have looked to the stars in our quest to understand our universe. Now, several thousand years after we began walking upright, we are little closer to knowing the parameters of universe than when dinosaurs roamed the earth.

Your Committee finds the science of astronomy to continue to be an invaluable pursuit, and supports this measure to facilitate construction of a new research facility.

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. 2901 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2380 Education on S.B. No. 2927

The purpose of this measure is to appropriate funds for 43 off-ratio teacher positions and one middle level educational policy implementation specialist position.

Your Committee heard testimony in support of the measure from the Superintendent of Education.

Your Committee finds that the middle school years are crucial to the development of the physical, social, emotional, moral, and cognitive faculties of children. Funding these positions will greatly facilitate the implementation by the Department of Education of the Board of Education's Middle Level Education Policy, which is designed to maximize the enhancement of these faculties.

Your Committee further finds that eight funded off-ratio teacher positions for the Honolulu District of the Department of Education were recently cut by order of the Governor, which were the only such positions funded.

Your Committee has amended this measure by including the recently cut off-ratio teacher positions of the Honolulu District within the larger department-wide request.

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. 2927, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2927, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2381 Education on S.B. No. 2929

The purpose of this measure is to appropriate funds to hire educational assistants to support special education teachers to attain the ratio of one educational assistant for every special education teacher.

Testimony in support of this measure was received from the Hawaii State Teachers Association and two individuals. The Department of Education submitted testimony opposing this measure.

Your Committee finds that special education teachers in Hawaii's public schools are under tremendous pressure, particularly from the federal court, to provide services to Hawaii's exceptional children in a timely and effective manner. The workload per teacher is enormous considering the reporting and recording requirements, in addition to preparing lesson plans, correcting exams and assignments, and all other activities necessary to conduct a class.

Educational assistants dedicated to serving the needs of special education students provide the necessary support to special education teachers and allow them to focus on the core teaching activities. For example, the new information management system, ISPED, requires substantial data entry and properly trained educational assistants could assist special education teachers with this administrative task. Although mandated by the Felix consent decree, special education teachers continue to operate without adequate support due to sharing, misappropriation, or non-existence of educational assistants. This measure appropriates the necessary funds to attain the ratio of one educational assistant for every special education teacher to assist in serving the needs of special education students.

Your Committee has amended this measure by clarifying that educational assistants shall be utilized exclusively to support special education students.

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. 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2382 Education on S.B. No. 2938

The purpose of this measure is to establish the Filipino Centennial Celebration Commission.

The United Filipino Council of Hawaii and two individuals testified in support of this measure.

The year 2006 marks the one hundredth anniversary of the arrival of the first Filipino immigrants in Hawaii. Numerous events will be held across the State to commemorate this historical event and to recognize the achievements and contributions of Filipinos in Hawaii. This measure establishes the Filipino Centennial Celebration Commission as a temporary body to develop and coordinate plans for the centennial anniversary.

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. 2938 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2383 (Joint) Education and Economic Development and Technology on S.B. No. 2060

The purpose of this measure is to promote the development of educational materials as an industry in Hawaii.

Your Committees received testimony in support of the measure from the Hawaii Educational Policy Center, University of Hawaii Press, LightCone Interactive, and the University of Hawaii Curriculum Research and Development Group.

Your Committees find that the production of educational materials is a clean industry that takes advantage of the State's academic resources, creates a range of types of employment, has the chance of attracting federal and other grant moneys, and is likely to improve the overall level of education in the State. Your Committee urges the Hawaii Educational Policy Center to consider conducting the strategic marketing analysis report prior to funding a full-time marketing position.

As affirmed by the records of votes of the members of your Committees on Education and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2060 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Chumbley, Menor, Taniguchi, Slom).

SCRep. 2384 (Joint) Education and Labor on S.B. No. 2512

The purposes of this measure are to:

- (1) Change per pupil funding allocation; and
- (2) Provide for probationary status, tenure, and seniority comparable to other Department of Education (DOE) teachers.

Your Committees received testimony in favor of this measure from Lanikai School, Waialae New Century Charter School, and 310 individuals. Your Committees received testimony opposing this measure from the Superintendent of Education and Hawaii State Teachers Association. Your Committees received comments from Hawaii Government Employees Association.

Your Committees find that new century charter schools routinely receive as little as half of the per pupil allocations of other public schools. This puts the learners at new century charter schools at a severe disadvantage and sends a powerful and inappropriate message that these learners are second class citizens.

Your Committees further find that it would be unfair and discriminatory to deny to teachers at new century charter schools the same probationary status, tenure, and seniority available to their other colleagues in the DOE. This is especially unfair as teachers at new century charter schools are still bound by collective bargaining agreements.

Your Committees have amended this measure by:

- (1) Increasing flexibility by deleting specific references to general funds;
- (2) Deleting the provision requiring that per-pupil allocations be set for the upcoming school year by the first day of each fiscal year;
- (3) Deleting the provision calling for the allocation for self-contained special education students and for other special education students to be adjusted appropriately to reflect the additional expenses incurred for students in these programs; in favor of language stating that the DOE shall determine and provide the appropriate level of special education staff and services necessary to ensure that the student's educational needs as indicated in the individualized educational plans are met;
- (4) Adding a provision allowing the DOE to retain up to 6.5 per cent of federal grants and subsidies for administrative services if such are provided related to the grant and subsidy; and

- (5) Adding a timetable requiring the DOE to provide 50 per cent of a new century charter school's per pupil allocation based on the new century charter school's projected student enrollment no later than August 1 of each year; provided that the new century charter school shall submit to the DOE a projected student enrollment no later than May 15 of each year; provided the remaining per pupil allocation of a new century charter school based on the new century charter school's verified student enrollment no later than October 15 of each year; and provided that the new century charter school shall submit to the DOE a verified student enrollment no later than September 15 of each year.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2512, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2512, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Chumbley, English, Kanno, Matsunaga, Matsuura, Menor).

SCRep. 2385 (Joint) Education and Transportation, Military Affairs, and Government Operations on S.B. No. 2619

The purpose of this measure is to redistrict the at-large Board of Education districts and Department of Education school districts.

Your Committees received testimony in support of the measure from the Board of Education and Office of Election. Your Committees received testimony in opposition to the measure from the Hawaii State Teachers Association.

Your Committees find that the measure would amend Section 13-1, Hawaii Revised Statutes (HRS), to conform the descriptions of the school board districts and departmental school districts with the districts established by the 2001 Reapportionment. Following the 1991 Reapportionment, the Chief Election Officer issued a proclamation, pursuant to section 13-1.1, HRS, designating which representative districts comprise the departmental districts and school board districts described in section 13-1, HRS. Although this met the statutory requirement, it led to confusion by candidates and voters because the statute was not also updated to mirror the proclamation. Amending section 13-1, HRS, should decrease the confusion of candidates and voters as to which representative districts belong to the school board districts and departmental school districts after the 2001 Reapportionment.

Your Committees have amended the measure to accurately reflect the language in the Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2619, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2619, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Chumbley, Kanno, Menor, Taniguchi, Hemmings).

SCRep. 2386 Education on S.B. No. 2662

The purpose of this measure is to allow a nonprofit organization to manage and operate a new century conversion charter school as a division of the nonprofit organization, in which the charter school's local school board would consist of the board of directors of the nonprofit organization.

Your Committee received testimony in support of the measure from the Board of Education, Department of Education, Hawaii Association of Independent Schools, Kamehameha Schools, Imua Group, Hawaii Business Roundtable, Chamber of Commerce of Hawaii, Halau Ku Mana New Century Charter School, and College of Hawaiian Language at University of Hawaii at Hilo as well as oral testimony in support from Lanikai Elementary and a private individual. Your Committee received testimony in opposition to the measure from the Hawaii State Teachers Association, Hawaii Government Employees Association, and Hawaii Association of Charter Schools, as well as oral testimony in opposition from Halau Lokahi New Century Charter Schools.

Your Committee finds that charter schools continue to be a viable educational reform mechanism. One way to ramp up the initiative while still maintaining the highest standards of educational and administrative excellence would be to allow existing nonprofit organizations to manage and operate charter schools that convert from regular public school to charter school status. This would allow conversion charter schools to benefit from the expertise and contacts of preexisting nonprofit organizations.

Your Committee has amended the measure by:

- (1) Clarifying that the \$1 a nonprofit organization must match for every \$4 of state resources in per pupil allocations is the minimum match level;
- (2) Allowing the same eligibility for federal and state funding for such conversion charter high schools as that enjoyed by other Department of Education schools;
- (3) Increasing the flexibility of nonprofit organizations to hire appropriate services;
- (4) Retaining the cap of 25 charter schools;
- (5) Establishing a cap on the amount of conversion charter schools at 25; and

- (6) Making technical nonsubstantive amendments to reflect preferred 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. 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 Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2387 Education on S.B. No. 3050

The purpose of this measure is to authorize the issuance of revenue bonds to provide private housing for students and faculty, and business and entertainment services at all University of Hawaii campuses, including West Oahu.

Testimony supporting this measure was received from the University of Hawaii Professional Assembly and Mikimiki Corporation. Comments on this measure were received from the Department of Budget and Finance and the University of Hawaii.

Your Committee finds that enrollment at the University of Hawaii is growing. In order to successfully accommodate the expanding needs of the University of Hawaii, additional private housing is necessary. This not only increases the capacity at the University of Hawaii but also creates a "village campus atmosphere" that will enhance the learning experience.

Your Committee has amended this measure by specifying that the Board of Regents is the entity authorized to issue the revenue bonds under chapter 306, Hawaii Revised Statutes.

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. 3050, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3050, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2388 Transportation, Military Affairs, and Government Operations on S.B. No. 410

The purpose of this measure is to amend the legal requirements for the interisland transfer of vehicles by eliminating the need for written consent from the vehicle's legal owner.

Your Committee received testimony in support of this measure from Young Brothers, Ltd.

Your Committee finds that this measure will help to streamline the process of shipping vehicles interisland. Often the registered owner and legal owner of a vehicle are different persons and in such cases, it can be difficult to obtain the legal owner's written consent.

Your Committee finds that under the amendments contained in this measure, the shipper must still verify the vehicle's registration and the registered owner's identification, and that it is unnecessary to also require that the registered owner track down the legal owner to obtain written consent. Your Committee finds that eliminating this requirement will not likely lead to more fraudulent interisland transfers.

Your Committee has amended this measure by deleting the requirement that interisland shippers store shipping information in lieu of simply verifying the information.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 410, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Commerce, Consumer Protection, and Housing, in the form attached hereto as S.B. No. 410, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2389 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on S.B. No. 2077

The purpose of this measure is to repeal all laws authorizing the photo traffic enforcement program.

Your Committees received testimony in support of this measure from the State Representative from the 47th District, the Office of the Public Defender, Government Efficiency Teams, Inc., the Libertarian Party of Hawaii, the National Motorists Association, Servco Pacific, Inc., and eight concerned citizens.

Testimony in opposition to this measure was submitted by the Department of Transportation, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Keiki Injury Prevention Coalition, Affiliated Computer Systems (ACS), Hawaii Independent Insurance Agents Association, and forty-one concerned citizens. Two citizens provided comments on this measure.

The photo traffic enforcement program was authorized by Act 234, Session Laws of Hawaii 1998, Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000. Through these three Acts the Legislature mandated that the Department of Transportation (DOT) contract with a private vendor to implement a photo traffic enforcement program to deter speeders, red light runners, and motorists who illegally cross longitudinal lane markings.

The DOT contracted with a private vendor, ACS, and the photo speed imaging system went into effect in January, 2002. The photo red light system and photo technology systems are not yet in place. Immediately there was a tremendous public outcry by persons both opposed to and in support of the program.

After much discussion of various options to amend or fix the program, your Committees have voted to repeal the entire program and force the DOT to terminate its contract with ACS. Your Committees anticipate further discussion on this issue during this session.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations, Tourism and Intergovernmental Affairs, and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2077 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 16. Noes, none. Excused, 3 (Ihara, Sakamoto, Tam).

SCRep. 2390 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Commerce, Consumer Protection and Housing on S.B. No. 2325

The purpose of this measure is to raise the drivers education fund underwriters fee from \$2 to \$4 a year on each motor vehicle.

Your Committees received testimony in support of the measure from the Department of Transportation, Department of Education, and Hawaii Association of Safety-Traffic Educators. Your Committees received testimony in opposition to the measure from the Hawaii Insurers Council. Your Committees received comments on the measure from the State Insurance Commissioner.

Your Committees find that demands for the Department of Education's driver education program have greatly increased since January 1, 2001, the effective date of Act 175, 1999 Session Laws of Hawaii. The department needs additional resources to be able to increase the number of students served by the driver education program. The additional funds will be used to certify and pay additional driver education teachers, and purchase driver education automobiles and classroom instructional materials.

Your Committees have amended the measure by:

- (1) Lowering the increase of the drivers education fund underwriters fee from \$4 to \$3; and
- (2) Allocating \$2 of the fee to the Department of Education and \$1 of the fee to the Judiciary.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2325, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2325, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, 1 (English). Excused, 5 (Chumbley, Kanno, Kim, Tam, Hemmings).

SCRep. 2391 (Joint) Transportation, Military Affairs, and Government Operations and Commerce, Consumer Protection and Housing on S.B. No. 2817

The purpose of this measure is to repeal certain administrative rules deemed unnecessary or null and void by the Lieutenant Governor's Slice Waste and Tape (SWAT).

Testimony in support of this measure was received from the Lieutenant Governor, Department of Commerce and Consumer Affairs, Department of Education, and Board of Land and Natural Resources.

This measure is the product of an ongoing effort by the Lieutenant Governor to streamline Hawaii's administrative rules to relieve the burden on the public and businesses. The rules specified under this measure are unnecessary because the underlying statutory authority has been repealed, making them null and void. Act 283, Session Laws of Hawaii 2000, was a similar measure passed by the legislature.

Your Committees have amended this measure on the recommendation of the Lieutenant Governor to add a provision to dispense with giving advance public notice and public hearing of the repealed rules, and providing for the continuation of contracts entered into pursuant to the repealed rules.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2817, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2817, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Chumbley, Kanno, Kim, Tam, Hemmings).

SCRep. 2392 (Joint) Transportation, Military Affairs, and Government Operations and Commerce, Consumer Protection and Housing on S.B. No. 2883

The purpose of this measure is to authorize motor vehicle rental companies to sell insurance under a limited license.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs, Hertz Corporation, Avis Rent a Car System, Inc., Legislative Committee for Catrala-Hawaii, and Enterprise rent-a-car.

Your Committees find that the Hawaii Revised Statutes do not currently require rental companies to sell insurance under a limited license. Your Committees further find that time is of the essence to pass this measure due to the fact that federal laws relating to these incidental products will sunset in November of 2002. Your Committees, however, note that this measure is a work in progress and that subsequent Committees are requested to work with the industry so that particular problem areas can be resolved.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2883 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Chumbley, Kanno, Kim, Tam, Hemmings).

SCRep. 2393 (Joint) Transportation, Military Affairs, and Government Operations and Commerce, Consumer Protection and Housing on S.B. No. 3028

The purpose of this measure is to regulate warrantors of vehicle protection products.

Testimony in support of this measure was received from the National Vehicle Protection Association. The Insurance Commissioner testified in opposition.

Your Committees find that companies sell vehicle protection products to participating automobile dealers, who in turn sell them to consumers. The products are normally accompanied by a warranty that provides the customer with certain remedies if the product fails to prevent theft. This measure requires warrantors to comply with certain financial security requirements and gives the insurance commissioner enforcement authority.

Your Committees have heard the concerns of the Commissioner that the bill would greatly expand the insurance division's jurisdiction beyond insurance, but believe the issue warrants further discussion.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3028 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Chumbley, Kanno, Kim, Tam, Hemmings).

SCRep. 2394 Labor on S.B. No. 2112

The purpose of this measure is to clarify the impasse resolution process under the State's collective bargaining law.

Testimony in support of the measure was received from the University of Hawaii and the University of Hawaii Professional Assembly. The Hawaii Government Employees Association opposed the measure due to a perceived technical flaw.

Specifically, the measure clarifies the impasse resolution process under the State's collective bargaining law by:

- (1) Triggering the "backstop" impasse procedure (when an impasse is officially declared by the Hawaii Labor Relations Board) on April 15 of a year in which a contract expires, rather than in every even-numbered year;
- (2) Providing that a proposed optional bargaining unit 14, consisting of part-time faculty of the University of Hawaii or graduate students with compensated teaching or research duties, be constituted and placed in the category of public employee bargaining units with the ability to strike;
- (3) Ensuring that fact-finding is relevant to only the disputes between the parties and not burdensome or costly by removing the requirement that fact-finders replicate the full arbitration process;
- (4) Fixing an end to the mandatory mediation stage by tying its conclusion to the fact-finding report being made public, to avoid confusion about sequence; and

- (5) Harmonizing the date of release of the fact-finders' report with the need for confidentiality in mediation and various possible timelines triggered by either impasse procedure.

Your Committee finds that the measure intends to preserve the fact-finding procedure and other traditional features of the impasse process. However, your Committee believes that harmonizing the various timing requirements with the new impasse timelines established by Act 253, Session Laws of Hawaii 2000, otherwise known as the Civil Service Modernization Act, is too difficult. Fitting the various stages into a flexible timetable results in confusing language.

Your Committee also finds that experience has shown that fact-finding is of dubious value because it rarely, if ever, results in an agreement between the parties or provides significant enlightenment of the public. It is costly, both for the Hawaii Labor Relations Board and the parties. It imposes additional hurdles and distractions at the very point when clarity and focus are most required.

Your Committee has amended the measure by:

- (1) Triggering the "backstop" impasse procedure on January 31, rather than April 15, in a year in which a contract expires, so that the impasse procedure can begin early enough during a legislative session to provide a reasonable likelihood of settling the impasse prior to the end of the legislative session;
- (2) Deleting the fact-finding procedure from Chapter 89, Hawaii Revised Statutes;
- (3) Repealing the employer and union fact-finding report and cost proposal submission to the appropriate legislative bodies, and inserting therefor, a series of progress reports by the Hawaii Labor Relations Board to the appropriate legislative bodies;
- (4) Fixing an end to the mediation stage at fifty days, unless the parties and board extend it, rather than tying to when a fact-finding report becomes public information;
- (5) Clarifying that after fifty days of impasse, the parties may resort to economic self-help or other tactics, consistent with law and any pending agreement between them;
- (6) Requiring that the exclusive representative submit along with a ten-day notice of intent to strike, a statement of its position on all remaining issues in dispute, to the employer and the board;
- (7) Requiring that within three days of receipt of a notice of intent to strike, the employer shall submit its position on the remaining issues in dispute that were included in the exclusive representative's statement with its notice of intent to strike; and
- (8) Requiring that the Hawaii Labor Relations Board immediately release the information in paragraphs (6) and (7) to the public.

Your Committee believes that the deletion of the fact-finding and cost-proposal provisions dramatically simplifies the law and cuts administrative burden without loss of public oversight or encouragement of a settlement. The new timelines give the legislature a better chance of seeing contracts settled within the budget session.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2112, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2112, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Hanabusa, Kanno, Matsuura).

SCRep. 2395 Labor on S.B. No. 3010

The purpose of this measure is to enable a firefighter who was forced to retire due to a service-related disability, and who subsequently re-enters service in a capacity other than as a firefighter, to retain the two and one-half per cent annual pension accrual rate earned as a firefighter.

Testimony in support of the measure was received from the State Fire Council, the City and County of Honolulu's Fire and Police Departments, and the Hawaii State Fire Fighters Association. The Employees' Retirement System submitted comments on the measure.

Your Committee finds that under existing law, firefighters are provided with a higher annual pension accrual rate than normal class A, contributory members of the Employees' Retirement System. This accelerated pension accrual rate is provided due in part to the risks taken by firefighters.

However, if a firefighter suffers a service-related disability and can no longer fulfill his or her duties, the firefighter is medically disqualified from service as a firefighter. As a consequence to this disqualification, if the medically disqualified firefighter takes a subsequent public sector position, that firefighter loses the right to have the years of service as a firefighter computed at the accelerated pension accrual rate.

Your Committee believes that firefighters who become medically disqualified due to a service-related disability should not have their retirement benefits penalized for assuming the risks of their jobs as firefighters.

Your Committee has amended the measure by:

- (1) Limiting the ability to retain the two and one-half percent pension accrual rate earned as a firefighter to only those firefighters who have at least ten years of credited service as a firefighter;
- (2) Recasting the proposed language to better reflect the intended purpose of the measure, which is to allow a firefighter who suffers from a service-related disability to retain the two and one-half percent pension accrual rate earned as a firefighter.

The amended measure clarifies that a qualified firefighter who suffers from a service-related disability need not retire first and subsequently re-enter service in order to retain the two and one-half per cent pension accrual rate earned as a firefighter. All that is required of the disabled firefighter is to obtain verification from the employer's physician that the firefighter has been medically disqualified from service as a firefighter. The amended measure also reserves this privilege to only those firefighters who have vested in the Employees Retirement System with at least ten years of service as a firefighter.

As affirmed by the record of votes of the members of your Committee on Labor 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 Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chumbley, Kanno, Matsuura).

SCRep. 2396 (Majority) Commerce, Consumer Protection and Housing on S.B. No. 2303

The purpose of this measure is to hold liable for treble damages any person who injures or destroys public utility property through want of proper care.

Testimony supporting this measure was received from Verizon Hawaii. Testimony opposing this measure was received from the Division of Consumer Advocacy, State Farm Insurance Companies, Hawaii Insurers Council, and Hawaii Transportation Association. Comments on this measure were submitted by the Gas Company.

Your Committee finds that the proper function of government, commerce, and other facilities relied on by Hawaii residents depends on uninterrupted operation of public utilities. On several occasions, persons or organizations carelessly and negligently engaged in construction activities near public utilities that eventually disrupt services. This measure further deters irresponsible actions that lead to injuries to public utility property.

Your Committee has amended this measure by:

- (1) Deleting the language that imposes treble liability;
- (2) Providing that any person who wilfully, intentionally, or recklessly injures or destroys public utility property shall be liable to the public utility for damages in the amount of two times the cost of all damages sustained;
- (3) Excepting a person from the enhanced liability if the injury was caused by a motor vehicle being used primarily to transport any person or property;
- (4) Providing that no insurance policy issued in the State shall cover the enhanced liability unless the insurance policy covers damages in excess of actual damages;
- (5) Changing the effective date of this measure to July 1, 2050; and
- (6) Making technical, nonsubstantive changes for purposes of preferred style and clarity.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2303, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2303, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Hogue). Excused, 2 (Kim, Matsunaga).

SCRep. 2397 (Majority) Commerce, Consumer Protection and Housing on S.B. No. 2520

The purpose of this measure is to establish a pharmaceutical discount program for state residents.

Your Committee received testimony in support of this measure from the following: Office of the Lieutenant Governor, Department of Health, Insurance Commissioner, Executive Office on Aging, AARP, Kokua Council, Hawaii Alliance for Retired Americans, ILWU Local 142, Medicine Bank, AARP Hawaii Advocacy Action Team, Hawaii State Teachers Association, Hawaii State AFL-CIO, Hawaii Academy of Physician Assistants, Policy Advisory Board for Elder Affairs, Hawaii Government Employees Association, Legal Aid Society of Hawaii, Unity House, Inc., Hawaii Catholic Conference, and five individuals.

The Board of Pharmacy supported the measure's intent, but raised concerns regarding certain provisions. The Pharmaceutical Research and Manufacturers of America opposed the measure.

In statewide hearings convened last year and in the hearing on this measure, your Committee received compelling and often poignant testimony time and time again from or about Hawaii residents without prescription drug coverage who cannot afford to buy the medicines they need. Many uninsured are forced to choose between paying for medicine and other basic necessities such as food and shelter. Others undermedicate themselves to make their medicines last longer, at the expense of their health. Although your Committee learned that the elderly are among the hardest hit by the high cost of drugs, it also heard that younger adults with disabling or terminal illnesses face similar problems. Statewide, it is estimated that 228,000 Hawaii residents lack drug coverage.

The statistical evidence shows that drug prices will continue to rise, thereby making the affordability issue even more critical. According to the AARP Public Policy Institute, prescription drug prices rose at a rate over one and a half times the rate of general inflation between 1995 and 2000, prescription drug spending per American is expected to rise at an average rate of eleven and two tenths per cent in the next ten years, and prescription drugs account for the single largest component of out-of-pocket expenses for older Medicare beneficiaries.

While consumers find it increasingly difficult to afford the medicines they need, the pharmaceutical industry continues to enjoy substantial profits. Research by the Henry J. Kaiser Family Foundation shows that the drug industry, which spends more than any other industry on consumer advertising in the United States, is also the most profitable. More than eighteen per cent of the industry's revenue is profit, compared to only four and a half per cent for all Fortune 500 firms in 2000. While drug companies attempt to justify high drug prices on the costs of research and development, the Foundation reports that only fourteen per cent of revenues are spent on research and development. Additionally, taxpayer dollars help to finance these activities.

Currently, no state or federal program addresses the problem of drug affordability for the majority of the uninsured. Medicare does not provide drug coverage to the over seventy thousand Hawaii seniors and disabled for whom it provides basic health coverage. Discount programs offered by some drug companies have strict income and asset limits and are aimed at the indigent population. Although legislation at the national level has been considered, including Medicare reform, the states cannot afford to wait for relief from the federal government, and as of June 2001, twenty-nine states have established some version of a state pharmacy assistance program.

This measure establishes a pharmaceutical discount program open to all state residents called the Hawaii Rx program, which is modeled on a program currently operating in the state of Maine. The program would make prescription drugs available to program participants at discounted prices by using the State's purchasing power to negotiate rebates from drug manufacturers and reimbursing pharmacies that sell these drugs at discounted prices. The proposed program does not contain price control measures, a component of the Maine program that resulted in legal challenges, but does require all manufacturers who dispense drugs in this State to disclose their marketing costs in order to assist the State in its administration of the program.

The proposed program stands to benefit all of its participants. Manufacturers who negotiate rebates will benefit from volume sales to the State and will not be subject to prior authorization requirements. Participating pharmacists will gain the patronage of persons seeking discounted prices and will be reimbursed for discounted sales. Most importantly, thousands of Hawaii residents who presently lack drug coverage will be able to purchase pharmaceuticals at affordable prices and to obtain the medicines needed to prevent illness, alleviate pain, control disease, and prolong life.

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

- (1) Replacing references to the department of health with references to the department of human services, except in the provision relating to the prescription drug advisory committee;
- (2) Inserting an effective date of July 1, 2050; and
- (3) Making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2520, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2520, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 1 (Hogue). Excused, 1 (Kim).

SCRep. 2398 Commerce, Consumer Protection and Housing on S.B. No. 3040

The purpose of this measure is to clarify the definition of "nonpublic financial information" under the captive insurance company law.

Testimony in support of this measure was received from the Insurance Commissioner, Bank of Hawaii, Hawaii Captive Insurance Council, and Becher Carlson Risk Management, Inc. Testimony in opposition was received from the Office of Information Practices (OIP).

According to testimony of the Insurance Commissioner, this measure would clarify the provisions relating to confidential treatment of information relating to a captive insurance company by making all nonpublic information subject to confidential treatment.

Your Committee finds that captive insurance companies incur more confidential proprietary information (nonpublic financial information) because their business operations are more akin to a private company than an insurance company. Current law requires captive insurance companies to disclose such nonpublic financial information to the Insurance Commissioner.

Your Committee has amended this measure on the recommendation of the OIP, with the concurrence of the Hawaii Captive Insurance Council, to ensure that only nonpublic records under chapter 92F, Hawaii Revised Statutes, can be disclosed to the Insurance Commissioner who in turn can disclose the same to other insurance departments in other states.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3040, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3040, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Matsunaga).

SCRep. 2399 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on S.B. No. 251

The purpose of this measure is to establish a professional counselor licensing program.

Your Committees received testimony in favor of this measure from the Department of Commerce and Consumer Affairs, Department of Health, Hawaii Youth Services Network, Damien Memorial High School, Chaminade University, Hawaii Counseling Association, Catholic Charities, SESTAK Rehabilitation Services, and three individuals.

Your Committees find that forty-seven states and the District of Columbia already have licensure laws. Two other states are close to passing theirs, therefore, Hawaii will be the only state in the nation that does not license its mental health professional counselors. Licensure provides public safety by providing consistent and accountable standards of practice.

Your Committees have amended this measure by defecting the effective date to promote further discussion and deliberation on this measure. Also, your Committees have made nonsubstantive, technical changes.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 251, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 251, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (Kim, Kokubun, Matsunaga, Nakata).

SCRep. 2400 Health and Human Services on S.B. No. 3020

The purpose of this measure is to appropriate funds to provide programs and services for low-income individuals with developmental disabilities who are not Medicaid recipients.

Testimony in support of this measure was submitted by the Department of Health, State Planning Council on Developmental Disabilities, the Arc in Hawaii, and three private individuals. The Department of Human Services submitted comments on this measure.

Your Committee finds that as a result of the lack of services in the community, families are left to provide twenty-four hour care for their developmentally disabled family member. For parents who are no longer able to provide care, government sponsored programs and services help keep their adult child independent in their own homes and communities.

Your Committee further finds that without services, people with mental retardation and developmental disabilities who do not qualify for Medicare are at risk of institutionalization. They are also at risk of regression, losing the skills that they gained from educational programs and therapeutic services previously made available to them as children. This measure is needed to assist those residents who fall within this gap group.

Upon further consideration, your Committee has amended this measure by making the expending agency the Department of Health.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3020, as amended herein, and recommends that it pass 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 Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Nakata, Hogue).

SCRep. 2401 (Joint/Majority) Education and Health and Human Services on S.B. No. 2969

The purpose of this measure is to improve accountability, performance, efficiency, and effectiveness of the Department of Education and its services for children with a disability.

Testimony supporting and opposing various parts of this measure was received from the Departments of Education and Health. Testimony opposing this measure was received from the State Attorney General.

Your Committees find that recent legislative inquiries into the State's efforts to comply with the Felix consent decree, meet the requirements of federal and state laws, and fulfill the State's commitment to provide all children with a good education have revealed systemic problems. Resolving these issues that affect the effectiveness and efficiency of Hawaii's public education system is of paramount concern. Your Committees find that this measure provides a comprehensive approach to ensuring Hawaii's children who have a disability receive a proper education.

Part I provides that the intent of this measure is to implement structural and procedural changes within the Department of Education to improve efficiency and to ensure that Hawaii's exceptional children receive a quality education.

Part II establishes an Office of Educational Accountability and Performance within the Office of the Legislative Auditor to monitor and evaluate the performance of the State's public education system.

Part III appropriates funds for the employment of three internal auditors and two support staff for the Department of Education whose function is to ensure fiscal accountability, improve the internal financial controls, and improve responsiveness to fiscal problems within the Department of Education.

Part IV allows the Department of Education to appoint and retain its own attorneys.

Part V requires:

- (1) The Department of Education to maintain longitudinal data on students, and store and warehouse the data in a manner that allows for efficient, comprehensive, and complex analysis;
- (2) The Departments of Education, Health, and Human Services to establish an integrated information management system that shall provide for the interdepartmental sharing and exchange of student records;
- (3) The Department of Education to map a listing of all department resources and services and to publish the map in an accessible format and on the Internet; and
- (4) The Department of Education to ensure that the department receives and collects all federal funds and reimbursements, including Medicaid reimbursements.

Part VI appropriates funds for school design, improvements, and equipment to accommodate school-based health services for students including the medically fragile.

Part VII requires the Department of Education to obtain approval from the Governor to increase the federal fund expenditure ceiling to expend federal funds received in excess of the amounts appropriated by the Legislature and to report to the Legislature immediately regarding the increase.

Part VIII provides that educational officers and teachers shall not be held liable for claims relating to the provision of services to exceptional children or members of the plaintiff class under the Felix consent decree.

Part IX requires that when a proposal or contract for the procurement of services specifies academic degree requirements, the proposal or contract shall specify that the academic degree shall be issued by a college or university accredited by an accrediting agency recognized by the United States Secretary of Education.

Part X clarifies that the children's mental health services branch of the Department of Health shall not restrict services to students belonging to a specific class, such as the Felix class.

Part XI provides that this measure shall take effect upon approval except for Parts II, III, VII, and VIII which shall take effect on July 1, 2002.

Your Committees have amended this measure by amending:

- (1) Part I by substituting the term "exceptional children" with the words "children with a disability";
- (2) Part II by:
 - (a) Placing the Office of Educational Accountability and Performance within the Board of Education; and
 - (b) Providing that the executive director shall consult with the Department of Health to establish the guidelines, criteria, and procedures for selecting the four medical and health specialists for the special education advisory board;
- (3) Part VII by:
 - (a) Further clarifying that the Department of Education needs the approval of the Governor prior to increasing the federal fund expenditure ceiling of a program identification number; and

- (b) Providing that the Governor may not approve increases to federal fund expenditure ceilings in amounts greater than the excess federal funds received by the Department of Education;
- (4) Part VIII by:
- (a) Replacing the term “exceptional children” throughout chapter 302A, Hawaii Revised Statutes, with the term “children with a disability” and a more appropriate definition in response to the sensitivity concerns raised by the testimony of the Disability and Communication Access Board. Your Committees, however, understand that the definition provided by this measure should undergo further scrutiny during the legislative process to ensure consistency with applicable federal and state laws;
 - (b) Affording “classified personnel” the same limited liability provided to educational officers and teachers by this measure;
 - (c) Defining “classified personnel” as persons who provide direct educational assistance to students under the direction of a teacher or provide professional services to children with a disability;
 - (d) Specifying that suits against educational officers, classified personnel, or teachers may only be brought against the departments of education and health, except for suits claiming gross negligence; and
 - (e) Clarifying that the limited liability applies to educational officers, classified personnel, and teachers who provide services to children with a disability and members of the plaintiff class under the Felix consent decree; and
- (5) Part X by adding a purpose section for Part X to clarify that the intent is not to expand the class of children that must be serviced by the Department of Health, but to clarify and emphasize that the department has a duty to service the mental health of all students regardless of whether or not they are members of the Felix class.

Your Committees further amended this measure by making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Education and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2969, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2969, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, 1 (Chumbley). Excused, 5 (Kawamoto, Menor, Nakata, Tam, Hogue).

SCRep. 2402 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on S.B. No. 2137

The purpose of this measure is to the tax credit from \$25 to \$50, and define “child passenger restraint systems” to include booster seats.

Testimony was received in support of this measure from the Department of Transportation, Department of Health, Keiki Injury Prevention Coalition, State Farm Mutual Automobile Insurance Company, and Safe Community of Maui, Inc. Testimony in opposition was received from the Department of Taxation. Commentary was submitted by the Tax Foundation of Hawaii.

Your Committees find that the financial incentive provided by this measure would serve to reap immense dividends in terms of reducing injuries and saving lives.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2137 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Ihara, Menor, Nakata, Tam, Hemmings).

SCRep. 2403 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on S.B. No. 2312

The purpose of this measure is to allow the Department of Transportation (DOT) to move or remove personal property that is on or within a state highway, without prior notice or consent of the owner, under certain conditions.

Testimony in support of this measure was received from the DOT and Honolulu Police Department. Testimony in opposition in part was submitted by the Consumer Lawyers of Hawaii.

Under this measure, property can only be removed if it blocks the state highway, interferes with traffic, or endangers the public health and safety. Reasonable amounts may be expended out of the state highway fund for this purpose.

Your Committees view this measure as a traffic safety precaution that would serve to clear the state highways of debris that may pose a hazard to traffic.

This measure also gives protection from liability to the State and the DOT for claims of damage to personal property, except for gross negligence or wilful or wanton acts or omissions. This measure, however, is not intended to give protection from liability to the State or the DOT for any claims for personal injury.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2312 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Ihara, Menor, Nakata, Tam, Hemmings).

SCRep. 2404 Transportation, Military Affairs, and Government Operations on S.B. No. 2334

The purpose of this measure is to increase statutorily authorized fees charged by towing companies for storage from \$15 to \$25 a day for the first seven days and from \$10 to \$20 a day for each day thereafter.

Your Committee received testimony in support of the measure from the Hawaii State Towing Association and the owner of two towing companies. Your Committee received testimony in opposition to the measure from the Hawaii Insurers Council and Office of Consumer Protection.

Your Committee finds that the increase proposed in this measure are in line with storage fees charged by auto body and repair shops. Your Committee believes that towing companies are entitled to a reasonable return on their investment. Towing companies are needed to clear the roadway of accidents and remove errantly parked vehicles for the benefit of the motoring public. This increase is necessary to allow them to keep in step with the ever-increasing costs to allow them to perform their duties in a professional manner.

Your Committee has amended the measure by:

- (1) Lowering the proposed increase in storage fees from \$25 per day for the first seven days and \$20 per day thereafter to \$20 and \$15 respectively;
- (2) Requiring the towing company to carry all equipment necessary to accept payment by credit card or automated teller machine; and
- (3) Leaving method of payment to the discretion of the person whose motor vehicle is being towed.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2334, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2334, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2405 Transportation, Military Affairs, and Government Operations on S.B. No. 2445

The purpose of this measure is to allow board meetings to be conducted by teleconferencing.

Testimony in support of this measure was received from the Office of Information Practices, Hawaii Health Systems Corporation, High Technology and Development Corporation, and Common Cause Hawaii.

This measure recognizes that board meetings are often more conveniently held by teleconferencing than videoconferencing, because of the general unavailability of specialized video equipment.

Your Committee has amended this measure by revising section 92-3.5, Hawaii Revised Statutes, relating to meeting by videoconferencing, to include telconferencing.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2445, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2445, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 2406 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on S.B. No. 2526

The purpose of this measure is to require state and county agencies having contracts, programs, and services affecting the parental preference law, to report annually to the legislature on the effect of implementation of that law.

Testimony in support of this measure was received from the Parents and Children Together, Hawaii Coalition for Dads, and Institute for Family Enrichment.

Section 577-7.5, Hawaii Revised Statutes (HRS), relating to eliminating parental preferences in government contracts, programs, and services was enacted by Act 301, Session Laws of Hawaii (SLH) 2001, and became effective July 1, 2002. Because of the importance of maintaining the integrity of a functional family in child-rearing, your Committees believe that the legislature should be informed of the progress in implementing Act 301, SLH. Your Committees realize that the mandates of the law could be difficult to implement in the short term, but should be feasible in the long term over a period of time for an internal administrative system to evolve. Furthermore, the law itself is necessarily based on a somewhat subjective interpretation of the impact of a government contract, program, or service on child-rearing.

Your Committees find that the reporting requirement contained in this measure is the best means of evaluating Act 301, SLH 2001. It is not the intent of your Committees to impose needless administrative reporting requirements on government agencies. Your Committees request that all affected agencies comply with the reporting requirements with a view to promote family integration through proper child-rearing as affected by government contracts, programs, and services.

Your Committees have amended this measure by adding the judiciary to section 577-7.5, HRS, and requiring the judiciary to also report on implementation.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2526, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2526, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Hanabusa, Ihara, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2407 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on S.B. No. 2545

The purpose of this measure is to make the Office of Information Practices (OIP) a permanent agency within the Office of the Lieutenant Governor, and to appropriate funds for OIP.

Your Committees received testimony in support of this measure from OIP, the Hawaii State Ethics Commission, the Hawaii County Office of Corporation Counsel, Common Cause Hawaii, and Pacific Wings Airlines. The Department of the Attorney General provided comments.

Your Committees find that access to public records by the citizens of this State is one of the hallmarks of a democratic society, which must be protected. Therefore, your Committees support OIP and the invaluable services it provides to both the public and private sectors.

Your Committees further support establishing OIP as a permanent office, but have not determined the appropriate placement for the office.

Your Committees note that under the Constitution of the State of Hawaii, executive agencies that are not temporary nor for a special purpose must be placed within one of the permanent executive branch departments. The Office of the Lieutenant Governor (LGO) is not one of the principal executive branch departments, and therefore your Committees are concerned about the constitutional implications of placing OIP, as a permanent agency, within the LGO.

Therefore, your Committees have amended this measure by replacing its contents with language to create a special Commission to study the best placement of a permanent OIP. This Commission will be charged with additional duties as well, and after the Commission has finished its initial work the Legislature can revisit this issue and finally establish OIP as a permanent office.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2545, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2545, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Ihara, Menor, Nakata, Tam, Hemmings).

SCRep. 2408 (Joint) Transportation, Military Affairs, and Government Operations and Economic Development and Technology on S.B. No. 2702

The purpose of this measure is to consolidate the Barber's Point Naval Air Station Redevelopment Commission ("Commission") into the Hawaii Community Development Authority ("Authority").

Your Committees received testimony in support of this measure from the Department of Transportation, the Authority, the Department of Business, Economic Development and Tourism, the Department of Hawaiian Home Lands, the University of Hawaii, the Chair of the Commission, the Chair of the Committee on the Preservation of Historic Sites and Cultural Properties, the President of the Kapolei Hawaiian Civic Club, and two concerned citizens. Testimony in opposition to this measure was submitted by a concerned citizen.

Your Committees find that since the closure of Barber's Point Naval Air Station, surplus lands within the former base are being conveyed to various State and City agencies under the base realignment and closure process.

Your Committees further find that transferring the oversight authority from the Commission to the Authority will not only streamline operations, it will also provide an ongoing funding mechanism for the Authority's redevelopment operations at Kalaeloa. Therefore, your Committees fully support this measure.

Your Committees have amended this measure to include four inadvertently omitted parcels of land within the redevelopment district, and to include a Hawaiian cultural specialist on the panel of members appointed to assist the Authority with this project.

In addition, your Committees have amended this measure to:

- (1) Allow the Authority to accommodate a one-time general fund infusion from a legislative appropriation;
- (2) Reflect the difference between lands received under the Base Closure Act and the lands received under the Hawaiian Home Lands Recovery Act; and
- (3) Make technical, nonsubstantive amendments to this measure for clarity and accuracy.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2702, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2702, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Kanno, Matsunaga, Menor, Hemmings, Slom).

SCRep. 2409 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on S.B. No. 3063

The purpose of this measure is to authorize the Department of Land and Natural Resources (DLNR) to develop environmentally-themed products to be commercially marketed in order to raise revenues for the natural area reserve fund, and to direct the counties to develop environmental license plates.

Your Committees received testimony in support of this measure from DLNR, the Office of Environmental Quality Control, Hawaii's Thousand Friends, and the Hawaii chapter of the Sierra Club.

Your Committees find that protection of Hawaii's natural environment must be a priority. At the same time, many agencies are competing for scarce state funding. Therefore, your Committees support this measure as an alternative means to raise revenues for the natural area reserve fund.

Your Committees amended this measure to delete the provisions requiring the counties to develop special environmental license plates. At this time, your Committees support environmentally-themed products at the State level, but decline to force the counties to develop special license plates.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3063, as amended herein, and recommend 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 Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Ihara, Menor, Nakata, Tam, Hemmings).

SCRep. 2410 (Joint) Economic Development and Technology and Water, Land, Energy, and Environment on S.B. No. 2613

The purpose of this measure is to prohibit feeding of sharks as part of a commercial activity.

Your Committees received testimony in favor of this measure from the Chairperson of the Board of Land and Natural Resources, Ocean Law & Policy Institute, Hawaii Boaters Political Action Association, Hawaii Audubon Society, Liliuokalani Youth Coalition, and three individuals. Your Committees received testimony opposing this measure from North Shore Adventures and four individuals.

Your Committees find that in the last few years, there has been an increase in aggressive shark behavior towards swimmers and surfers in near shore waters in Hawaii. Commercial shark feeding operations may aggravate the problem.

Your Committees have amended this measure by using the term "state marine waters" rather than "the territorial waters of the State" because "state marine waters" is already defined in section 188-22.5, Hawaii Revised Statutes. Further, the section imposing penalties has been deleted because penalties are already established by section 187A-12.5, Hawaii Revised Statutes.

Your Committees look forward to further discussion as this measure continues through the legislative process. The Board of Land and Natural Resources has been requested by your Committees to research and obtain hard data regarding the true habits and

tendencies of sharks. Furthermore, your Committees have been informed that the Board of Land and Natural Resources is trying to address shark-feeding through public hearings to establish administrative rules and regulations on shark-feeding.

Your Committees are seeking clarification of the Board's direction, therefore, this measure is only a vehicle. Perhaps the Board may be able to address this issue administratively, without the need for legislation.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2613, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2613, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Matsunaga, Nakata, Taniguchi, Hemmings, Slom).

SCRep. 2411 (Joint) Education and Hawaiian Affairs on S.B. No. 2919

The purpose of this measure is to establish a noncontiguous Hawaiian Charter School District under the Department of Education to be governed by a Hawaiian school board.

Your Committees received testimony in support of the measure from 55 students, staff, and ohana of students at Kanu o Ka Aina Charter School, 36 students, staff, and ohana of Halau Lokahi Charter School, 19 students, staff, and ohana of Niihau School of Kekaha Charter School, 34 students, staff, and ohana of Halau Ku Mana Charter School, Hui Kako'o, `Ilio`ulaokalani Coalition, 2 members of `Ilio`ulaokalani Youth Coalition, Hawaii Association of Charter Schools, Association of Hawaiian Civic Clubs, and 10 private individuals. Your Committees received testimony in opposition to the measure from the Department of Education and the Hawaii Government Employees Association.

Your Committees find that the Hawaiian system of public education has been one of the worst in the nation for decades and is in desperate need of bold synergistic solutions, out-of-the-box thinking, and greatly enhanced public-private partnerships. In spite of abiding concerns regarding a wide variety of issues, charter schools offer one promising means of educational reform. As they permanently reside at the bottom of all indices of socio-economic welfare, few sectors within Hawaiian society could benefit as much from enhanced educational opportunities as the host culture of these islands – Hawaiians, as defined in Chapter 10-2, Hawaii Revised Statutes. The Hawaiian Charter School District, with adequate autonomy, could be a vehicle to help the Hawaiians and other people to help themselves by achieving self-determination of their own educational future.

Your Committees have amended the measure by:

- (1) Adding a provision detailing the powers, duties, and administrative structure of the Hawaiian Charter School District;
- (2) Deleting provisions allowing for the autonomy of the Hawaiian Charter School District from the Board of Education;
- (3) Adding several provisions making the Hawaiian Charter School District race-neutral to address concerns regarding the constitutionality of the measure;
- (4) Adding a requirement for annual reporting to the Legislature regarding the methods by which the Auditor arrived at per-pupil allocations;
- (5) Adding a requirement for annual reporting to the Legislature regarding non-state funding;
- (6) Deleting the provision exempting the Hawaiian Charter School District from the procurement code; and
- (7) Adding a defective effective date.

As affirmed by the records of votes of the members of your Committees on Education and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2919, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2919, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 4 (Hanabusa, Matsunaga, Menor, Tam).

SCRep. 2412 Commerce, Consumer Protection and Housing on S.B. No. 2300

The purpose of this measure is to require both the apartment owner and the board of directors to pay for their own costs in mediating a dispute between them, unless both agree that one party will pay all or a specified portion of the mediation costs.

Testimony in support of this measure was received from the Real Estate Commission, Hawaii Council of Association of Apartment Owners, Hawaii Independent Condominium & Cooperative Owners, and two individuals. The Community Associations Institute submitted comments.

Your Committee finds that the Real Estate Commission is currently undergoing a recodification review of the condominium law, and expects to submit draft legislation in response to the review in the 2003 Session. While your Committee understands the

Commission's preference to delay amendments to the law until that time, the current law does not specifically address the payment of costs for mediation. This has left interpretation of the law to the parties.

Your Committee believes this merits further discussion and for this reason has amended this measure to give it a delayed effective date.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2300, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2300, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Kim, Matsunaga).

SCRep. 2413 (Joint/Majority) Commerce, Consumer Protection and Housing and Health and Human Services on S.B. No. 2302

The purpose of this measure is to require health insurers to file rate filings for health insurance rates and to return excess reserves to enrollees.

Your Committees received testimony in support of this measure from the following: Department of Commerce and Consumer Affairs, Insurance Commissioner, Health Insurance Branch Investigator, State Actuary, Office of Information Practices, Department of Labor and Industrial Relations, Hawaii State Teachers Association, Hawaii State AFL-CIO, NAMI Oahu, Mental Health Association in Hawaii, Hawaii Coalition for Health, Hawaii Psychiatric Medical Association, Benefit Plan Consultants (HI), Inc., ILWU Local 142, HSTA Member Benefits Corporation, the Kokua Council, and five individuals.

Testimony in opposition to the measure was received from the following: Hawaii Medical Service Association, Healthcare Association of Hawaii, Legislative Information Services of Hawaii, Hawaii Management Alliance Association, Maui Medical Group, Mutual Benefit Association of Hawaii, Royal State National Insurance Co., Ltd., Hawaii Business Roundtable, Kaiser Permanente, and Voluntary Employees' Benefit Association of Hawaii.

Currently, in Hawaii, health insurers set premium rates free from regulation or oversight and limited only by market forces. However, in a State where one health plan controls sixty-eight per cent of the private insurance market, excluding Medicare and Medicaid, and another health plan controls much of the remaining market, market forces do not operate to promote competitive pricing. Within the last five years, four health insurers have exited the Hawaii market. Without significant competition, Hawaii's consumers have little choice but to pay the rates set by the major health plans or go without essential health care services.

For some, this means accepting substantial premium increases in order to protect the health and welfare of their families. One of the State's largest unions testified that recent rate increases for their members ranged from almost fifteen per cent to over thirty-four per cent. For many of Hawaii's working class, gains in wage increases are offset by increases in health premiums.

While health plans have argued that premium rates are the lowest in the nation, the facts do not bear this out. A 1999 medical expenditure survey by the Kaiser Family Foundation showed that out of forty-seven states and the District of Columbia, fourteen states had average annual premiums lower than or equal to Hawaii's average annual premiums. This figure would probably be higher if health care plans in the other states were typically organized as not-for-profit mutuals and enjoyed the same type of tax treatment and other benefits accorded health plans in Hawaii.

Health plans in this State are organized as nonprofits and while they pay a reduced health plan fee, they pay no State taxes, pay reduced federal taxes, and have no shareholders. The State's largest mutual health plan paid State health plan fees of almost \$400,000 in fiscal year 2000-2001, but was exempt from premium taxes that would have resulted in an assessment close to \$50,000,000. Further, health insurers are exempted from most of the requirements imposed on insurance companies in Hawaii, including investment requirements, agent licensing, and rate filing.

Hawaii's health insurers collected over \$2,000,000,000 in revenues in 2000. Without putting the ratemaking process in sunshine, the State lacks the ability to determine whether these revenues are the result of premium rates that are excessive or biased, or reasonable in relation to the benefits provided. This measure would allow the Commissioner to examine a health insurer's ratemaking methodologies and calculations by requiring health plans to make rate filings, as is done in other lines of insurance, and would prohibit excessive, inadequate, or unfairly discriminatory rates. In addition, this measure would require a health plan to return excess reserves to its enrollees or apply these amounts to effectuate rate reductions. Violators would be subject to monetary penalties or license suspension.

Your Committees find that rate review in other lines of insurance has resulted in lower premiums for consumers, and are not convinced, as asserted by opponents of this measure, that it would cause insurers to leave the market. Further, your Committees do not find that the Commissioner currently has the ability to examine the ratemaking process based on financial audits of health plans. These exams are conducted to assess an insurer's financial strength and do not involve an analysis of the insurer's ratemaking methodologies. Your Committees further find that health insurers have been reluctant to disclose information that would allow an analysis of their ratemaking, claiming that such information is proprietary in nature.

Over seventy-four per cent of uninsured adults report that they lack health insurance because of the cost. This measure would enable the Commissioner to examine health insurers' rates to determine whether the lack of affordable health care is due to excessive rates or other factors and to address the cost drivers that affect rates. Your Committees believe that Hawaii should join the forty-eight other states that protect its consumers against rising health care rates through rate oversight.

Your Committees have amended this measure to:

- (1) Exclude life and disability insurers and labor union mutual benefit societies from the definition of “managed care plan” since the former are already regulated under the insurance code, and the latter may be exempted from chapter 432, Hawaii Revised Statutes, by the commissioner;
- (2) Provide for an effective date of July 1, 2050; and
- (3) Make technical, nonsubstantive changes for clarity and to reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2302, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2302, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, 1 (Hogue). Excused, 3 (Kim, Nakata, Tam).

SCRep. 2414 Commerce, Consumer Protection and Housing on S.B. No. 2464

The purpose of this measure is to allow the owner of property to request a tenant, who is the victim of domestic violence, to provide proof that the victim is taking appropriate action by reporting the violence to the authorities.

Testimony in support of this measure was received from the Hawaii Civil Rights Commission (HCRC), Hawaii Women Lawyers, Hawaii State Coalition Against Domestic Violence, Hawaii State Commission on the Status of Women, Domestic Violence Clearinghouse and Legal Hotline, and Blueprint for Change.

This measure is intended to assist a landlord who has a tenant who is the victim of domestic violence. The landlord would be allowed to request the victim to mitigate the domestic violence. The measure is silent on evicting the tenant, but the implication is that the landlord could be laying the groundwork for an eventual eviction. Your Committee finds this proposition to be disturbing.

A common situation in real estate rentals is victims of domestic violence losing their housing because of an incidence of domestic violence. When this happens, a victim of domestic violence loses the basic necessity of shelter and becomes victimized a second time. This makes the victim even more dependent upon the perpetrator of the violence for shelter.

Your Committee further finds that the victim of domestic violence deserves to have rights protected as well as that of the landlord.

Your Committee has amended this measure on the recommendation of the HCRC by:

- (1) Including a person’s status as a victim of domestic abuse as a discriminatory practice in a real estate transaction;
- (2) Defining “domestic abuse” and included terms; and
- (3) Clarifying the permissible acts of the landlord towards a tenant who is a victim of domestic abuse.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2464, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2464, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Matsunaga).

SCRep. 2415 Health and Human Services on S.B. No. 2027

The purposes of this measure, as received, are to:

- (1) Create a special fund to hold Medicaid prescription drug rebates to the State to be earmarked for a prescription drug program for uninsured and for the State’s children’s health insurance program; and
- (2) Direct the Governor to convene a blue ribbon committee to determine how to utilize funds and to submit proposals to the legislature.

Testimony in support of this measure was submitted by Longs Drugs and Health Care Association of Hawaii. Testimony in opposition to this measure was submitted by the Department of Human Services.

Your Committee finds that rising prescription drug prices and lack of coverage keeps prescription drugs out of the reach of many people. From 1999 to 2000 alone, the national spending on retail outpatient prescription drugs has risen nearly nineteen per cent. Your Committee further finds that rising drug spending has a disproportionate impact on senior citizens, people with disabilities, and the chronically ill.

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

- (1) Deleting the blue ribbon committee;
- (2) Adding a purpose section;
- (3) Amending the special fund so that the Department of Human Services can use the funds for any purpose to expand the Medicaid prescription drug coverage;
- (4) Adding a new section in chapter 328, Hawaii Revised Statutes, for the Medicaid prescription drug expansion program;
- (5) Adding three blank appropriation sections, one for the administrative cost which will be matched by the federal government, one for the \$1 contribution, and one for the front load of funds necessary to start the program which shall be reimbursed by the special fund; and
- (6) Changing the effective date so that sections 5, 6, and 7 will be effective July 1, 2002.

Your Committee is passing this measure as a work in progress. Making prescription drugs more affordable has high priority in your Committee, however, this Medicaid prescription drug expansion program needs to be looked at further to see if it can be done in a cost-effective manner. Your Committee has been told that this program can become self-sufficient in approximately two years, but preliminary numbers indicate that the front load appropriation could be very costly. Although the front load appropriation is to be repaid back into the general fund, this Committee would like to work with the Committee on Ways and Means to further explore options that could bring the initial cost down. This may be done perhaps by capping the number of people or the number of prescriptions. Your Committee intends to meet with members from pharmaceutical companies to assist in drafting a measure that can be both affordable to the State and beneficial to our residents.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Nakata, Hogue).

SCRep. 2416 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on S.B. No. 2085

The purpose of this measure is to amend the laws relating to mental health and alcohol and drug abuse treatment insurance benefits to:

- (1) Define "minor" as an individual under the age of eighteen;
- (2) Provide mental illness benefits to minors to the same extent as to an adult;
- (3) Include major depression in the definition of "serious mental illness" as applied to minors;
- (4) Require benefits for a minor as clinically necessary;
- (5) Provide that benefits shall not be provided to minors receiving treatment pursuant to the Felix consent decree;
- (6) Allow an insurer, mutual benefit society, or health maintenance organization to require a provider to adhere to standards of care, treatment guidelines, and review techniques for minors; and
- (7) Make permanent the current definition of "serious mental illness".

Testimony supporting this measure was received from the Department of Health, Hawaii Psychological Association, HGEA, AFSCME, Local 152, AFL-CIO, Hawaii Psychiatric Medical Association, Equal Insurance Coalition, Mental Health Association in Hawaii, Hawaii Youth Services Network, and one individual. Testimony opposing this measure was received from the Department of Education, Kaiser Permanente, Hawaii Medical Services Association, and Royal State National Insurance Co., Ltd. Comments were submitted by the Department of Commerce and Consumer Affairs, Chamber of Commerce of Hawaii, and Mutual Benefit Association of Hawaii.

Your Committees find that minors are not receiving health care coverage benefits in parity with adults. During the important developmental stages of their lives, minors should receive the mental health and substance abuse treatments they require. This measure affords minors with the necessary health insurance coverage to ensure that they receive the medical treatments they require.

Your Committees have amended this measure by replacing its contents with provisions that require the State to provide mental illness and drug and alcohol dependence treatment benefits for children of state employees identical to the benefits provided to adults under chapter 431M, Hawaii Revised Statutes, with certain exceptions. Treatment benefits shall not be provided for children already receiving treatment by the State in accordance with the Individuals with Disabilities Education Act or Section 504 of Rehabilitation Act of 1973.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2085, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2085, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Kim, Nakata).

SCRep. 2417 Health and Human Services on S.B. No. 2763

The purpose of this measure is to permit the Department of Health (DOH) to establish a birth defects program (program), and establish a special fund for the programs operating expenses.

Testimony in support of this measure was received from the DOH, Office of Informational Practices, March of Dimes, Kaiser Permanente, and three private citizens. Testimony in opposition was received from the Christian Science Committee on Publication for Hawaii and two private citizens.

According to testimony of the DOH, each year approximately 800 to 1,000 babies, or one out of twenty births in Hawaii, have birth defects. Birth defects are the leading cause of infant mortality and contribute significantly to childhood morbidity and long-term disability. Birth defects information can be used to identify possible causes or risk factors and populations at risk, and assist in strategies of prevention, among other things.

The DOH administratively created the program thirteen years ago, making Hawaii one of 33 states that have such a program. This measure would formalize the program into statute, making it a permanent program with a dedicated source of funding.

Your Committee has amended the measure by:

- (1) Deleting the creation of a special fund;
- (2) Adding a definition of "institutional review board";
- (3) Requiring the DOH to establish a Hawaii birth defects program, rather than conferring discretion to do so;
- (4) Enabling the DOH to adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, to effectuate the program;
- (5) Clarifying the general obligations of the program;
- (6) Clarifying the confidentiality requirements of the program;
- (7) Moving the information collection and use of collected information provisions of the program from Chapter 321, Hawaii Revised Statutes, to Chapter 324, Hawaii Revised Statutes;
- (8) Creating a birth defects registry to record information collected by the program, and specifying the permissible use and the confidentiality of the collected information and providing a misdemeanor penalty for violation;
- (9) Exempting persons who do not wish to participate in the program from sharing medical information with the program; and
- (10) Changing the appropriation from \$200,000, to \$500,000.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2763, as amended herein, and recommends 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 Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2418 Judiciary on S.B. No. 2144

The purpose of this measure is to make an appropriation for crime prevention through the rehabilitation of youth gang members.

Your Committee received testimony in support of this measure from the Adult Friends for Youth and seven private citizens.

There are youth gangs in Hawaii. The HPD estimates that 1,500 youth are involved in gangs on Oahu alone. Youth gangs are reputed to be involved in criminal activity, ranging from property damage (drawing graffiti) to murder. Unfortunately, the approach to dealing with youth gangs has been punitive in nature, relying on the criminal justice system to treat them as law violators. The image of a youth gang member is an incorrigible teenager who needs to be apprehended and punished. However, your Committee believes that while punitive measures may be necessary, there is a much more subtle and broader picture that must be looked at.

The question that your Committee is concerned about is: How do youth become involved in gangs in the first place? A lot has to do with self-image. According to an eleven year examination on the subject, most gang youths believe they are unacceptable in the mainstream of society because they look different from the racial or ethnic groups that appear to run things. This low self-esteem is

exacerbated by poverty, few role models, and physical, emotional, and sexual abuse. There are additional factors that contribute to gang activity, including living in high crime neighborhoods, low high school graduation rates, a fatalistic outlook that they will not live long enough to graduate from high school, and a generational perpetuation of poverty and law violation.

Your Committee finds that prevention and rehabilitation are necessary elements to addressing the problem of youth gangs. This measure would provide funding to develop a program utilizing the proven redirection method to rehabilitate and integrate members of youth gangs and other high risk youth into the social mainstream, and to provide therapeutic intervention in schools.

As affirmed by the record of votes of 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. 2144 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Ihara, Nakata).

SCRep. 2419 Judiciary on S.B. No. 2634

The purpose of this measure is to increase the number of judges in the second and third district from three to four.

Testimony in support of this measure was submitted by the Judiciary. The Office of the Public Defender submitted comments on this measure.

Your Committee finds that the second judicial circuit serves the tri-island county comprised of Maui, Molokai, and Lanai and only has two circuit court judges. The last judgeship granted was approximately ten years ago, in which the population of this tri-island county has expanded by twenty per cent. Your Committee further finds that the third judicial circuit serves the entire county of Hawaii, which will be home to the impending Drug Court. Your Committee is aware that the funds are currently in the budget and this measure is needed to authorize the appointments. Your Committee believes that this measure is desirable to reduce overtime cost for court staff and reduce the cost of per diem judges.

As affirmed by the record of votes of 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. 2634 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2420 Judiciary on S.B. No. 2819

The purpose of this measure is to convert the current two part-time members of the Hawaii Paroling Authority (HPA) to full-time and to prohibit private employment of HPA members.

Testimony in support of this measure was received from the Department of Public Safety (DPS), HPA, and Government Efficiency Teams, Inc.

Your Committee finds that the current composition of one full-time chair and two part-time members of the HPA is obsolete. First enacted in 1976, the scheme of one full-time chair and two part-time members served the work demands well at the time. However, the caseload of the HPA has increased exponentially in recent years due to mandatory sentences and an increased prison population. Your Committee agrees that having three full-time members is necessary to meet today's needs. Furthermore, the position of HPA member increasingly requires knowledge and skill in rehabilitation which can be more readily accumulated with full-time experience.

Your Committee has amended this measure by:

- (1) Deleting reference to mileage and expense payments, on recommendation of the HPA;
- (2) Clarifying that the prohibition from engaging in outside employment applies to all the members of the HPA; and
- (3) Making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2421 (Joint) Judiciary and Transportation, Military Affairs, and Government Operations on S.B. No. 3051

The purpose of this measure is to authorize the issuance of special purpose revenue bonds (SPRBS) to assist a Hawaii corporation to construct a drug rehabilitation and parole violation center on Oahu.

Testimony in support of this measure was received from the Department of Public Safety (PSD) and Honolulu Prosecuting Attorney. Testimony in opposition was received from the Community Alliance on Prisons (Alliance), TJ Mahoney & Associates, and the American Civil Liberties Union (ACLU). The Department of Budget and Finance submitted comments.

This measure is intended to help with prison overcrowding. According to testimony of the PSD, one of the results of overcrowding is that the State has not been able to properly program the inmates for their return to the community. This exacerbates overcrowding, because the lack of programming increases the recidivism rate. If current conditions do not change, overcrowding will worsen.

Your Committees take note of the testimony of the ACLU and the Alliance regarding their preference for small, community-based programs. Ideally, this would occur whether or not a facility is built. In this regard, your Committees request the PSD to pursue additional community-based programs in addition to building new facilities.

There is no consensus at the present as to whether institutional-based treatment or community-based treatment is the best option. There was testimony in opposition from three prominent community groups who prefer community-based programs. Your Committees are passing this measure at this time to keep the discussion alive on this issue.

Your Committees have been informed of the identity of the private entity that is interested in constructing this facility. The entity has examined a number of sites and has ruled out all but Halawa as the best possibility. In this regard, your Committees have always believed that Halawa was the most appropriate site, and the private party has confirmed what your Committees have always preferred.

Your Committees have amended this measure by:

- (1) Identifying the entity as the Education and Health Centers of America – Hawaii, Inc.;
- (2) Inserting Halawa as the site; and
- (3) Inserting standard recommended language relating to refunding of SPRBS.

As affirmed by the records of votes of the members of your Committees on Judiciary and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3051, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3051, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Hanabusa, Ihara, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2422 (Joint/Majority) Education and Judiciary on S.B. No. 2038

The purpose of this measure is to designate the Office of the Auditor as an authorized representative of the departments of education and health for purposes of accessing student records to evaluate the performance of educational programs.

Testimony supporting this measure was received from the Officer of the Auditor. Testimony opposing this measure was received from the department of health.

Your Committees find that in-depth evaluation of the State's educational programs is necessary to assess the effectiveness and efficiency of Hawaii's educational system. Pursuant to federal mandates and the commitment to provide an education to all children, health services administered by the departments of health and education have become an integral part of several educational programs. Therefore, your Committees find that an audit and an evaluation of their programs are necessary.

Recently, the Office of the Auditor ("Auditor") worked with the Joint Senate-House Investigative Committee to investigate the State's compliance with the Felix consent decree. During the course of its investigation, the Auditor attempted to access student education records as review of those records was necessary to evaluate the effectiveness of state education programs. However, the Auditor's efforts to review the education records were prevented by the departments of education and health who cited federal laws relating to student privacy.

Your Committees find that the Auditor currently maintains the authority and responsibility to audit the transactions, programs, and performance of the departments of education and health pursuant to section 23-4, Hawaii Revised Statutes. The purpose of this measure is to further clarify that the Auditor has the authority to access education records without redaction and to provide this authority in a manner consistent with federal law.

Your Committees have amended this measure by:

- (1) Citing the federal law by which the Auditor maintains authority to access education records;
- (2) Designating the Auditor a health oversight agency under federal and state law to oversee the activities of the department of health; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

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. 2038, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2038, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, 1 (Chumbley). Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Kawamoto, Matsuura, Menor, Tam).

SCRep. 2423 (Majority) Education on S.B. No. 2097

The purpose of this measure is to provide that utilization of unappropriated excess federal funds received by the Department of Education requires approval of the governor and directs the Department of Education to report to the legislature on the utilization.

Testimony opposing this measure was received from the Department of Education and the Hawaii State Teachers Association.

Your Committee finds that federal impact aid and other federal education funds are specifically for the Department of Education and should not revert to the general treasury. Due to the federal budget cycle, the amount of federal education funds received may exceed the amounts appropriated by the General Appropriations Act. Current law provides that these excess federal funds remain with the Department of Education despite not being appropriated for expenditure by the Legislature. Your Committee reaffirms this policy.

Your Committee believes that the Department of Education should be allowed to utilize these excess federal funds. However, your Committee does believe that more accountability over the use of these funds is necessary. The purpose of this measure is to require the Department of Education to obtain the approval of the Governor prior to expending the excess federal funds, prohibit use of the funds to create new programs, and to require the Department of Education to report the expenditures to the Legislature.

Your Committee has amended this measure by:

- (1) Further clarifying that the Department of Education needs the approval of the Governor prior to increasing the federal fund expenditure ceiling of a program identification number;
- (2) Providing that the Governor may not approve increases to federal fund expenditure ceilings in amounts greater than the excess federal funds received by the Department of Education; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2097, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2097, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, 2 (Chumbley, English). Excused, 3 (Matsunaga, Menor, Tam).

SCRep. 2424 Education on S.B. No. 2099

The purpose of this measure is to establish an interagency working group within the University of Hawaii to develop a comprehensive, linked preschool to graduate school (P-20) student database.

Your Committee received testimony in support of the measure's intent from the University of Hawaii, Department of Education, Good Beginnings Alliance, and Hawaii Kids Watch. The Office of Information Practices submitted comments on the measure.

Your Committee finds that although the State's three systems of education – preschool, K-12, and higher education – are interdependent and share common goals, there are no formal mechanisms to establish linkages between them. Each system has its own set of standards, assessments, curricula, and expected outcomes, which results in a lack of cohesion between the systems.

This measure proposes to establish an interagency working group that would develop a comprehensive student database covering preschool through graduate school. Your Committee finds that the creation of a database would promote the development of a seamless system of education and facilitate higher quality lifelong learning experiences for Hawaii's students.

Your Committee has amended the measure by adding a provision stipulating that the interagency working group shall determine and provide options and alternatives to insure that privacy and confidentiality issues and concerns are addressed with appropriate recommendations.

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. 2099, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2099, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2425 Education on S.B. No. 2270

The purpose of this measure is to appropriate funds and allocate state and district resource teacher positions to educate public school students about the history and the lessons of the World War II exclusion, removal, and detention of persons of Japanese ancestry.

Your Committee received testimony in support of the measure from the Hawaii Civil Rights Commission, Department of Education, Japanese American Citizens League, Kauai 442 Veterans Club, and three private individuals.

Your Committee finds that the detention of loyal American citizens of Japanese ancestry in camps during World War II was one of the most dishonorable episodes in American history. If it is true that, as the philosopher George Santayana said, "those who don't know their history are doomed to repeat it," then it is imperative for our society to understand as much as possible about this wholesale violation of the civil rights of 120,315 American citizens.

Your Committee further finds that there has been much research and writing on the meaning of the internment and the issue of redress and reparations fifty years later. These materials can serve as the basis for a broader educational effort that promotes the Constitution, fundamental civil liberties, and civil rights, as well as foster discussion about the principles of justice and fairness and the courage required to speak out against government abuses.

Your Committee has amended the measure by;

- (1) Adding two provisions that broaden the scope and sources of research materials for the project from a narrow focus on the exclusion, removal, and detention of persons of Japanese ancestry to include information on inclusion, participation, and empowerment, such as nisei veterans' participation in World War II; and
- (2) Broadening the scope of organizations that may be contracted to provide technical assistance on the subject matter to the Department of Education to include the Japanese American Citizens League, Oral History Project, and other related organizations.

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. 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 referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Chumbley, Menor).

SCRep. 2426 (Joint) Education and Judiciary on S.B. No. 2843

The purpose of this measure is to provide authority for the University of Hawaii to enter into indemnification agreements when such agreements are necessary as a condition for accepting research or training grants or other contractual benefits.

Your Committees received testimony in support of this measure from the Dean of the School of Ocean and Earth Science and Technology of the University of Hawaii at Manoa.

Your Committees find that research sponsors often require that the University of Hawaii be prepared to indemnify the sponsoring agency and its officers, employees, and agents. This requirement leads to protracted negotiations and in some cases prevents the University from accepting certain awards resulting in missed opportunities.

Therefore, your Committees support this measure, which will provide a consistent statutory standard through which the University may enter into indemnification agreements, while at the same time ensuring protection to the State and University through proper due diligence and the purchase of insurance when appropriate.

Upon further consideration, your Committees have amended this measure by requiring the University of Hawaii to report to the legislature on claims, if any, which have arisen or may arise.

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. 2843, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2843, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Kawamoto, Matsuura, Menor, Tam).

SCRep. 2427 Education on S.B. No. 2926

The purpose of this measure is to provide funding for stipends for assistant athletic directors and to allow coaches and athletic directors to waive all or part of their stipends to the public school for the benefit of their teams.

Your Committee received testimony in support of this measure from the Department of Education and from a local athletic director who serves as vice president of the Athletic Directors and Coaches Association.

Your Committee finds that the influence of coaches on the lives of students is well documented. Your Committee believes that athletic directors and coaches should be compensated commensurate with their importance, and therefore supports this measure.

Your Committee also supports the provisions of this measure that allow athletic directors to waive all or part of their stipends for the benefit of their teams. This will give athletic directors a choice to accept the pay increase or provide further support for their students.

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. 2926 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2428 Education on S.B. No. 3005

The purpose of this measure is to establish within the Department of Education (DOE) an educational accountability system for Hawaii's public schools that focuses on student learning of the statewide standards and the completion of standards based graduation requirements which promote academic excellence, student safety and well being, and civic responsibility.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association and the Hawaii Business Roundtable. Testimony in opposition to this measure was submitted by DOE.

Your Committee finds that since Hawaii's public schools consistently rank among the worst in the nation, it is appropriate to establish a system of education accountability so that the teachers and administrators who are failing our students can be identified and replaced with better personnel.

This measure reflects the findings of the Collaborative established pursuant to Act 238, Session Laws of Hawaii 2000. Your Committee finds that although the Collaborative did not submit legislation for consideration, their work provides the framework for this important legislation.

Your Committee has amended this measure to correctly state that the new definitions apply to all the new sections added by this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3005, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3005, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2429 (Joint/Majority) Education and Judiciary on S.B. No. 3007

The purposes of this measure are to:

- (1) Propose constitutional amendments to abolish the Board of Education and establish the Superintendent and Education Select Commission; and
- (2) Require the Superintendent to be appointed by the Governor, by and with the advice and consent of the Senate, from a list of nominees presented to the Governor by the select commission.

Your Committees received testimony in support of the measure from the Hawaii State Teachers Association. Your Committees received oral testimony in opposition to the measure from the Board of Education.

Your Committees find that the quality of public secondary education in Hawaii has been below par for far too long. Reform of the governance structure guiding public secondary education may be one important means of improving the quality of education. This measure may not provide all of the solutions needed to address the problem but is being passed on to the Committee on Ways and Means in order to provide a vehicle for continued discussion of this matter in the hope that solutions acceptable to all stakeholders will emerge in the course of the legislative session.

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. 3007 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, 2 (Hogue, Slom). Excused, 6 (Fukunaga, Ihara, Matsuura, Menor, Nakata, Tam).

SCRep. 2430 (Joint) Education and Judiciary on S.B. No. 3018

The purposes of this measure are to:

- (1) Replace the current Board of Education with regional boards of education and a statewide board of education composed of its members; and
- (2) Establish an educational region commission to determine educational regions within the State.

Your Committees received testimony in support of the measure from the Hawaii State Teachers Association.

Your Committees find that the quality of public secondary education in Hawaii has been below par for far too long. Reform of the governance structure guiding public secondary education may be one important means of improving the quality of education. This measure may not provide all of the solutions needed to address the problem but is being passed on to the Committee on Ways and Means in order to provide a vehicle for continued discussion of this matter in the hope that solutions acceptable to all stakeholders will emerge in the course of the legislative session.

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. 3018 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 6 (Fukunaga, Ihara, Matsuura, Menor, Nakata, Tam).

SCRep. 2431 (Joint) Economic Development and Technology and Transportation, Military Affairs, and Government Operations on S.B. No. 3016

The purpose of this measure is to require the Department of Land and Natural Resources to contract with a private consultant to study the condition of state small boat harbors, recommend improvements, evaluate costs of improvements and funding sources, and develop a master plan.

Your Committees received testimony in favor of this measure from Maui Ocean Activities, Kauai Sea Tours, GKO & Associates, South Pacific Kayaks & Outfitters, Expeditions, and Hawaii Boaters Political Action Association. Your Committees received testimony opposing this measure from the Board of Land and Natural Resources, Hawaii's Thousand Friends, and Makai Society. Comments were received from Hawaii Government Employees Association.

Your Committees find that existing small boat harbor facilities have been allowed to reach a state of significant deterioration and the overall program has not kept pace with the demands of the recreational boating industry elsewhere in the world. Hawaii has some of the greatest recreational boating opportunities in the world and yet has been mostly unable to capitalize on the opportunities.

Your Committees have amended this measure in the following ways:

- (1) The Legislative Reference Bureau shall conduct the study and also provide a management plan;
- (2) The Board of Land and Natural Resources shall provide public hearings for the development of the study and the plan, with the participation of the Senate Committees on Economic Development and Technology, and Transportation, Military Affairs, and Government Operations; and
- (3) An appropriation is made for the repair and maintenance of the small boat harbors as determined by the study.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3016, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3016, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Kanno, Matsunaga, Menor, Taniguchi, Hemmings, Slom).

SCRep. 2432 Economic Development and Technology on S.B. No. 3061

The purpose of this measure is to establish a new section which allows a tax income exclusion for income from live entertainment.

Your Committee received testimony in favor of this measure from the Department of Business, Economic Development, and Tourism, T. Iida Contracting, Ltd., Hawaii Songwriters Association, Ka Hoku Productions, the Davis Agency, Musicians' Association of Hawaii, Stardust Productions, and seven individuals. Your Committee received testimony opposing this measure from the Department of Taxation and one individual, and comments from Tax Foundation of Hawaii.

Your Committee finds that this measure will help Hawaii's performing arts community, will protect and promote Hawaii's rich cultural legacy, and will help our economy.

Your Committee finds that Hawaii needs a multi-pronged approach to improving the economy. In order to effect this approach, your Committee has amended this measure by inserting fourteen other measures relating to economic development. This economic package of measures represents a work in progress for the Committee on Economic Development and Technology towards the development of a comprehensive plan to address Hawaii's economic future. The measures are as follows:

- (1) S.B. 2028; Issues general obligation bonds for macadamia nut processing, manufacturing, and production facilities;
- (2) S.B. 2381; Appropriates moneys for the formulation of a strategic plan to make Hawaii the "Geneva of the Pacific";

- (3) S.B. 2411; Appropriates funds for the marketing of Hawaii products and services;
- (4) S.B. 2535; Supports the activities of PACON International in the design and planning of an ocean park;
- (5) S.B. 2606; Creates a statewide unifying entity of seventeen members from the public and private sectors to create a strategic economic development plan and to appropriate money for its development;
- (6) S.B. 2712; Amends the hiring requirements for firms enrolled in the Hawaii Enterprise Zones (EZ) partnership;
- (7) S.B. 2834; Clarifies the application of certain high technology tax incentives;
- (8) S.B. 2540; Appropriates funds for the Community-based Economic Development Program of the Department of Business, Economic Development, and Tourism;
- (9) S.B. 2374; Establishes a council to advise and assist the legislature on the economy;
- (10) S.B. 2379; Adds a new chapter on misleading electronic mail;
- (11) S.B. 2533; Extends the general excise tax exemption of the enterprise zone to retailers in East Maui until June 30, 2007;
- (12) S.B. 2707; Repeals the June 30, 2002, sunset date for the Regulatory Flexibility Act and the small business defender, and making other changes to more effectively assist small businesses;
- (13) S.B. 2711; Changes the frequency for adjustment of the loan interest rate for the Hawaii capital loan program from semiannual to the first of each month; and
- (14) S.B. 2933; Allows the department of business, economic development, and tourism to provide low interest loans to inventors or authors for the development of their new manufactured products, marks, works, works of authorship, or inventions.

Further, your Committee has amended this measure by exempting professional live musical performers from general excise taxation, rather than providing tax income exclusion for income from live entertainment.

Relating to Part IX of the bill providing a general excise exemption for live performances, your Committee recognizes that further discussion of how to best structure the exemption for live professional musical performers is necessary and welcomed.

Relating to Part XIII of the bill as amended, your Committee urges the Department of Business, Economic Development, and Tourism to look at depressed areas such as East Maui to be targeted for appropriated marketing funds.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3061, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3061, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Matsunaga, Taniguchi, Slom).

SCRep. 2433 Education on S.B. No. 3041

The purpose of this measure is to repeal the Department of Education storeroom revolving fund.

Your Committee received testimony in favor of this measure from the Department of Education, State Auditor, and Hawaii State Teachers Association.

Your Committee finds that slow distributions, loose inventory controls, and excessive ordering provide substantial evidence that the Department of Education's storeroom has reached a point where it is no longer the most resourceful way to allocate the office, custodial, school, and other supplies.

Your Committee has amended the measure by changing the effective date to December 31, 2002 to enable the Department of Education to conclude this program in an orderly fashion.

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. 3041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3041, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Menor, Tam).

SCRep. 2434 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on S.B. No. 2431

The purposes of this measure are to:

- (1) Limit aggregate campaign contributions from any person or entity to not more than \$25,000, in any calendar year;
- (2) Prohibit banks from making campaign contributions, except through a separate segregated fund established for political purposes; and
- (3) Prohibit contributions from government contractors for a limited time before and after the contract.

Testimony in support of this measure was received from the Common Cause Hawaii, League of Women Voters, and a Honolulu City Councilman. Commentary was submitted by the Campaign Spending Commission, Consulting Engineers Council of Hawaii, AIA Hawaii State Council, and American Public Workers Association – Hawaii Chapter.

Your Committees remain dedicated to accommodating the desire of the public for fairness in the campaign spending laws. Your Committees are most concerned about large entities that can afford to make large contributions that could be interpreted as influencing the elected official. Even the appearance of impropriety is too much to tolerate. This measure is intended to correct the imbalances and inequities in the current law.

Upon further consideration, your Committees have amended this measure by:

- (1) Deleting the prohibition on campaign contributions from contractors, on the grounds that current law suffices to expose these contractors to public scrutiny and in turn bringing attention to the individual candidate receiving such contribution;
- (2) Deleting the prohibition on contributions from banks, on the grounds that there is no justifiable reason for singling them out and current law limits their contributions to a reasonable amount;
- (3) Deleting the class C felony;
- (4) Repealing current law relating to fundraising activities;
- (5) Allowing candidates to file by the current electronic filing system or by commercially available accounting software;
- (6) Limiting the aggregate contribution from a candidate and the immediate family of the candidate to a combined total of \$50,000; and
- (7) Adding a severability clause.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2431, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2431, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 7 (Inouye, Matsuura, Menor, Nakata, Sakamoto, Tam, Taniguchi).

SCRep. 2435 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on S.B. No. 3086

The purposes of this measure are to:

- (1) Change the maximum allowable amounts of campaign contributions as to persons;
- (2) Require special elections to be conducted by mail;
- (3) Clarify an elected official's eligibility to run for another office;
- (4) Provide for an automatic recount in close contests;
- (5) Provide for a one-time incentive payment to file electronically;
- (6) Prohibit contributions from corporations and labor organizations;
- (7) Prohibit advertising by a party for any one candidate for any one specific race; and
- (8) Require forfeiture of a public office held upon conviction rather than sentencing.

Testimony in support of this measure was received from Common Cause Hawaii. Comments on this measure were received from the Campaign Spending Commission and League of Women Voters.

This measure is intended to revise the campaign contribution limits as to persons, enacted in its current amounts by Act 10, Special Session Laws 1995. Your Committees have not specified new amounts, leaving for later insertion after further discussion.

Your Committees view this measure as part of ongoing and continuing efforts towards campaign finance reform. There is no uniform and unanimous consensus on any one particular aspect in this measure. There are pros and cons on every issue in the realm of campaign finance laws. Your Committees have attempted to carve an equitable and reasonable result in passing this measure.

Your Committees have amended this measure by:

- (1) Deleting reference to an elected official's eligibility for another office, because the matter is covered in the Hawaii State Constitution and is better left to interpretation by the courts;
- (2) Specifying the percentage margins of when a vote recount is required in close contests;
- (3) Deleting the incentive payment to file electronically;
- (4) Deleting the decrease in the limits on the candidate's use of personal funds, because of possible first amendment implications in doing so;
- (5) Deleting the prohibition against contributions by corporations and labor organizations, because this provision is contained in S.B. No. 2431, being passed by your Committees;
- (6) Deleting the prohibition against party advertising for only one candidate in any one race;
- (7) Adding an appropriation of \$300,000, to the office of elections for maximizing voter registration and for voter education; and
- (8) Adding a severability clause.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3086, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3086, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 7 (Inouye, Matsuura, Menor, Nakata, Sakamoto, Tam, Taniguchi).

SCRep. 2436 Education on S.B. No. 3074

The purpose of this measure is to change the designation of district superintendents to area superintendents, and require them to supervise delivery of administrative and instructional support services in their areas. This measure also allows the Board of Education to determine the salaries of the deputy superintendent and area superintendents.

Your Committee received testimony in favor of this measure from the Department of Education and the Hawaii Government Employees Association. Your Committee received testimony opposing this measure from the Hawaii State Teachers Association and the Department of Budget and Finance.

Your Committee finds that the Board of Education should be able to decide the salaries of the Department's leadership team. Further, the Superintendent has established an organizational framework for delivering quality instruction and educational accountability. The amendments contained in this measure would permit the advancement of the Department's reorganization to produce the desired outcomes.

Your Committee has amended this measure by:

- (1) Deleting language that replaced district superintendents with area superintendents;
- (2) Providing flexible authority for the superintendent of education to designate and appoint the organizational entity or various superintendents to manage the components of the Department of Education;
- (3) Providing that the salaries of the superintendents designated and appointed by the superintendent of education shall be set by the Board of Education; and
- (4) Making a nonsubstantive, technical change.

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. 3074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3074, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2437 Education on S.B. No. 2816

The purpose of this measure is to create an incentive for students to become teachers and to ensure that these graduates teach in our public schools.

Your Committee received testimony in support of the measure from Lieutenant Governor, Department of Education, University of Hawaii, Hawaii Association of Independent Schools, Hawaii Teacher Standards Board, Hawaii State Teachers Association, and Hawaii Business Roundtable.

Your Committee finds that Hawaii, along with the rest of the nation, is suffering from a critical teacher shortage. Approximately 1,000-1,200 new teachers are needed in Hawaii every year. Last year, the University of Hawaii produced 450 graduates. Not all of these graduates choose to teach in the Department of Education (DOE). The DOE, therefore, recruits teachers from other local state-approved teacher education colleges such as Brigham Young, Chaminade, and Hawaii Pacific Universities. These private institutions assist the State by offsetting the shortage of teachers.

A constitutional question arises as to the use of state general funds supporting and benefiting private educational institutions, pursuant to *Spears v. Honda* and Hawaii State Constitution Article X, Section 1. The state constitution attempts to ensure that the public schools receive the best treatment by the State, over and above private schools. This measure does not give preferential treatment to private school students. The Hawaii Educator Incentive Program creates an incentive for any student attending any local state-approved teacher education institution to commit to the DOE as a teacher for six years.

More importantly, no loan is given to the student enrolled in Hawaii Educator Incentive Program. Instead, after completion of the program and proof of employment in the DOE, tuition is paid to the graduate, at least equal to tuition in the University of Hawaii. The program would not be activated until a student graduates from a state-approved teacher education program and is employed as a teacher by the DOE. The loan forgiveness is to a public school teacher who has already left a university.

Eligibility for the program is determined by the registrar of a state-approved teacher education program (who ensures that a student has graduated) and is administered by a designated federal credit union with existing services for teachers. Different from *Spears v. Honda*, where the Court found that the State had essentially abdicated the responsibility of administering the program to the private schools and allowed the private schools to determine who would receive the subsidy for bus transportation, in this program the Legislature would appropriate the funds to the University of Hawaii, who will assist in administering the program with the designated federal credit union.

Another factor is that the DOE invests a significant amount of time and money in recruiting from the mainland. This is proving to be a poor investment because many mainland recruits leave Hawaii within the first three years of teaching. Our local graduates have an 80-90% retention rate and are highly qualified to teach based on the high scores being received on the PRAXIS exams.

Your Committee has amended the measure by:

- (1) Changing the name of the program from Hawaii Educator Loan Program to Hawaii Educator Incentive Program;
- (2) Constituting the program as a new section in chapter 304, Hawaii Revised Statutes, instead of as an amendment to Section 304-20.6, Hawaii Revised Statutes; and
- (3) Deleting a provision allowing collection agencies to pass their fees onto debtors.

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. 2816, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2816, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Kawamoto, Menor, Tam, Hogue).

SCRep. 2438 (Joint) Education and Transportation, Military Affairs, and Government Operations on S.B. No. 3006

The purposes of this measure are to establish within the department of accounting and general services the school support division and the general support division and to transfer and consolidate related functions by January 1, 2003, and to transfer the rights, powers, functions, and duties of the operations and maintenance section and the CIP planning and finance section of the DOE facilities and support services branch to the DAGS, effective July 1, 2003.

Your Committees received testimony in support of the measure from the Department of Accounting and General Services (DAGS) and the Hawaii State Teachers Association. Your Committees received testimony in opposition to the measure from the Department of Education (DOE).

Your Committees find that the coordination of facilities management between DAGS and DOE has improved, but that there may be consolidations or transfers that would contribute to even greater efficiency and cost savings.

With this in mind, your Committees have amended this measure to:

- (1) Require DOE and DAGS to determine the feasibility of further consolidation of functions relating to educational facilities between DOE and DAGS, with a report to the legislature in 2003;
- (2) Delete language that transfers the rights, powers, functions, and duties of the operations and maintenance section and the CIP planning and finance section of the DOE facilities and support services branch to the DAGS, effective July 1, 2003; and

- (3) Make technical amendments to reflect these changes.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3006, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3006, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Chumbley, Kanno, Menor, Taniguchi, Hemmings).

SCRep. 2439 Education on S.B. No. 2264

The purpose of this measure is to define, for statistical purposes:

- (1) "Teaching out-of-field" as teaching outside the areas of preparation indicated on an individual's license; and
- (2) "Out-of-field teacher" as an individual who is teaching outside the areas of preparation indicated on the individual's license.

Your Committee received testimony in support of the measure from the Superintendent of Education, Hawaii Teachers Standards Board, Hawaii State Teachers Association, Punahou School, and two private individuals.

Your Committee finds that teachers are the key to quality education and must possess knowledge of the subject matter they teach. This policy will help ensure that all teachers are not only properly licensed but assigned to teach in areas consistent with their license and subject matter background as well.

Your Committee has amended the measure by:

- (1) Inserting language from S.B. No. 3030 which:
 - (A) Strengthens documentation of the emergency hires of out-of-field teachers; and
 - (B) Requires publication of this enhanced documentation by the Superintendent of Education under Chapter 1-28.5, Hawaii Revised Statutes, and on the Department of Education's World Wide Web site;
- (2) Deleting all references to supplemental forms issued by the Hawaii Teachers Standards Board; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of 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 placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2440 Judiciary on S.B. No. 2125

The purpose of this measure is to allow admission into evidence in domestic violence trials, prior acts of domestic violence.

Testimony in support of this measure was received from the, Hawaii State Coalition Against Domestic Violence, Domestic Violence Clearinghouse and Legal Hotline, and four private citizens. Testimony in opposition was received from the Public Defender and two private citizens. The Judiciary submitted comments on this measure.

This measure is intended to facilitate the prosecution of domestic violence cases. Your Committee believes that prior acts of domestic violence should be given special consideration by the court in determining whether to admit that evidence. Domestic violence perpetrators tend to have committed prior acts of violence which is highly relevant to the prosecution of the current case. Your Committee finds that this measure would not unduly prejudice the case against the defendant because the court must still determine if the evidence is sufficiently prejudicial to warrant exclusion.

As affirmed by the record of votes of 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. 2125 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2441 Judiciary on S.B. No. 2529

The purpose of this measure is to clarify the offense of harassment by stalking and to provide for five years of probation for the offense.

Testimony in support of this measure was received from the Hawaii State Coalition Against Domestic Violence and Domestic Violence Clearinghouse and Hotline. Testimony in opposition was received from the Public Defender and Honolulu Police Department (HPD). The Judiciary and Honolulu Prosecuting Attorney submitted comments.

This measure would add elements to the offense of harassment by stalking to include engaging in a wilful course of conduct involving repeated or continuous pursuit, surveillance, or unconsented contact, so that the victim feels terrorized, frightened, intimidated, threatened, harassed, or molested.

Your Committee appreciates and agrees with the efforts to strengthen the stalking laws, particularly in view of the repetitive nature of the offense involving the same perpetrator and victim. However, your Committee agrees with the testimony of the Honolulu Prosecuting Attorney and the Public Defender that adding elements, particularly state of mind elements of the offense, makes it difficult to prosecute a case.

Your Committee has amended this measure on the recommendation of the Honolulu Prosecuting Attorney, as follows:

- (1) Adding an amendment to section 706-623, Hawaii Revised Statutes (HRS), relating to terms of probation, to allow the court to sentence a violator of harassment by stalking to five years probation;
- (2) Adding an amendment to section 711-1106.4, HRS, relating to aggravated harassment by stalking, to delete reference to violation of court orders and to stalking the same person previously; and
- (3) Revising the amendment to section 711-1106.5, HRS, relating to harassment by stalking, to:
 - (A) Remove the wilful state of mind and retain the reckless disregard conduct;
 - (B) Delete the reasonable person standard; and
 - (C) Define "non-consensual contact".

According to the Honolulu Prosecuting Attorney, the changes to the stalking laws are necessary to make the laws more effective and easier to prosecute. The result will be better prosecutions, more convictions, and greater deterrence.

As affirmed by the record of votes of 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. 2529, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2529, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2442 Judiciary on S.B. No. 2625

The purpose of this measure is to delete the requirement that the director of the family court collect statistics and prepare an annual report of the court's work.

Testimony in support of this measure was received from the Judiciary.

Section 601-2, Hawaii Revised Statutes, relating to court administration, requires the chief justice to make a report to the legislature at each regular session of the business of the judiciary, and to present a six-year program and financial plan. This measure would remedy a duplication of requirements in the statutes.

Your Committee has amended this measure to correct a drafting error.

As affirmed by the record of votes of 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. 2625, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2625, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2443 Judiciary on S.B. No. 2627

The purpose of this measure is to allow the supreme court to determine how to manage case, fiscal, and administrative records, including storage in electronic form.

Testimony in support of this measure was received from the Judiciary.

This measure is intended to enhance the Judiciary's ability to manage its records, particularly in view of section 601-3.7, Hawaii Revised Statutes, relating to the judicial computer special fund which allows the Judiciary to purchase hardware and software for a judiciary computer system.

Your Committee has amended this measure by 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 S.B. No. 2627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2627, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2444 Judiciary on S.B. No. 2629

The purpose of this measure is to clarify the time limits within which to contest a probated will, and to bar the claims of creditors against a probated estate unless the personal representative mails notice to the claimant of the sixty-day impending bar to claims.

Testimony in support of this measure was received from the Judiciary, Committee on the Uniform Probate Code and Probate Court Practices, and Hawaii Bankers Association.

According to the testimony, this measure is intended to:

- (1) Shorten the time limitation period in which to contest a probated will by allowing an informal probate to be closed without fear of a will contest after-the-fact; and
- (2) Set a reasonable deadline for creditors to challenge a probated will.

Your Committee has amended this measure by making technical, nonsubstantive changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2629, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2629, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2445 Judiciary on S.B. No. 2632

The purposes of this measure are to:

- (1) Change the state of mind requirement from wilful to knowing for penalty of failure to appear in answer to a citation; and
- (2) Increase the amount of fine from \$100 to \$1,000.

Your Committee received testimony in support of the measure from the Judiciary.

Your Committee finds that the penalty for failure to appear in answer to a citation, in section 803-6(e), Hawaii Revised Statutes, should be updated to correspond to the petty misdemeanor statute, which provides for a fine of not more than \$1,000 or imprisonment of not more than 30 days. This measure mirrors the language in the petty misdemeanor statutes, contained in sections 706-663 and 706-640 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. 2632 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2446 Judiciary on S.B. No. 2650

The purpose of this measure is to confer concurrent jurisdiction in the family court over the offenses of unlawful imprisonment in the second degree (section 707-722, Hawaii Revised Statutes (HRS)) and interference with reporting an emergency or crime (section 710-1010.5, HRS).

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney.

Under current law, jurisdiction over sections 707-722 and 710-1010.5, HRS, is in the district court, as a misdemeanor and petty misdemeanor, respectively. Vesting jurisdiction concurrently with the family court would make it possible for the family court to hear these cases, usually in conjunction with a case involving a criminal charge that stems from the same incident. The defendant could not be charged with multiple offenses for the same incident if the family court had no jurisdiction over some of those charges.

As affirmed by the record of votes of 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. 2650 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2447 Judiciary on S.B. No. 2651

The purpose of this measure is to add personal service on the surety as a means to serve notice of forfeiture of a bail bond in a criminal case.

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney.

Under current law, certified mail is the only method of service permitted to notify the surety of the forfeiture of the bond for the non-appearance in court of the defendant. This measure would make it easier to serve the surety.

Your Committee has amended this measure by making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2651, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2651, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2448 Judiciary on S.B. No. 2696

The purpose of this measure is to provide criminal penalties for those who steal the identity of another, and for those who obtain identity documents under false pretenses or use a false or fictitious identity.

Your Committee received testimony in support of the measure from the Attorney General, Office of Information Practices, City and County of Honolulu Department of the Prosecuting Attorney, County of Maui Department of the Prosecuting Attorney, City and County of Honolulu Police Department, County of Maui Police Department, County of Hawaii Police Department, and Retail Merchants of Hawaii. Your Committee received testimony in opposition to the measure from the Public Defender.

Your Committee finds that, in light of the terrorist attacks of September 11, 2001, the ramifications of identity theft have proven much more grave than previously thought. Identity theft, a huge problem in financial fraud and theft cases, now has implications for national security. This measure provides a comprehensive framework of statutes to deal with the various aspects of identity theft.

Your Committee has made technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2696, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2696, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2449 (Joint) Agriculture and Commerce, Consumer Protection and Housing on S.B. No. 2518

The purpose of this measure is to require that items represented to be "koa" wood actually contain acacia koa wood.

Testimony in support of this measure was submitted by the Board of Agriculture, Board of Land and Natural Resources, Department of Commerce and Consumer Affairs, Hawaii Agriculture Research Center, Hawaii Farm Bureau, and Hawaii Forest Industry.

Your Committees find that in recent years wood and wood products have been labeled as "koa" when in fact they were made from wood of species other than Acacia koa. Your Committees further find that this measure will protect consumers from purchasing wood or wood products that are misrepresented by misleading labeling and advertising as being made from koa.

Your Committees have amended this measure by:

- (1) Clarifying that use of the term 'koa' may be used in products in part made of Acacia; provided that the extent of use is not misrepresented as suggested by the Hawaii Forest Industry Association; and
- (2) Making a technical, nonsubstantive amendment.

As affirmed by the records of votes of the members of your Committees on Agriculture and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are 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 Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 6 (Chun, Hanabusa, Kim, Kokubun, Matsunaga, Tam).

SCRep. 2450 Ways and Means on S.B. No. 2824

The purpose of this measure is to conform the Hawaii income tax law to changes made in the Internal Revenue Code.

Senate Bill No. 2824 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in the long form. Your Committee has amended the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the action to report out 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 recommitted to the Committee on Ways and Means for further consideration.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, Chun Oakland, English, Ige, Inouye, Sakamoto).

SCRep. 2451 Ways and Means on S.B. No. 3011

The purpose of this short form measure is to provide for the expenses of the legislature.

Your Committee has amended this measure to appropriate an unspecified amount to the Auditor to conduct audits of the Department of Education, Department of Health, and Department 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 action to report out S.B. No. 3011, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3011, S.D. 1, and be recommitted to the Committee on Ways and Means, for further consideration.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, English, Hanabusa, Ige, Kim, Sakamoto).

SCRep. 2452 Commerce, Consumer Protection and Housing on S.B. No. 313

The purpose of this short form measure is to amend the laws relating to boards and commissions.

Your Committee has amended this measure by replacing its contents with language that repeals the June 30, 2002, sunset date of Act 332, Session Laws of Hawaii 1993 (Regular Session). This Act authorized the establishment of the Air Carriers Commission to assist in the regulation of interisland air carriers. Repeal of the sunset provision is necessary to ensure the continuing viability of the law authorizing the commission's establishment.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the action to report out S.B. No. 313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 313, S.D. 1, and be recommitted to the Committee on Commerce, Consumer Protection and Housing for further consideration.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 2453 Labor on S.B. No. 1157

The purpose of this measure is to transfer the responsibility of adjudicating appeals on matters of occupational safety and health (OSHA) from the Labor and Industrial Relations Appeals Board (LIRAB) to the Hawaii Labor Relations Board (HLRB).

Testimony in support of the measure was received from LIRAB, HLRB, and the ILWU, Local 142.

Your Committee finds that OSHA cases involve the important matter of health and safety in the workplace. Cases are presently under the jurisdiction of LIRAB. Also within LIRAB's jurisdiction are workers' compensation cases. These cases represent a tremendous caseload for LIRAB. For example, at the close of FY 1999-2000 LIRAB's pending workers' compensation caseload was 761. Accordingly, because of this heavy caseload, cases before LIRAB, including OSHA cases, are not resolved for several months and may take over a year.

Your Committee also finds that since July, 2000, LIRAB and HLRB have worked cooperatively to utilize HLRB's existing resources to address the backlog of OSHA cases. LIRAB appointed HLRB as hearings officers to hear and recommend a decision in OSHA cases. Fifty-six cases were referred to HLRB since July, 2000, of that number, thirty-one cases have been settled, twelve dismissed, and recommended decisions have been issued by HLRB in three cases.

Your Committee believes that transferring jurisdiction of OSHA cases from LIRAB to HLRB will improve the timeliness in resolving OSHA cases. Moreover, the transferring of OSHA cases to HLRB will permit LIRAB to focus solely on workers' compensation cases.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1157 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Ihara, Kanno, Kawamoto, Sakamoto).

SCRep. 2454 Labor on S.B. No. 2784

The purpose of this measure is to change the annual injury report filing deadline employers must adhere to for workers' compensation cases.

Testimony in favor of the measure was received from the Department of Labor and Industrial Relations, State Farm Insurance, the Hawaii Insurers Council, and a private citizen. The Hawaii Insurers Council also requested that an amendment be added to the measure that would:

- (1) Require medical service providers to limit the number of assistants or aides allowed to treat a patient to two per licensed practitioner; and
- (2) Require medical service providers to disclose in their bills and supporting documents which services were provided by assistants or aides.

Specifically, the measure changes the filing deadline from December to January 31 of each succeeding year.

Your Committee finds that under existing law, employers are required to annually file a report with the Department of Labor and Industrial Relations on workers' compensation-related claims paid by the employer over the preceding year. This report is due on December 31 of each year.

Your Committee also finds that the Auditor, as one of the recommendations contained in a management audit report on the Department of Labor and Industrial Relations' Disability Compensation Division, recommended that this deadline be moved back to provide sufficient time to employers to file complete reports.

Your Committee agrees with the Auditor's recommendation and believes that more time should be provided to employers to compile such information. This action will lessen the need for the Department of Labor and Industrial Relations to grant filing extensions, particularly in cases where an injury occurred late in the calendar year.

Your Committee has amended the measure by adding a section that amends section 386-21, Hawaii Revised Statutes, to reflect the concerns of the Hawaii Insurers Council.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2784, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Ihara, Kanno, Kawamoto, Sakamoto).

SCRep. 2455 Labor on S.B. No. 2787

The purpose of this measure is to raise the guaranteed monthly compensation ceiling for those exempted from the State's Wage and Hour Law from the existing \$1,250 to \$2,000.

Testimony in support of the measure was received from the Department of Labor and Industrial Relations and the ILWU Local 142.

Your Committee finds that the State of Hawaii's Wage and Hour Law was originally established to safeguard existing minimum wage and maximum hour standards to maintain the health, efficiency and general well-being of workers. Under the existing definition of "employee" in section 387-1, Hawaii Revised Statutes, an individual who receives a guaranteed compensation of \$1,250 or more per month is excluded from the requirements of the law. By paying a guaranteed compensation, employers who are subject to the State law may schedule such individuals to work unlimited hours without being required to pay overtime compensation.

However, your Committee finds that an employee earning the current minimum wage and who averages twenty hours per week of overtime would earn approximately \$1,744 a month. With the minimum wage increase to \$6.25 per hour, effective January 1, 2003, the same employee averaging twenty hours of overtime would earn approximately \$1,896 per month. For an individual who is paid \$1,250 a month, however, the employer could schedule unlimited hours without paying additional overtime compensation. To correct this inequity, the measure increases the amount of guaranteed compensation to \$2,000 per month.

Your Committee believes that the measure will protect salaried employees who are compensated at less than \$2,000 per month.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2787 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Kanno, Kawamoto).

SCRep. 2456 Labor on S.B. No. 2788

The purpose of this measure is to allow parties involved in an unemployment appeal to file directly with the Employment Security Appeals Referee's Office (ESARO).

Testimony in support of the measure was received from the Department of Labor and Industrial Relations and the ILWU Local 142.

Your Committee finds that under existing law, a claimant or other party entitled to appeal a determination or redetermination of an unemployment claim may only file an appeal of the determination or redetermination at the office of the Department of Labor and Industrial Relations in which the claimant resides or was last employed. The measure would provide a claimant or other affected party with the additional option of filing the appeal directly to ESARO. Since ESARO is charged with the responsibility of hearing the appeals, the direct filing of appeals should be allowed.

Your Committee believes that the measure will enhance ESARO's efficiency in scheduling appeals hearings, resulting in speedier adjudication of unemployment claims appeals.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2788 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Kanno, Kawamoto).

SCRep. 2457 Transportation, Military Affairs, and Government Operations on S.B. No. 411

The purpose of this short form bill is to amend the law relating to transportation.

The purpose of this measure, as amended by your Committee, is to amend and enact various laws relating to inattention to driving. Specifically, this measure would:

- (1) Criminalize engaging in a distracting activity while driving;
- (2) Require that all traffic collision reports prepared prior to December 31, 2003, contain information regarding whether the collision wholly or partially resulted from the driver engaging in a distracting activity while driving;
- (3) Require the Department of Public Safety to report to the Governor and to the Legislature prior to the regular session of 2004 regarding traffic collisions where a driver was engaging in a distracting activity; and
- (4) Prohibit any city, county, or local government from enacting or enforcing any charter provision, ordinance, or resolution regulating persons engaging in a distracting activity while driving.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the action to report out S.B. No. 411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 411, S.D. 1, and be recommitted to the Committee on Transportation, Military Affairs and Government Operations, for further consideration.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Inouye, Menor, Tam, Taniguchi).

SCRep. 2458 Labor on S.C.R. No. 19

The purpose of this measure is to secure legislative approval of the compensation plans of the State, Judiciary, and the counties.

Testimony in support of the measure was received from the Conference of Personnel Directors.

Your Committee finds that sections 77-4 and 77-5, Hawaii Revised Statutes, require all personnel directors of the State, the Judiciary, the Hawaii Health Systems Corporation, 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.

Your Committee also finds that the Public Employees Compensation Appeals Board has completed hearings on repricing appeals from affected persons and parties, has made its final adjustments to the tentative compensation plans, submitted by the Conference of Personnel Directors, and has prepared its written findings in its "Report of Findings on Adjustments to the Compensation Plans" dated January 3, 2002.

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 that shall be effective July 1, 2002, and the costs thereof for its information and approval.

Your Committee believes that the compensation plans and costs thereof should be approved.

Your Committee has amended the measure by making a technical, nonsubstantive amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 19, 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. 19, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Kanno, Kawamoto).

SCRep. 2459 Health and Human Services on S.C.R. No. 17

The purpose of this measure is to request the Auditor to conduct a study of the social and financial effects of requiring mandated health insurance coverage for biologically based psychiatric and addiction disorders.

Testimony in support of this measure was submitted by HGEA-AFSCME Local 152, Hawaii Psychiatric Medical Association, Hawaii Medical Association, and a private citizen. Testimony in opposition to this measure was submitted by the Department of Health. Comments on this measure were submitted by the State Insurance Commissioner.

Your Committee finds that many persons with mental disorders or substance abuse problems have biological or neurochemical causes, which if properly diagnosed and treated, would allow such persons to more quickly recover and thereby prevent further deterioration of their mental health. Your Committee further finds that while the State of Hawaii has a limited form of mental health parity, there still remains discrimination within health insurance coverage related to certain psychiatric disorders. Your Committee notes that the purpose of the Auditor's analysis is to explore the social and financial benefits to and adverse impacts upon both consumers and the insurance industry so that the legislature may make an informed decision prior to expanding mandated coverage to include these mental health disorders. Your Committee further recommends that the Auditor review the report of The Mandated Benefits Advisory Task Force issued by the State Insurance Commissioner's office pursuant to H.C.R. No. 129, C.D. 1, for information that might be relevant to the Auditor's study.

Your Committee has amended this measure by:

- (1) Referencing the correct Senate bill number requesting the mandated health coverage; and
- (2) Requesting that the Auditor submit to the Legislature a report of findings and recommendations 20 days prior to the convening of the 2002 regular session.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 17, as amended herein, and recommends that it be referred to the Committee on Commerce, Consumer Protection and Housing, in the form attached hereto as S.C.R. No. 17, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Fukunaga, Hogue).

SCRep. 2460 Health and Human Services on S.C.R. No. 26

The purpose of this measure is to request and support the implementation of a single entry point system for long-term care services.

Testimony in support of this measure was submitted by the Executive Director of the Caring...For Life Foundation and the Executive Director of the Hawaii County Office on Aging. Testimony in support of the intent of this measure was submitted by the Department of Human Services, the State Planning Council on Developmental Disabilities, and the Disability and Communication Access Board. Testimony in opposition to this measure was submitted by the Hawaii Coalition of Care Home Administrators and Healthcare Association of Hawaii.

Your Committee finds that the Caring...for Life Foundation's primary mission is to bring together various constituencies in a collaborative relationship to develop and implement a single entry point system for long-term care. Your Committee further finds that the various state efforts involved in developing this statewide system need to be coordinated, and must include long-term care service providers. Thus, your Committee strongly urges the various programs and constituent groups to engage in full collaboration to assure the successful implementation of this long anticipated single entry point system for long-term care.

Your Committee has amended this measure by:

- (1) Inserting an additional WHEREAS clause noting the establishment of the Hawaii Real Choices Partnership Project: Accessibility for Consumer Choice Entry Support System (ACCESS);
- (2) Requesting that the Caring...For Life Foundation, in collaboration with the Hawaii Real Choices Partnership Project, design, develop, and field test the basic framework of a single entry point system; and
- (3) Changing the name of the Commission on Persons with Disabilities to correctly reflect its name as the Disability and Communication Access Board.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Fukunaga, Hogue).

SCRep. 2461 Tourism and Intergovernmental Affairs on H.B. No. 1806

The purpose of this measure is to clarify that in relation to offenses against property rights, the definition of "hotel" means a structure in which a majority of tenants are roomers or boarders.

Testimony in support of this measure was received from the Hawaii Hotel Association and Maui Hotel Association.

Your Committee finds that under current law, this definition states that all tenants are roomers or boarders. This is rarely the case, because hotels frequently contain retail and food service tenants as well. As amended, this definition will reflect more accurately the current state of hotel operations.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1806, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2462 Tourism and Intergovernmental Affairs on S.B. No. 2183

The purpose of this measure is to allow applicants for police officer positions to be non-residents of Hawaii at the time of their application.

Your Committee finds that this measure will assist counties in filling vacant positions and enable police departments statewide to draw from larger applicant pools for these critical vacancies.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2183 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2463 Health and Human Services on S.B. No. 2982

The purpose of this measure is to require hospitals to provide security for any personal property of patients during their period of hospitalization.

Your Committee finds that elderly individuals are oftentimes admitted to hospitals with various personal effects such as eyeglasses, dentures, hearing aids and other assistive devices that are necessary for their daily activities. Unfortunately, these items may become misplaced or lost during routine patient care but the hospital facility takes no responsibility for their replacement. Especially for the poorest elderly patients, the cost of replacement of these items is not within their means, and requires assistance through government programs that may not provide timely replacements of their lost items. Your Committee further finds that some elderly patients may never receive replacement of these assistive devices and thus their already frail condition is further exacerbated by this loss. Your Committee agrees that the hospital facility should take some responsibility for ensuring that patient's personal effects are inventoried upon their admission, so that healthcare workers and visitors alike will be more aware about and careful in handling these items.

Testimony in support of this measure was offered by the Senator representing the 5th Senatorial District. Testimony in opposition to this measure was submitted by Hawaii Pacific Health system.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2982 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Fukunaga, Hogue).

SCRep. 2464 Judiciary on S.B. No. 2009

The purpose of this measure is to define "halfway house" to clarify which types of living facilities are required to obtain a conditional use permit for all counties. Currently, "halfway house" is subsumed under the broader category of "group living facility". Further, this measure requires a public informational meeting in the affected area prior to permitting the halfway house.

Your Committee finds that the siting of halfway houses often raises community concerns. Though group living facilities require conditional use permits, this measure provides sufficient assurances that all types of halfway houses are covered under "group living facility".

As affirmed by the record of votes of 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. 2009, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2465 Judiciary on S.B. No. 2037

The purpose of this measure is to strengthen the protection provided by Hawaii's Whistleblowers' Protection Act.

Your Committee finds that the measure strengthens the Whistleblowers' Protection Act by:

- (1) Providing protection to employees who report or are about to report to government entities or their employers violations of law, or who report or are about to report information demonstrating danger to the public health, safety, and welfare;
- (2) Increasing the duration of the statute of limitations for filing a claim under the Whistleblowers' Protection Act from ninety days to two years;
- (3) Stating that the statute of limitations does not begin to toll until an aggrieved employee who is mentally or physically incapacitated is able to return to work; and
- (4) Increasing the penalties for violations from \$500 to \$5,000 per violation.

Your Committee believes that the measure not only provides aggrieved employees with better protection under the law, but also serves as a stronger deterrent against unscrupulous employers who would otherwise take advantage of the trust of their employees.

As affirmed by the record of votes of 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. 2037, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2466 Judiciary on S.B. No. 2044

The purpose of this measure is allow a minor to consent for legal services in certain family court proceedings and to establish a mechanism that would facilitate the pro bono legal representation of minors.

Your Committee received testimony in favor of this measure from Volunteer Legal Services Hawaii, Hawaii Foster Youth Coalition, Keiki Injury Prevention Coalition, and Hawaii Youth Services Network. Your Committee received testimony opposing this measure from the Department of Human Services, and comments from the Administrative Director of the Courts.

Your Committee finds that it is not uncommon for the court to be unaware of a child's true feelings that would be important to disclose when decisions concerning the child's welfare and future are being determined. Allowing a minor to select and retain the services of an attorney within the safeguards provided by this measure would provide protection for all children.

As affirmed by the record of votes of 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. 2044, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2467 Judiciary on S.B. No. 2062

The purpose of this measure is to require veterinarians to report known or suspected cases of animal cruelty to any society dedicated to the prevention of cruelty to animals or to a law enforcement officer.

Testimony in support of this measure was received from the Hawaiian Humane Society and two private citizens.

Your Committee agrees with the testimony of the Hawaiian Humane Society that veterinarians are trained professionals who are entrusted with the care of the community's animals. They are the most likely to see an animal's injuries and to ascertain if abuse or neglect caused those injuries.

Your Committee finds that mandatory reporting by veterinarians enables early intervention to prevent further abuse.

Your Committee has amended this measure by allowing persons other than veterinarians to report and to provide similar immunity to 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 S.B. No. 2062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2062, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2468 Judiciary on S.B. No. 2118

The purpose of this measure is to limit the effects of economic dislocations and resultant unemployment by requiring successor employers to retain incumbent employees upon the divestiture, sale, or acquisition of a business.

Your Committee finds that the retention of incumbent workers is healthier for the State's economy because it provides stable employment to residents, and efficient, uninterrupted service to consumers.

Recognizing that smaller businesses would be detrimentally affected by this measure, your Committee has amended this measure by changing the minimum number of employees of business establishments covered by the new chapter from twenty to fifty, and by making nonsubstantive, technical 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. 2118, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2118, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2469 Judiciary on S.B. No. 2126

The purpose of this measure is to clarify the sentencing provisions for the second, third, and subsequent offenses of abuse of a family or household member.

Testimony in support of this measure was received from the Attorney General, Honolulu Prosecuting Attorney, Honolulu Police Department, and Hawaii State Coalition Against Domestic Violence.

This measure is intended to remedy a constitutionally defective statute. In State v. Modica, the Hawaii Supreme Court held that section 709-906, Hawaii Revised Statutes, providing for both a misdemeanor and a felony offense (a felony for subsequent offenses) for abuse of a family or household member, violated the defendant's rights if the defendant was previously convicted of a misdemeanor offense and later is charged with a felony offense for subsequent offenses. This measure remedies that defect.

Your Committee has amended the purpose section of the measure by deleting language referencing the constitution.

As affirmed by the record of votes of 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. 2126, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2126, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2470 Judiciary on S.B. No. 2307

The purpose of this measure is to expand the definition of "photographs" to include electronic or digital pictures for the purposes of Hawaii's Rules of Evidence.

Your Committee finds that with advances in photographic technology, electronic or digital photography has become as prevalent and at least as accurate as film photography.

As affirmed by the record of votes of 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. 2307 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2471 Judiciary on S.B. No. 2309

The purpose of this measure is to prohibit the operation of ocean watercraft more than one mile from shore unless it is equipped with a certified radio or emergency position indicating radio beacon (EPIRB).

Your Committee finds that requiring either a radio or EPIRB holds the potential to drastically reduce search and rescue missions at sea. Your Committee further agrees that these communication devices will more immediately enable authorities to pinpoint the location of malfunctioning or lost watercraft and thus more quickly rescue persons from serious injury or death due to lengthy exposure to ocean elements.

As affirmed by the record of votes of 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. 2309, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2472 Judiciary on S.B. No. 2335

The purpose of this measure is to eliminate the requirement that a neighborhood electric vehicle (NEV) display a “slow moving vehicle” emblem when traveling on public roads.

Your Committee finds that current law restricts operation of NEVs to roads with a speed limit not greater than 35 miles per hour. Your Committee further finds that “slow moving vehicle” emblems are designed primarily for use on heavy machinery that is being driven on roads with a speed limit of greater than 35 miles per hour. Thus, your Committee agrees that repealing the requirement for NEVs to display “slow moving vehicle” emblems will ameliorate an unnecessarily burdensome requirement on NEV drivers.

As affirmed by the record of votes of 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. 2335 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2473 Judiciary on S.B. No. 2336

The purpose of this measure is to require that all drivers under age eighteen are accompanied by an adult when driving at night between the hours of ten and four.

This measure recognizes and addresses the fact that young drivers are not as capable and experienced in driving, particularly at night. Being licensed does not detract from that fact.

Your Committee believes that this measure would also curb drag racing and driving under the influence among persons under eighteen. Your Committee is particularly concerned about the number of deaths attributable to accidents resulting from excessive speed. Young drivers are particularly vulnerable to poor driving habits, due to their relative immaturity and inexperience behind the wheel.

It is not the intent of your Committee to cause undue hardship to youth who drive at night. The restricted hours of 10:00 p.m. to 4:00 a.m. seem reasonable, since youths should be home in bed between those hours.

As affirmed by the record of votes of 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. 2336, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2474 Judiciary on S.B. No. 2337

The purpose of this measure is to provide enhanced penalties, including vehicle forfeiture for third offenses, for persons convicted of reckless driving or racing on highways.

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney, Honolulu Police Department, and four private citizens. The Public Defender submitted testimony in opposition to this measure.

This measure creates separate, stepped-up penalties for first, second, and third offenses, and provides for vehicle forfeiture for persons convicted of reckless driving.

Your Committee finds that racing on our highways has become an increasingly common problem in Hawaii. The number of speed and racing related accidents and fatalities are far too high, and your Committee believes that harsher penalties may be an appropriate deterrent.

Your Committee has amended this measure by clarifying the language relating to forfeiture requirements under chapter 712A, 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. 2337, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2337, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 2475 Judiciary on S.B. No. 2464

The purpose of this measure is to prohibit discrimination in real estate transactions against domestic violence victims, and to allow the owner of a housing accommodation to request that a victim provide proof that the victim is taking appropriate action aimed at lessening the threat of future incidents of domestic abuse.

Your Committee finds that it is more difficult for a domestic violence victim to seek as well as retain housing accommodations as a result of their victim status. It is therefore important to protect the rights of the domestic violence victim while being careful not to infringe upon the rights of the owner of the housing accommodation.

As affirmed by the record of votes of 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. 2464, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2476 Judiciary on S.B. No. 2481

The purpose of this measure is to include the theft of goats and any species farmed for household or commercial use as constituting the offense of theft of livestock.

Your Committee received testimony in favor of this measure from the Chairperson of the Board of Agriculture.

Your Committee finds that the theft of goats and other livestock results in significant economic losses for those raising livestock not currently covered by Hawaii's theft laws.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2481, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2477 Judiciary on S.B. No. 2484

The purposes of this measure are to:

- (1) Streamline enforcement provisions on lead-acid battery violations;
- (2) Clarify disposal options for used tires and notice requirements to consumers of new tires; and
- (3) Require that tire inventory payments by the rental car industry be paid annually rather than quarterly.

Your Committee finds that, with regard to tire recycling, this measure is in response to concerns raised by tire retailers and car rental companies. For tire retailers, it will provide additional flexibility while maintaining the original intent of the law to give consumers an incentive to leave their old tires at the dealers, rather than taking them home and dumping them. In addition, for motor vehicle rental companies, the change from quarterly to annually for the motor vehicle tire surcharge will allow rental companies and local dealers who sell to car rental companies to recover a portion of the tire surcharge.

As affirmed by the record of votes of 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. 2484 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2478 Judiciary on S.B. No. 2527

The purpose of this measure is to allow a court to deny bail or discontinue bail after a conviction for abuse of family or household member pending appeal by the defendant.

Testimony in support of this measure was received from the Domestic Violence Clearinghouse and Legal Hotline and Hawaii State Coalition Against Domestic Violence. Testimony in opposition was received from the Public Defender and two private individuals.

Your Committee views this measure as an added protection for victims of domestic violence. A defendant who has been convicted of domestic violence could be seeking revenge against the victim while the appeal is pending. A court should have the discretion to deny bail or to revoke bail pending the appeal.

Your Committee has amended this measure by changing "discontinue" to "revoke" in reference to bail, which is the accurate terminology.

As affirmed by the record of votes of 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. 2527, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2527, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Nakata).

SCRep. 2479 Judiciary on S.B. No. 2630

The purpose of this measure is to remove the exception for venue where a party cannot be served.

Your Committee received testimony in favor of this measure from the District Court of the First Judicial Circuit.

Your Committee finds that section 604-7(d), Hawaii Revised Statutes (HRS), includes a clause which allows venue for parties that cannot be served in a particular circuit. Individuals can be served in all circuits, pursuant to section 604-7(c), HRS, and Rule 4 of the District Court Rules of Civil Procedure. The clause regarding venue for a person who cannot be served in a particular circuit is confusing and no longer has practical value.

As affirmed by the record of votes of 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. 2630 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Matsuura).

SCRep. 2480 Judiciary on S.B. No. 2695

The purpose of this measure is to extend the immunity from liability for the enforcement of a valid foreign protective order to the enforcement of a foreign protective order authentic on its face.

Your Committee received testimony in support of this measure from the State Attorney General, Prosecuting Attorneys for Maui County and the City and County of Honolulu, Police Departments for Maui and Hawaii Counties and the City and County of Honolulu, and Volunteer Legal Services of Hawaii.

The timely enforcement of protective orders is critical to protecting the victims of abuse from further abuse or death. However, the timely enforcement of orders issued by other jurisdictions is rendered more difficult by the need to obtain confirmation of the order's validity from the issuing jurisdiction. Practical considerations, such as time zone differences between Hawaii and other jurisdictions, may preclude a quick confirmation, meanwhile leaving the persons seeking protection under the order vulnerable to further abuse.

This measure addresses the above problem by extending the immunity from civil liability currently provided to a law enforcement officer who enforces a valid foreign protective order to an officer who enforces a foreign protective order that is authentic on its face. Under section 586-24, Hawaii Revised Statutes, a foreign protective order is "authentic on its face" if it contains the names of both parties and remains in effect. Using this criteria, a law enforcement officer will be able to quickly determine the validity of a foreign protective order and enforce apparently authentic orders in a timely manner without fear of incurring liability.

Your Committee has amended this measure to establish a presumption of good faith enforcement where the foreign protective order has been received from a governmental agency or where the law enforcement officer, within a reasonable time, has inquired of the foreign jurisdiction as to the order's validity.

As affirmed by the record of votes of 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, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2695, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2481 Judiciary on S.B. No. 2552

The purposes of this measure are to delete:

- (1) The requirement that precinct officials be satisfied that the physical disability exists before rendering assistance; and
- (2) Blindness as a specified condition.

Your Committee finds that current statutory language requires precinct officials to determine an individual is physically disabled before rendering the individual any assistance. This measure would relieve precinct officials of the onerous burden of making quasi-medical determinations that may be beyond the scope of their professional qualifications.

As affirmed by the record of votes of 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. 2552, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2482 Judiciary on S.B. No. 2567

The purpose of this measure is to increase criminal littering penalties to a class C felony for any item of litter weighing at least fifty pounds; provided that establishing a violation does not require testimony by a police officer, but may rely on other relevant evidence, such as photographic evidence or testimony of other witnesses.

Your Committee finds that littering significantly degrades both the environment and quality of life in Hawaii. Proactive steps should be taken to disincentivize littering. Eliminating the need for police officers to testify and allowing the use of photographs or other evidence will enhance the efficiency of the courts in adjudicating a littering 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. 2567 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2483 Judiciary on S.B. No. 2620

The purpose of this measure is to clarify the filing date of nomination papers to be a candidate for the Board of Trustees of the Office of Hawaiian Affairs (OHA).

Your Committee finds that the current statute requires candidates for the Board of Trustees of OHA to file their nomination papers sixty days prior to the general election. This measure would conform the filing deadline for OHA candidates with the July filing deadline required of all other candidates to federal, state, or county elective offices, fostering equity and clarifying the filing process.

As affirmed by the record of votes of 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. 2620 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2484 Judiciary on S.B. No. 2691

The purpose of this measure is to enable the Child Support Enforcement Agency (CSEA) to notify employers of the amount of child support automatically withheld from an employee's paycheck by way of notice, as opposed to requiring a certified court order being served on the affected employer.

Your Committee received testimony in support of this measure from the Attorney General (AG) and a private citizen.

This measure also allows the CSEA to levy fines against individuals and entities not responding to its requests for information, and clarifies that spousal support can only be enforced when child support is being enforced and that all child support records are confidential.

According to testimony of the AG, this measure conforms existing law with federal statutory requirements and streamlines the child support enforcement process.

Your Committee has amended this measure to make a technical change for proper statutory drafting and to correct statutory 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 S.B. No. 2691, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2691, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 2485 Judiciary on S.B. No. 2624

The purpose of this measure is to repeal the requirement that an applicant for the position of the Judiciary's administrator of the courts be a resident of the State of Hawaii for at least three years.

Your Committee finds that the position of administrator of the courts plays a central role in the efficient operation of the State's Judiciary. The administrator of the courts is responsible for implementing the directives of the Chief Justice, the Supreme Court, and the day-to-day operations of the Judiciary. As such, your Committee believes that finding the appropriate candidate for the position transcends the policy of requiring that a candidate maintain residency in Hawaii for at least three years prior to applying for the position.

Your Committee believes that repealing the three-year residency requirement will provide the Judiciary with a larger pool of applicants from which to choose for the position of administrator of the 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. 2624, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2486 Judiciary on S.B. No. 2633

The purpose of this measure is to preserve the privacy of jurors by:

- (1) Excluding from public record jury qualification forms; and
- (2) Requiring the redaction of a juror's personal information, addresses, social security number, driver's license number, and phone numbers prior to public disclosure.

Your Committee finds that individuals who serve as jurors are concerned that their private information may be disseminated publicly or become a part of the public record as a result of their service. This measure provides certain safeguards to limit public exposure of jurors' sensitive information.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2633, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2487 Judiciary on S.B. No. 2645

The purpose of this measure is to allow a police officer to determine what type of test shall be administered (blood or urine), when the officer suspects a driver of being under the influence of drugs. This measure also makes amendments to the implied consent provisions to clarify that for the purposes of determining alcohol content, the applicable tests are blood and breath.

Your Committee finds that this measure will enable our police officers to be more effective by giving them the necessary authority to investigate impaired drivers and reduce drug/alcohol related fatalities and accidents.

Your Committee further finds that this measure is necessary because in certain instances, an arrestee may not choose the test they prefer until after the three hour time limit has passed. In addition, certain types of tests are more effective to discover the presence of certain intoxicants in a person's system. For example, your Committee finds that a urine test is not very effective to determine whether a driver has been drinking.

Therefore, your Committee supports this measure to give our officers the authority to determine, based on their experience and suspicion, which test is necessary to determine if a driver was under the influence of drugs or alcohol.

As affirmed by the record of votes of 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. 2645 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2488 Judiciary on S.B. No. 2646

The purpose of this measure is to establish that the refusal of a legally arrested person to submit to a breath, blood, or urine test may be admissible in any criminal or civil proceeding.

Your Committee finds that under current statutory provisions, evidence of a person's refusal to submit to a blood, breath, or urine test for alcohol or drugs can only be admitted in the administrative license revocation proceedings and not in any other criminal or civil proceeding.

Your Committee further finds that this information is admissible for other proceedings in almost every other jurisdiction. Your Committee believes that this measure to allow the admission of such evidence will assist the trier of fact to determine whether a driver was impaired in a criminal or civil case, and will have a deterrent effect on persons driving under the influence.

As affirmed by the record of votes of 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. 2646 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2489 Judiciary on S.B. No. 2692

The purpose of this measure is to require issuance of the federally prescribed National Medical Support Notice (NMSN) form when a responsible parent is ordered to provide medical insurance coverage for a child.

Your Committee finds that federal law mandates use of NMSN pursuant to Title IV-D of the Social Security Act. This measure brings Hawaii law into compliance with that federal 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. 2692 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2490 Judiciary on S.B. No. 2693

The purposes of this measure are to:

- (1) Repeal provisions that create a public assistance debt against a responsible parent for public assistance provided to a child;
- (2) Require a payment of child support to the Department of Human Services for periods when public assistance is paid for the benefit of the child; and
- (3) Allow an order or judgment from a state other than Hawaii regarding child support to be recorded in the bureau of conveyances.

Your Committee finds that the provisions in this measure bring Hawaii law into compliance and accordance with federal law with respect to calculating repayment obligations for public assistance and the recordation of out-of-state orders and judgments relating to 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 S.B. No. 2693 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2491 Judiciary on S.B. No. 2704

The purpose of this measure is to modify the administrative eviction process for public housing tenants.

The Housing and Community Development Corporation of Hawaii (HCDCH) testified in support of this measure. The Interim Residents Advisory Board and an individual opposed the measure.

Under current eviction procedures for public housing tenants, up to a year and a half can elapse between the time a notice of eviction is given to a tenant and the tenant is actually evicted. During this period, rents continue to accrue, and currently the HCDCH's tenant accounts receivable is approximately \$1.2 million.

This measure proposes to modify the eviction process by requiring a meeting between the HCDCH and a tenant no earlier than fourteen days after the eviction notice has been given. This meeting would provide the tenant with an opportunity to address the alleged lease violation early in the eviction process and to try to remedy the situation. If these efforts are unsuccessful, the tenant would retain the rights to a grievance hearing and eviction hearing. However, under this measure, the right to administratively appeal the eviction would be eliminated. The tenant would continue to have the right to appeal the eviction to State Circuit Court. Your Committee finds that this measure will enable the HCDCH to deal with lease violations in a more prompt and efficient manner, without denying tenants due process.

As affirmed by the record of votes of 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. 2704, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2492 Judiciary on S.B. No. 2705

The purpose of this measure is to make the requirement for transmission of a record on appeal in public housing cases consistent with the requirement for appeals from other administrative proceedings.

Your Committee finds that under chapter 201G, Hawaii Revised Statutes (HRS), the Housing and Community Development Corporation of Hawai'i (HCDCH) is required to transmit to the reviewing court, within fifteen days, the record of a proceeding on appeal from an administrative hearing decision. Your Committee further finds that this fifteen-day requirement conflicts with section 91-14(d), HRS, which imposes a twenty-day requirement upon administrative agencies. Thus, your Committee agrees that increasing the time period for transmission of the record from fifteen to twenty days, will provide consistency in the laws governing judicial review of decisions derived through the administrative hearing process.

As affirmed by the record of votes of 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. 2705 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2493 Judiciary on S.B. No. 2729

The purpose of this measure is to correct statutory references throughout the Hawaii Revised Statutes relating to the business corporation and nonprofit corporation laws.

The Commissioner of Securities testified in support of this measure.

Effective July 1, 2001, the Hawaii Business Corporation Act, codified in chapter 415, Hawaii Revised Statutes (HRS), was repealed and replaced by a new business corporations law codified in chapter 414, HRS. Similarly, effective July 1, 2002, the Hawaii Nonprofit Corporation Act, codified in chapter 415B, HRS, will be repealed and replaced by a new nonprofit corporations law codified in chapter 414D, HRS.

Various provisions throughout the Hawaii Revised Statutes still contain references to the repealed and soon-to-be repealed provisions. Therefore, this measure replaces these obsolete references with references to the appropriate current or to-be-effective law. Additionally, this measure updates the law that allows agencies to implement fee modifications without rulemaking but subject to the governor's approval, by including therein references to the laws governing business entities.

Your Committee has amended this measure by making technical changes to reinsert language inadvertently deleted and to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2729, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2729, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2494 Judiciary on S.B. No. 2730

The purpose of this measure is to expand and clarify the State's business merger laws.

The Commissioner of Securities testified in support of this measure.

Currently, state law restricts mergers among various types of business entities and is unclear as to the requirements for mergers between certain entities. This measure, which is based on Delaware law, allows registered business entities to merge freely with other registered entities. Additionally, this measure clarifies the procedures for approval of a merger by shareholders and the filing of articles of merger. Your Committee finds that providing for greater flexibility in the State's merger laws will facilitate business and commercial activity in 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 S.B. No. 2730, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2495 Judiciary on S.B. No. 2731

The purpose of this measure is to clarify and update the State's securities laws.

The Commissioner of Securities (Commissioner) testified in support of this measure.

This measure:

- (1) Provides that foreign securities approved for margin by the Board of Governors of the Federal Reserve System are exempt from certain requirements relating to filing, registration, and advertising;
- (2) Re-establishes the Commissioner's authority to exempt transactions from the above requirements pursuant to rule, to rectify an inadvertent repeal of this authority by Act 16, Session Laws of Hawaii 2001;
- (3) Clarifies the exempt transactions law by establishing separate exemptions for private offerings within the meaning of section 4(2) of the Securities Act of 1933 and for offers or sales of securities made under Regulation D of the Act;
- (4) Repeals the requirement that investment advisers obtain errors and omission coverage, thereby making Hawaii's law consistent with the laws of the other states, since this requirement appears to have no demonstrable impact on investor protection; and
- (5) Repeals specific bonding requirements for investment advisers to allow the establishment of these requirements by administrative rule, consistent with the North American Securities Administrators Association model rule.

Your Committee finds that these changes will facilitate securities transactions in this State and the oversight of these transactions by the Commissioner.

As affirmed by the record of votes of 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. 2731, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2496 Judiciary on S.B. No. 2754

The purposes of this measure are to:

- (1) Exempt from child care licensing and registration statutes and rules persons who care for two or fewer children unrelated to the caregiver by blood, marriage, or adoption;
- (2) Authorize the Department of Human Services (DHS) to investigate possible violations of the child care law; and
- (3) Allow the DHS to obtain an inspection warrant from District Court.

Your Committee finds that this measure reinstates a prior law that was inadvertently repealed two years ago, which exempted a person who cares for two or fewer unrelated children from child care licensing and registration laws. By reinserting this exemption, the DHS will be able to focus its licensing and registration efforts on the larger childcare operations.

As affirmed by the record of votes of 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. 2754 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2497 Judiciary on S.B. No. 2765

The purpose of this measure is to provide for a more streamlined and convenient process for registering divorces and annulments occurring in the State.

Your Committee received testimony in favor of this measure from the Lieutenant Governor and Department of Health, and comments from the Administrative Director of the Courts.

Your Committee finds that the burden on the Department of Health to register divorces and annulments is excessive and renders the Department less efficient in its overall duties. In addition, the process duplicates documents kept by the Judiciary.

Your Committee has amended this measure by repealing section 338-29, Hawaii Revised Statutes, in its entirety, rather than amending it, based on the Department's change in reasoning. The Department prefers to altogether cease the registration of divorces and annulments, but will continue to register divorces and annulments that are granted up through December 31, 2002, by the Family Court. Accordingly, this measure has been amended to reflect the appropriate effective date.

As affirmed by the record of votes of 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. 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2498 Judiciary on S.B. No. 2777

The purpose of this measure is to allow a person, a person's guardian, or agent, or surrogate with legal authority, to make healthcare decisions on behalf of the person to allow withholding cardiac resuscitation and artificial breathing or to revoke "comfort care only-do not resuscitate" (CCO-DNR) documents.

Your Committee finds that current law specifies that only a physician declaration of a terminal condition can implement pre-hospital CCO-DNR protocols. This can place physicians in the unenviable position of mitigating against the very personal autonomy and self-determination intended by such documents.

As affirmed by the record of votes of 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. 2777 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2499 Judiciary on S.B. No. 2791

The purpose of this measure is to make sex offenders ineligible for employment for any position within the Hawaii State Public Library System.

Your Committee finds that the state library system, staff, and patrons would benefit from an initiative to lessen instances of sexual harassment and abuse. The system would benefit from lessened liability, staff from improved morale, and patrons from a more wholesome environment. This latter point is especially important as library programs serve hundreds of children and teens from pre-schools, public and private schools, and adults daily at all 50 libraries. All stakeholders would appreciate the greater sense of security fostered by this measure as well.

Your Committee has amended the measure to correctly reflect the language 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. 2791, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2791, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2500 Judiciary on S.B. No. 2794

The purpose of this measure is to make permanent certain fishing law licensure and permitting requirements contained in Act 85, Session Laws of Hawaii 1999, by removing the sunset provision of that Act.

Your Committee finds that Act 85, Session Laws of Hawaii 1999, essentially allows the Department of Land and Natural Resources (DLNR), through rulemaking and community outreach programs, to review and update rules regarding the taking of certain marine life.

Your Committee further finds that DLNR is in the process of a comprehensive review of its fishing regulations, and that the new rules regarding minimum size, catch limits, and closed seasons may soon be in place. Your Committee supports this effort and believes that DLNR should have the flexibility to amend these rules from time to time, as circumstances dictate.

Your Committee therefore supports this measure, but has amended it to delay its effective date until June 29, 2050, in order to facilitate further review of this matter and DLNR's final rules.

As affirmed by the record of votes of 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. 2794, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2794, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2501 Judiciary on S.B. No. 2795

The purposes of this measure are to expand the Department of Land and Natural Resources' authority to possess or use chemicals and electrofishing devices that would normally be unlawful, when no other reasonable alternative is appropriate; to expand the Department's authority to permit non-consumptive activities that are otherwise prohibited by law; and to clarify that permits issued for chemicals and electrofishing devices include possession or use of such devices.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that this measure will assist the Department in applying more efficient management practices for the State's aquatic resources, particularly in dealing with infestations of alien species.

As affirmed by the record of votes of 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. 2795, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2502 Judiciary on S.B. No. 2823

The purpose of this measure is to require manufacturers, dealers, and users, to report on their inventories of explosives and to provide penalties for noncompliance.

The measure requires those who possess explosives to file quarterly reports with the Department of Public Safety. Failure to comply with the reporting requirements is punishable by fines ranging from \$1,000 to \$10,000.

The measure also exempts the armed forces of the United States, employees of the United States, state and county police and fire departments who are authorized to handle explosives, and others that the Director of Public Safety may designate from the reporting requirement.

Your Committee finds that since the terrorist attacks on September 11, 2001, there is a need to keep track of explosives in the State in order to verify that the explosives will be used for legal purposes only.

Your Committee has amended the measure 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2823, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2823, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2503 Judiciary on S.B. No. 2840

The purpose of this measure is to modify the State's commercial driver licensing laws to conform to new federal standards, regulations, and penalties pertaining to railroad and highway grade crossings for commercial motor vehicles. In addition, this measure provides stricter standards for disqualification of commercial drivers who have had their licenses revoked or who have been convicted of certain driving offenses.

Your Committee finds that commercial driver licensing laws are designed to improve highway safety by ensuring that drivers of large commercial vehicles are qualified to operate those vehicles safely.

Your Committee further finds that federal Motor Carrier Safety regulations require that Hawaii law with regard to commercial driver licensing conform to federal penalties and sanctions by October 4, 2002.

Therefore, your Committee supports this measure to comply with federal 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. 2840, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2504 Judiciary on S.B. No. 3031

The purpose of this measure is to enact a revised article 1 of the Uniform Commercial Code (UCC).

Testimony in support of this measure was received from Hawaii's Commission to Promote Uniform Legislation.

The UCC, drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and adopted in all fifty states, establishes uniform procedures that govern commercial transactions. As various articles of the code have been revised and updated by the NCCUSL over the years, Hawaii has updated its laws by enacting these revised versions.

This measure updates article 1 of the Code that provides for the general administration of the law and covers matters such as definitions, construction, applicability, notice, performance, and remedies. Your Committee finds that adopting this updated version of article 1 is necessary to maintain the viability of the UCC in 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 S.B. No. 3031, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2505 Judiciary on S.B. No. 3040

The purpose of this measure is to clarify the definition of "nonpublic financial information" under the captive insurance company law.

This measure clarifies the provisions relating to confidential treatment of information relating to a captive insurance company by making all nonpublic information subject to confidential treatment.

Your Committee finds that captive insurance companies incur more confidential proprietary information (nonpublic financial information) because their business operations are more akin to a private company than an insurance company. Current law requires captive insurance companies to disclose such nonpublic financial information to the Insurance Commissioner.

Your Committee has been made aware that the Office of Information Practices objects to the language in Senate Draft 1 of this measure. For this reason, and to further discussions on this measure to ensure that sensitive privacy rights are adequately protected, your Committee has amended this measure by changing the effective date to July 1, 2050. Your Committee has also amended this measure to make technical changes to conform the language to existing 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. 3040, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3040, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2506 Judiciary on H.B. No. 741

The purpose of this measure is to provide immunity from civil liability to any person who acts in furtherance of a constitutional right, and to establish modified judicial procedures for persons against whom claims are brought due to their exercise of a constitutionally protected right.

Your Committee finds that one of the most precious rights afforded American citizens is the right to pursue the freedoms and privileges protected by the federal and state constitutions. Your Committee further finds that citizens are sometimes reluctant to pursue their constitutional rights for fear of being hit with a "strategic lawsuit against public participation" (SLAPP).

Your Committee finds that this measure provides an expedited procedure for disposing of claims brought against persons who petition a court for redress of a grievance under the federal or state constitutions. By expediting that process, the court can address the individual's underlying claims more quickly, and there is less chance that the individual will forgo the original lawsuit due to high court costs and attorney's fees.

As affirmed by the record of votes of 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. 741, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2507 Judiciary on S.B. No. 2045

The purpose of this measure is to require the court to consult with the prosecuting attorney rather than law enforcement agencies prior to issuing an order to expunge a juvenile arrest record that was never referred to the court.

Your Committee finds that consultation with the prosecuting attorney is more appropriate than with law enforcement agencies prior to expungement of juvenile arrest records.

Your Committee notes that the Juvenile Justice Information Committee (JJIC) was established by section 846D-2, Hawaii Revised Statutes, under the Attorney General to promote interagency cooperation and coordination of a statewide juvenile justice information reporting and retrieval system. The JJIC has formed a subcommittee to address concerns raised regarding policy issues related to the exclusion of arrest records where the police disposition is "counseled and released". While this bill substitutes the prosecutor for law enforcement agencies, the Public Defender raised some concerns in your Committee on Health and Human Services. Your Committee requests the JJIC's subcommittee to review the concerns of the Public Defender and to report on its findings and recommendations to the legislature before the 2003 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 S.B. No. 2045 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2508 Judiciary on S.B. No. 2093

The purpose of this measure is to create the offense of health insurance fraud arising from acts or omissions related to health insurance claims.

Testimony in support of this measure was submitted by the Hawaii Medical Service Association (HMSA) and State Farm Insurance Companies. Testimony in support with reservations was submitted by a private individual. Testimony in opposition to this measure was submitted by the Hawaii Medical Association. The State Insurance Commissioner and the Office of Information Practices submitted comments on this measure.

Your Committee finds that this measure is intended to deter fraudulent health insurance claims by creating a civil cause of action for insurers to recover payments or benefits obtained through fraudulent acts or omissions by an insured or a provider. Your Committee further finds that this measure targets not only insured individuals making such fraudulent claims but also includes health care providers who substantiate or allow such fraudulent claims to be filed.

As affirmed by the record of votes of 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. 2093, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2509 Judiciary on S.B. No. 2234

The purpose of this measure is to prohibit the commercial sexual exploitation of minors and activities consisting of exotic or nude dancing, escort services, and erotic or nude massage services.

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney (Prosecutor), Honolulu Police Department, Sisters Offering Support (SOS), Volunteer Legal Services Hawaii, Hawaii Youth Services Network, Hawaii Family Forum, and two private individuals. Testimony in opposition was received from the Public Defender and Libertarian Party of Hawaii.

Your Committee agrees with the testimony of Sisters Offering Support, that federal research has found that nude dancing, lap dancing, nude modeling, escort and nude massage services, and similar sexually provocative activities are used to lure girls into prostitution. One of the most common pathways is stripping. These activities are common in Hawaii. By the time the child is graduated into prostitution or pornography, it is often too late because the emotional, physical, and sexual damage has been done and the minor is fearful of testifying against the perpetrator.

Your Committee has amended this measure by:

- (1) Providing, as recommended by SOS, that a patron or customer of a private club or event is deemed to engage or retain the services of a minor in violation of the law;
- (2) Adding, as recommended by SOS, enticing customers through advertising and operating an escort service using minors; and
- (3) Adding a new statutory section for failure to maintain age verification records of exotic or nude dancers, as recommended by the Prosecutor to enhance enforcement of the offense of sexual exploitation of a minor.

As affirmed by the record of votes of 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. 2234, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2234, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2510 Judiciary on S.B. No. 2291

The purpose of this measure is to make technical amendments to Article 9 of the Uniform Commercial Code related to secured transactions involving agricultural liens and health-care-insurance receivables, and to provide for automatic perfection of sales of accounts involving payments of winnings in a lottery or other games of chance.

Your Committee finds that the amendments correct technical errors in Article 9, and also provide for the automatic perfection of a sale of an account that gives a right to payment of winning in a lottery or other game of chance.

As affirmed by the record of votes of 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. 2291 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2511 Judiciary on S.B. No. 2409

The purpose of this measure is to require civil process servers to wear identification badges and carry wallet-sized identification cards.

Your Committee finds that members of the general public often have difficulty ascertaining whether or not process servers approaching them with official-looking documents are officers of the judiciary serving civil process or impostors. To help ameliorate this concern, your Committee finds it necessary to require civil process servers to carry appropriate identification.

As affirmed by the record of votes of 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. 2409, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2512 Judiciary on S.B. No. 2694

The purpose of this measure is to enact a wiretapping and electronic surveillance law and to establish a surveillance unit within the Department of the Attorney General (AG).

Your Committee received testimony in support of this measure from the AG, Honolulu Prosecuting Attorney, and Honolulu Police Department. Testimony in opposition to this measure was submitted by the Public Defender. The Office of Information Practices (OIP) submitted comments.

Your Committee finds that Hawaii's existing wiretapping law was drafted in 1984, and is badly outdated due to technological advances over the past 18 years. As a result, wiretaps are almost never used in Hawaii.

Your Committee further finds that this measure not only brings Hawaii's electronic surveillance laws up to date, it also provides sufficient protections to ensure that there are no abuses. Specifically, this measure provides strong privacy protections for Hawaii's residents, contemplates current technology, is not overly restrictive, and conforms to federal electronic surveillance laws.

Following the September 11, 2001, terrorist attacks against the United States, it quickly became evident that our national security depends on intelligence gathering, and electronic surveillance is one of the most effective means.

Therefore, your Committee supports this measure, which gives law enforcement officials in Hawaii the tools necessary to use electronic surveillance technology to protect the public.

Your Committee has amended this measure by:

- (1) On the recommendation of the OIP, making all reports concerning intercepted wire, oral, and electronic communications a matter of public record; and
- (2) Changing the effective date to July 1, 2050, for further discussion on this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2694, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2694, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2513 Judiciary on S.B. No. 2837

The purpose of this measure is to clarify that a person who refuses a test for intoxication is ineligible for a conditional driving permit under administrative driver revocation.

Your Committee finds that this measure is necessary to correct a loophole in the current law for persons who refuse to take a test for suspected use of intoxicants. Prior to the 2000 amendments to the provisions regarding administrative revocation of a driver's license, an arrestee who refused to take a blood or breath test was not eligible to receive a conditional permit.

Unfortunately, your Committee finds that when the 2000 house-keeping amendments were made to these sections, this language was inadvertently deleted. Thus, your Committee finds that this measure is necessary to close this loophole and improve public safety by keeping intoxicated drivers off the road.

As affirmed by the record of votes of 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. 2837 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Slom).

SCRep. 2514 Judiciary on S.B. No. 2990

The purpose of this measure is to statutorily recognize crimestoppers programs. Specifically, this measure defines "crimestoppers organization"; deems all records of crimestoppers organizations as confidential and communications as privileged and prohibits their disclosure except by in camera inspection by a court where exculpatory to a defendant; and provides a mechanism to compensate persons whose tip leads to the arrest and conviction of a criminal.

Your Committee received testimony in support of this measure from the Office of Information Practices, Honolulu Police Department, Honolulu Prosecuting Attorney, CrimeStoppers Honolulu, Inc., Hawaii Bankers Association, and Hawaii Visitor Industry Security Association. The Judiciary provided comments.

Your Committee finds that citizens can be the best police force in the State, as they often are exposed to criminal activity when there are no law enforcement personnel in the vicinity. Your Committee believes that citizens should be encouraged to assist peace officers in ferreting out crime.

Along those lines, the CrimeStoppers program was created in Albuquerque, New Mexico, in 1976. There are now over 1,100 crimestoppers programs worldwide, and the program has proven very successful in galvanizing citizen involvement in crime detection and prevention.

In 1981, CrimeStoppers Honolulu, Inc., was founded by Richard Davi. Over the past 20 years, persons providing tips through the program have lead to several thousand arrests and the recovery of millions of dollars worth of property.

Your Committee fully supports the efforts of the CrimeStoppers program, and further supports this measure, to provide a statutory framework for such programs and compensating persons providing useful tips.

Your Committee has amended this measure by:

- (1) On the recommendation of the Judiciary, deleting reference to in camera review and confidentiality of records, and to privileged communications, and inserting a request for an interim study by the Hawaii Supreme Court's Standing Committee on Rules of Evidence; and
- (2) Making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2990, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2990, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2515 Judiciary on S.B. No. 2732

The purpose of this measure is to update and clarify Hawaii's business registration laws to reflect modern business practices, and to amend the filing procedures for the Business Registration Division (BREG) to encourage existing Hawaii business entities to remain in the State and to facilitate the formation of new businesses in the State.

Your Committee received testimony in support of this measure from the Commissioner of Securities and from the President, Executive Director, Director of Programs, Government Affairs/Special Projects Director, and two members of Unity House, Inc.

This measure incorporates changes to the business registration laws proposed by BREG, the Business Law and Real Estate Sections of the Hawaii Bar Association, and Unity House. Among other things, this measure:

- (1) Allows for the appointment of a trustee or receiver to dispose of a dissolved corporation's property;
- (2) Permits corporations to use electronic means of communication as an alternative to conducting in-person shareholder meetings;
- (3) Clarifies that the board of directors of a Hawaii corporation may utilize its powers to issue rights and options to adopt a plan that would deny shareholders the right to amass a defined percentage block of stock for the purpose of a hostile takeover;
- (4) Repeals provisions of the new nonprofit corporation law relating to member resignation and action by written ballot, to maintain consistency with the outgoing nonprofit corporation law, and makes other changes to the new law;
- (5) Requires all registered business entities to appoint a registered agent;
- (6) Establishes an annual filing requirement that is based upon the date of an entity's original registration;
- (7) Makes uniform the standard for the administrative dissolution of registered entities;
- (8) Clarifies that general partnerships and limited liability partnerships are not separate entities;
- (9) Reconciles inconsistencies between state law and federal law regarding a nonprofit corporation member's right to inspect and receive copies of a membership list;
- (10) Allows a voting proxy to be valid for more than three years if provided for in a nonprofit corporation's bylaws; and
- (11) Corrects ambiguities and errors and makes technical changes for purposes of clarification, consistency, and style.

Your Committee finds that the amendments contained in this measure strike an appropriate balance by easing some of the unnecessary burdens on business entities in Hawaii, while at the same time ensuring that shareholders and members are protected.

As affirmed by the record of votes of 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. 2732, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2516 Judiciary on S.B. No. 2046

The purpose of this measure is to create criminal offenses for causing injury or death to, interfering with the use of, or misrepresenting oneself as the owner or trainer of a guide dog, signal dog, or service animal.

Testimony in support of this measure was received from the Disability and Communication Access Board, Hawaii Civil Rights Commission, Honolulu Police Department (HPD), Guide Dog Association of Victoria, and seven hundred individuals. Comments were submitted by the Hawaiian Humane Society. Testimony in opposition was received from the Public Defender.

This measure recognizes the unique skills of guide dogs, signal dogs, and service animals that have completed lengthy and specialized training to serve their owners with disabilities. The testimony of the owners of these dogs was overwhelmingly sympathetic to the animals. The owners are highly dependent on their dogs, who serve as the eyes and ears for the disabled. Your Committee learned that these dogs have become the object of taunting and injury from people or from other dogs.

Your Committee has amended this measure on the recommendation of the HPD to include dogs owned by the State or any county to assist in law enforcement, except as to misrepresentation as the owner or trainer. These dogs are highly skilled and form an integral part of law enforcement and criminal investigation, and are used for locating drugs and illegal explosives and missing 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. 2046, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2046, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2517 Judiciary on S.B. No. 2523

The purpose of this measure is to enact the Uniform Child-Custody Jurisdiction and Enforcement Act of 1997 (UCCJEA).

Testimony in support of this measure was received from the Judiciary, Honolulu Prosecuting Attorney, Hawaii State Coalition Against Domestic Violence, Domestic Violence Clearinghouse and Legal Hotline, and the Commission to Promote Uniform State Laws.

The UCCJEA replaces the Uniform Child Custody Jurisdiction Act of 1968, codified as chapter 583, Hawaii Revised Statutes. This measure:

- (1) Eliminates the differences between the 1968 enactment and the federal Parental Kidnapping Prevention Act;
- (2) Enhances home state custody continuing exclusive jurisdiction;
- (3) Authorizes enforcement proceedings in a state other than the state issuing the custody order;
- (4) Authorizes prosecutors to locate the child and enforce custody orders; and
- (5) Provides uniformity among the states which is necessary for a mobile population.

This measure is intended to address the common situation today whereby a mobile population has resulted in jurisdictional conflicts among states which often works to the detriment of enforcing child custody orders. This measure would allow one state to modify and enforce another state's order, under certain circumstances. According to testimony, this measure has important implications in domestic violence situations that often result from child custody disputes.

Your Committee has amended this measure on the recommendation of the Judiciary by:

- (1) Clarifying the definition of "record" to allow the court greater flexibility in operations;
- (2) Making the language relating to findings concerning the health and safety of the child, consistent with the language of the Uniform Interstate Family and Support Act, chapter 576B, Hawaii Revised Statutes; and
- (3) Requiring the court to hold the hearing on the petition after not less than 48 hours notice to the respondent, rather than on the first judicial day possible because of the scheduling difficulties for the court.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2523, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2523, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2518 Judiciary on S.B. No. 2685

The purpose of this measure is to toll or suspend the statute of limitations for civil actions against a defendant while the defendant is in prison serving a sentence for certain crimes that form the basis of the civil suit.

Testimony in support of this measure was received from the Judiciary, Attorney General, Department of Public Safety, Maui Prosecuting Attorney, and Honolulu Prosecuting Attorney. Testimony in opposition was received from the Public Defender.

The crimes covered by this measure are crimes that constitute sexually violent offenses and criminal offenses against a victim who is a minor. These crimes very often entail physical and mental injury to the victim, which form the basis of a separate civil cause of action. However, current law does not make exception to the running of the statute of limitations to file a civil suit if the defendant is

incarcerated. This measure would require that the statute of limitations be tolled, enabling the victim to file the suit after the defendant is released from incarceration if there is still time available under the statute of limitations.

This measure also requires notification of the victim or surviving family of the victim if the incarcerated person receives any civil judgment or settlement or other income exceeding \$10,000. Release from incarceration to parole would be preconditioned upon the incarcerated person paying restitution and judgments to the victim or victim's family, if the Hawaii Paroling Authority determines that the person is financially able to do so. This measure also provides immunity to the State and any county from damages in any lawsuit based upon these requirements.

As affirmed by the record of votes of 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. 2685 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2519 Judiciary on S.B. No. 2697

The purpose of this measure is to create new penal offenses relating to terrorism, making false public alarms, hindering apprehension or prosecution for terrorism, and unlawful production or possession of a chemical, biological, or nuclear weapon.

The measure also amends the reckless endangering and terroristic threatening statutes to include a class B felony offense where a dangerous instrument is involved.

Testimony in support of this measure was received from the Attorney General, Honolulu Police Department, Honolulu Prosecuting Attorney, and a private citizen. Testimony in opposition was received from the Public Defender and two private citizens.

This measure is in response to the terror attacks of September 11, 2001, calling for a national and state effort to enhance security against acts of terrorism. This measure is intended to combat terrorism and related activities by providing law enforcement officials with means to charge those involved in terror related activities. Current law is devoid of these charges. This measure is not intended to, as opponents suggest, aggrandize a state control over society. Your Committee considers this measure as one of public safety. Without the new offenses contained in this measure, prosecutors are helpless to prevent and deter terror activities. The result of this measure is that citizens have a measure of comfort that law enforcement possess the requisite tools to fight terrorism.

Your Committee has amended this measure by making technical changes for proper drafting and for clarity and style, and by changing the effective date to July 1, 2050, to assure further discussions.

As affirmed by the record of votes of 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. 2697, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2697, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 2520 Commerce, Consumer Protection and Housing on S.B. No. 2468

The purpose of this measure is to lower the contract price threshold for the requirement of a contractor's license.

Your Committee received testimony in support of this measure from the Subcontractors Association of Hawaii, Hawaii Wall and Ceiling Industry Association, Pacific Electrical Contractors' Association, Painting and Decorating Contractors Association of Hawaii, Harvey's Flooring, and Kaulana Roofing Corporation. The Contractors License Board testified in opposition to the measure.

Currently, persons performing contracting work where the project price does not exceed \$1,000 are not required to have a contractor's license. Originally, this "handyman" exemption applied to jobs with prices up to \$100, but ten years ago the threshold was increased to \$1,000.

Your Committee finds that the current law allows unlicensed persons to undertake substantial, skilled work without complying with the licensing standards, qualifications, and requirements established to protect consumers. While the "handyman" exemption was originally established to allow for the undertaking of relatively simple repair or maintenance work without a license, under the current threshold amount, unlicensed persons are allowed to perform substantial work involving more skill or experience than that contemplated by the exemption.

Your Committee received testimony that for \$1,000, a homeowner can have several rooms in a house painted, carpet in a bedroom replaced, a ceramic tile entry installed, a garage reroofed, or solar vents installed. These jobs are currently being solicited by individuals who may not possess the necessary skills or experience, who do not maintain insurance or bonding, and who do not contribute to the contractors recovery fund. Consumers harmed by these unlicensed individuals are without recourse under the contractor's licensing law.

While your Committee finds that a decrease in the contract price threshold is warranted in order to protect consumers, it does not believe that it should be re-established at \$100. Your Committee received testimony that if the threshold is set too low, consumers may experience difficulty in legally securing a contractor because licensed contractors may not be inclined or financially able to accept

contract jobs below a certain amount. Therefore, your Committee has amended this measure by raising the proposed contract price threshold from \$100 to \$500. In addition, your Committee made technical, nonsubstantive changes to the measure to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2468, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2468, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2521 Commerce, Consumer Protection and Housing on S.B. No. 2708

The purpose of this measure is to authorize the Housing and Community Development Corporation of Hawaii (HCDCH) to waive the three-year buyback requirement for the sale of affordable housing.

The HCDCH testified in support of this measure.

In order to prevent speculative investment and preserve affordable housing, homeowners of affordable units in government-sponsored housing projects are prohibited from selling their homes on the open market for a specific number of years during which time the HCDCH retains the first option to buy back the property. Originally the buyback period was ten years, but when the residential market began to stabilize in the early to mid-1990s, resulting in the sale of market-priced homes at prices comparable to those of affordable homes, the legislature reduced the length of the buyback period.

Finding that the ten-year restriction was hindering the resale of affordable units by homeowners facing financial hardship and a developer's ability to compete in the residential market, the legislature in Act 272, Session Laws of Hawaii 1998, reduced the buyback period to three years and provided that the period would revert back to ten years on December 31, 2000. Act 99, Session Laws of Hawaii 2001 (Regular Session), reestablished the three-year buyback period for another three and one-half years and provided for the law to revert back to the ten-year restriction period on December 31, 2004.

Your Committee finds that current market and economic conditions reduce the risk of speculation in the housing market. Therefore, this measure allows the HCDCH to waive the three-year buyback provision to allow the developers of affordable housing projects to compete on more equal footing with the developers of market-priced homes. Additionally, on December 31, 2004, the buyback period will revert back to ten years and HCDCH's waiver authority is repealed.

Your Committee has amended this measure by conforming its effective date to the effective date of Act 99, Session Laws of Hawaii 2001 (Regular Session), and making other technical changes to reflect preferred drafting style and to correctly reflect language in the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Second Reading in the form attached hereto as S.B. No. 2708, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2522 Commerce, Consumer Protection and Housing on S.B. No. 2728

The purpose of this measure is to clarify the law establishing procedures for the voluntary termination of an escrow depository.

The Commissioner of Financial Institutions testified in support of this measure.

Act 184, Session Laws of Hawaii 2001 (Regular Session) established a new section within chapter 449, Hawaii Revised Statutes, that conformed the voluntary termination procedures for escrow depositories with the procedures for other state-regulated financial institutions. In the new statutory section, requirements relating to the designation of a contact person for closed accounts were referenced twice, within different subsections. This measure eliminates the redundancy resulting therefrom, and clarifies the law by placing all references to the contact person requirement within one subsection.

Your Committee has amended this measure to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2728, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2728, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Kim).

SCRep. 2523 Commerce, Consumer Protection and Housing on S.B. No. 2091

The purpose of this measure is to repeal the sunset date of chapter 431M, Hawaii Revised Statutes (HRS), relating to mental health and alcohol and drug abuse treatment insurance benefits.

Testimony in favor of this measure was submitted by the Department of Health, Hawaii Psychological Association, Equal Insurance Coalition, Mental Health Association in Hawaii, Hawaii Psychiatric Medical Association, Community Alliance on Prisons, Hawaii Medical Association, NAMI Oahu, and Diamond Head to Kalihi-Palama Service Area Board on Mental Illness and Substance Abuse. The Hawaii Chamber of Commerce provided comments on this measure.

Chapter 431M, HRS, is currently set to be repealed on July 1, 2002, pursuant to Act 78, Session Laws of Hawaii (SLH) 1998. Your Committee has heard testimony over the past several years in support of insurance benefits for mental health and alcohol and drug abuse.

Although originally enacted by Act 202, SLH 1988, as temporary coverage due to questions about efficacy and insurance costs, those doubts have since been resolved favorably. These coverages have proven to provide therapeutically effective treatment and do not raise premiums appreciably. Your Committee believes that insurance benefits should be made permanent.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2091 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 2524 Commerce, Consumer Protection and Housing on S.B. No. 2094

The purpose of this measure is to make permanent section 431:13-108, Hawaii Revised Statutes, Hawaii's prompt payment law, which is scheduled for repeal on July 1, 2002.

This measure also makes various amendments to the law which went into effect on July 1, 2000, to eliminate confusion and simplify its administration. The amendments include exempting an entity from the notice requirement if monthly reimbursement reports are provided to the provider; requiring entities to provide a system for providers to verify enrollee eligibility; limiting the payment of interest on delayed claims for accruals of at least \$2; and defining "clean claim".

Testimony in support of this measure was submitted by Hawaii Medical Service Association (HMSA) and Hawaii Medical Association. The State Insurance Commissioner submitted testimony supporting the deletion of the sunset requirement, and opposing the proposed limit on interest payments. Royal State National Insurance Co., Ltd. submitted comments requesting an amendment.

Your Committee finds that the regulation of reimbursements for health care services provided in good faith must be maintained in order to assure that claims based upon accurate billing are expeditiously processed. Your Committee further finds that Hawaii's "Prompt Payment Law" is an appropriate mechanism for ensuring good business practices between providers of medical services and health insurers, mutual benefit societies, and health maintenance organizations.

Your Committee has amended this measure by making technical non-substantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2094, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2094, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Matsunaga).

SCRep. 2525 Commerce, Consumer Protection and Housing on S.B. No. 2721

The purpose of this measure is to extend for another year the insurance commissioner's authority to examine and supervise, rehabilitate, or liquidate insolvent dental insurers, and to allow any action brought pursuant to this authority to proceed to its conclusion.

The Insurance Commissioner, Hawaii Dental Service, and Hawaii Medical Service Association testified in support of this measure.

Act 132, Session Laws of Hawaii 2001, Regular Session (Act 132) made dental service corporations and dental service organizations subject to the Commissioner's enforcement, examination, supervision, rehabilitation, and liquidation powers. Prior to the Act, not all dental plans were subject to regulation by the Commissioner. Act 132 further provided for a repeal of these powers as to dental service corporations and organizations on July 1, 2002.

Pursuant to Act 132, the Commissioner initiated an investigation against a dental insurer that was unable to pay its claims, was not adequately responding to complaints, and was not cooperating with State authorities. Subsequently, based on evidence that the insurer was insolvent and had violated state laws, the State Circuit Court ordered the insurer seized and liquidated.

The Commissioner is currently serving as Liquidator in the liquidation proceedings. By extending the sunset date on the law establishing the Commissioner's oversight over dental service corporations and organizations, and allowing for the continuation of proceedings brought thereunder until their conclusion, this measure would allow the Commissioner to continue to pursue the claims of providers and creditors in the pending liquidation action.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2721, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 2526 Commerce, Consumer Protection and Housing on S.B. No. 2725

The purpose of this measure is to conform naturopathy licensing requirements to current practices and to changes in the accreditation of naturopathy schools.

The Department of Commerce and Consumer Affairs and Council on Naturopathic Medical Education testified in support of this measure. The American Association of Naturopathic Physicians supported the bill's intent and proposed an amendment.

Prior to August, 2000, applicants for the naturopathy licensing examination were required to submit their applications to the Board of Examiners in Naturopathy, rather than to the testing agency. Subsequently, procedures were changed to allow submission of the application directly to the testing agency. This measure amends the law to conform to this practice and makes other amendments to clarify the examination requirement.

In addition, this measure amends the licensing law to conform to current accreditation practices for naturopathy schools. Presently the law requires that license applicants have graduated from a school accredited by a regional or national professional accrediting body recognized by the United States Department of Education (USDOE), a professional accrediting body being one that specializes in naturopathy. The only such accrediting body lost its recognition a year ago, therefore making it impossible for applicants to meet the educational requirement. By deleting the statutory reference to a "professional" accrediting body, this measure allows for the recognition of degrees earned from schools accredited by other USDOE-recognized regional or national accrediting bodies.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 2527 Commerce, Consumer Protection and Housing on S.B. No. 2762

The purpose of this measure is to make permanent the requirement that health insurance plans in the State include coverage for the treatment of mental illness, alcohol dependence, and drug dependence.

Your Committee received testimony in support of this measure from the Department of Health, Hawaii Government Employees Association, Hawaii Psychological Association, Equal Insurance Coalition, Mental Health Association in Hawaii, National Association of Social Workers, Kalihi-Palama Service Area Board on Mental Illness and Substance Abuse, National Alliance for the Mentally Ill Oahu, Hawaii Medical Association, Hawaii Psychiatric Medical Association, Hawaii Nurses' Association, and two individuals.

The National Institute of Mental Health estimates the annual cost of untreated mental illness at over \$300 billion per year in the United States. Untreated mental illness and substance abuse disorders may result in increased demands for services to treat secondary medical conditions such as HIV disease, fetal alcohol syndrome, cardiopulmonary disease, and cirrhosis.

Currently, state law mandates the inclusion of mental health and substance abuse treatment services in individual and group health plans. However, this mandate is scheduled to be repealed on July 1, 2002, having been extended several times since the law was enacted in 1988. Your Committee finds that mental health and substance abuse treatment services are essential and integral components of health care. Therefore, your Committee supports the passage of this measure which repeals the sunset of chapter 431M, Hawaii Revised Statutes, and ensures continued coverage for mental illness and substance abuse disorders under health insurance plans in this State.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2762, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Matsunaga).

SCRep. 2528 Commerce, Consumer Protection and Housing on S.B. No. 2769

The purpose of this measure is to facilitate the residential and community-based treatment of mentally ill adults by easing program participation standards for transitional facilities and those that offer semisupervised living arrangements.

The Department of Health (DOH) testified in support of this measure. The Hawaii Disability Rights Center opposed the measure.

Currently all programs or facilities that apply to be part of the State's community residential treatment system must be licensed by the DOH. These programs range in the spectrum of restrictiveness from those that provide acute crisis twenty-four hour care to facilities that offer a semisupervised and independent, but structured living arrangement.

Your Committee finds that the licensing requirement unnecessarily restricts community-based housing options for individuals who do not receive treatment in the residential facility, participate in programs in the general community, and are competent in managing their own recovery. Therefore, this measure requires that transitional residential and semisupervised independent living facilities be accredited and certified, rather than licensed. The licensure requirement would continue to apply to residential facilities providing ongoing treatment.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2769 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 2529 Commerce, Consumer Protection and Housing on S.B. No. 2772

The purpose of this measure is to authorize the denial of a tattoo artist's application for license renewal.

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

Currently, the law allows the Director of Health to suspend or revoke the license of a tattoo artist for fraud, deceit, or misconduct, or for violation of DOH rules. This measure provides that, in addition, the Director may refuse to renew the license of a tattoo artist on the same grounds.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2772 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 2530 Ways and Means on S.B. No. 2121

The purpose of this measure is to appropriate funds for papaya research.

Specifically, the research would concentrate on:

- (1) The selection and segregation of high performing papaya varieties among the Laie Gold Lines, and their micro-propagation;
- (2) Production of the top-twenty-five outstanding papaya lines for field tests; and
- (3) Planning and conducting field tests of the top performing papaya lines selected at three different locations to assess performance.

Your Committee finds that papaya diseases and a shrinking market have negatively impacted the papaya industry. Also, issues such as yields, uniformity of fruits, shape, size, and cat-facing continue to be problems for papaya farmers.

This bill would provide the necessary funds to solve present, as well as future problems facing the papaya industry. The appropriation would also assist in researching and developing new varieties of papaya to help Hawaii's papaya industry maintain a competitive edge in the world market.

Your Committee has amended the bill by changing the appropriation to an unspecified amount in order to promote continuing discussion on this matter, 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. 2121, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2121, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2531 Ways and Means on S.B. No. 2132

The purpose of this measure is to fund agricultural research and development at the Hawaii Agriculture Research Center.

Your Committee finds that Hawaii's agriculture industry has become increasingly diverse with new economic opportunities as prime agricultural land becomes available and quarantine restrictions are overcome. All sectors of agriculture, sugar, pineapple,

macadamia, coffee, papaya, flowers, exotic tropical fruits, and others are working together to accelerate the expansion of the agricultural industry.

Your Committee also finds that this bill is necessary to provide the funds to promote the cost sharing of agricultural research between the public and private sectors and to assist in maintaining current minimum levels of agricultural research and development at the Hawaii Agriculture Research Center.

Your Committee has amended the bill by changing the appropriation to an unspecified amount to allow further discussion on this measure, 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. 2132, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2132, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Sakamoto, Tam).

SCRep. 2532 Ways and Means on S.B. No. 2136

The purpose of this measure is to appropriate funds to implement short-term methods for the control of fireweed.

Your Committee finds that fireweed is a poisonous weed that poses a serious threat to cattle, horses, and other livestock. When ingested in large quantities, the toxic weed causes damage to the liver and neurological system and eventually leads to death. Furthermore, the prolonged drought in Hawaii, followed by the recent heavy rains, have enabled fireweed to spread rapidly on the islands of Hawaii, Maui, and Kauai, thus threatening Hawaii's native ecosystem and plants.

Accordingly, your Committee finds that fireweed presents a significant threat to the livestock industry in Hawaii and to its environment and that measures to control and eradicate fireweed are in the interest of the public's health, safety, and welfare. Your Committee further finds that this measure will enable the Department of Agriculture to provide assistance to ranchers, farmers, and county personnel for the purpose of initiating fireweed control or eradication projects.

Your Committee has amended this bill by:

- (1) Changing the amount specified to an unspecified amount to facilitate further discussion; and
- (2) Making technical, nonsubstantive changes for 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. 2136, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2136, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2533 Ways and Means on S.B. No. 2184

The purpose of this measure is to appropriate funds for agricultural research and outreach at the University of Hawaii College of Tropical Agriculture and Human Resources including the development of an agribusiness incubator initiative.

Your Committee finds that agricultural research and outreach by the College of Tropical Agriculture and Human Resources will promote the growth and improvement of agriculture in the State. Presently, agriculture is a \$2,400,000,000 industry in Hawaii and provides more than 38,000 jobs statewide. Farm production increased at an annual rate of 6.1 per cent from 1997 to 2000 and 69 per cent of the 2000 farmgate value of agriculture was from diversified crops as compared to 27 per cent in 1980.

This bill recognizes this unprecedented growth and addresses the needs of the vast majority of farmers who run small entrepreneurial operations and depend on the research and development provided by the College of Tropical Agriculture and Human Resources. The bill also provides an appropriation to develop an agribusiness incubator initiative to assist farmers with business-oriented services related to farming.

Your Committee has amended the bill by changing the appropriation amount to an unspecified amount to promote further discussion on this bill and by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2184, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2184, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2534 Ways and Means on S.B. No. 2228

The purpose of this measure is to authorize the issuance of up to \$2,300,000 in special purpose revenue bonds to assist Gay & Robinson, Inc., a Hawaii corporation, to purchase a sugar and molasses terminal facility at Nawiliwili, Kauai.

Your Committee finds that the sugar and molasses terminal facility at Nawiliwili on the island of Kauai was constructed around 1950, and prior to 1994, provided receiving, storing, and shipping services for both sugar and molasses for all five producers on the island. However, with the demise of four of these operations by 2000, Gay & Robinson, Inc., is the only producer remaining to purchase the terminal facility.

Your Committee further finds that Gay & Robinson, Inc., is committed to the sugar industry and is increasing its investment by farming an additional 4,300 acres of state-owned lands formerly leased to Kekaha Sugar. Gay & Robinson, Inc., now employs over 300 full-time employees, provides subsidized housing for 350 current and retired employees, and intends to hire additional employees.

Your Committee finds that by remaining in business and hiring people during this period of economic instability, Gay & Robinson, Inc., is contributing significantly to the local and state economies, and that authorizing the issuance of special purpose revenue bonds for the purchase of a sugar and molasses terminal facility at Nawiliwili will assist in the economic development of both Kauai and 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. 2228, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2535 Ways and Means on S.B. No. 2239

The purpose of this measure is to authorize the issuance of \$10,000,000 in general obligation bonds for capital improvement projects to support the work of the Oceanic Institute.

In particular, this bill provides the funding necessary for the Oceanic Institute to complete the expansion of the Center for Applied Aquaculture and Marine Biotechnology.

Your Committee finds that the Oceanic Institute, which is headquartered in Waimanalo, is one of the world's premier marine research organizations and is Hawaii's only private research institute specifically dedicated to advanced aquaculture and resource issues.

Your Committee further finds that the Oceanic Institute has been instrumental in making aquaculture Hawaii's fastest growing agricultural segment, adding to the economic vitality of the State, and supporting the public goal of a diversified economy.

Your Committee finds that this bill will enable the people of the State to fully benefit from the Oceanic Institute's work to develop sustainable technologies to increase aquatic food production, while promoting the responsible use of ocean resources and supporting the State's efforts to diversify Hawaii's economy.

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

- (1) Replacing the sums appropriated with blank amounts to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (2) Making 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. 2239, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2239, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2536 Ways and Means on S.B. No. 2242

The purpose of this measure is to authorize the Board of Land and Natural Resources (Board) to extend a state agricultural lease for improvements made to a property that is paid by a lessee.

The bill also authorizes the Board to extend a state agricultural lease due to the economic hardship of a lessee caused by a natural disaster or eminent domain-related proceeding.

Your Committee finds that state agricultural leases have been a source of contention for many years. A major problem has been the inability of farmer lessees to make improvements on their land near the end of their lease term without concomitant extensions on their leases to recoup the cost of those improvements. Currently, only improvements financed by a lender are eligible for lease extensions. Lessee-financed improvements do not qualify for lease extensions.

This bill would level the playing field and allow both lender-financed and lessee-financed improvements to qualify for agricultural lease extensions. The bill also provides for lease extensions in economic hardship cases due to natural disasters and eminent domain-related proceedings.

As affirmed by the record of votes of the members 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. 2242, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2537 Ways and Means on S.B. No. 2245

The purpose of this measure is to appropriate funds to prepare the State Agricultural Water Use and Development Plan.

Your Committee finds that Act 101, Session Laws of Hawaii 1998, required the Department of Agriculture to prepare a State Agricultural Water Use and Development Plan, but no funds were appropriated for that purpose. Recently, however, funds have become available through a matching program from the federal government.

This bill provides the necessary funds to utilize the federal matching appropriation of \$300,000 to prepare the Plan.

Your Committee has amended the bill by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2245, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2245, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2538 Ways and Means on S.B. No. 2345

The purpose of this measure is to appropriate funds to conduct research on diseases and other problems with taro throughout the State.

Your Committee received favorable testimony on this measure from an independent farmer and comments from the University of Hawaii's College of Tropical Agriculture and Human Resources.

Your Committee finds that taro is not only the foundation for traditional Hawaiian agriculture, it is also the staple of the native Hawaiian diet and a vital expression of native Hawaiian cultural values. Article XII of the state constitution and the State Water Code mandate the protection of taro cultivation as a traditional and customary right. Your Committee also finds that taro yield and quality have declined sharply on all islands due to diseases and pests that affect the leaves and corms of taro.

This bill will provide the necessary funds to conduct research aimed at fighting these diseases and their related pests to ultimately protect and nurture the taro farming industry in Hawaii.

Your Committee has amended the bill by changing the appropriated amount to an unspecified amount in order to promote continued discussion on 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 S.B. No. 2345, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2345, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2539 Ways and Means on S.B. No. 2482

The purpose of this measure is to appropriate funds for the establishment of an agricultural theft abatement task force.

Your Committee finds that agriculture theft is a serious problem that results in substantial economic losses to farmers and jeopardizes farming enterprises throughout the State. Your Committee further finds that combating agricultural theft is a complicated endeavor, requiring cooperation and coordination among Hawaii's agricultural industry, law enforcement, and various state agencies. Accordingly, your Committee believes that the interagency approach provided by this measure will assist efforts to develop and implement strategies to deter agricultural theft.

As affirmed by the record of votes of the members 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. 2482 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2540 Ways and Means on S.B. No. 2665

The purpose of this measure is to require the Agribusiness Development Corporation to establish, as a five-year pilot project, a temporary agricultural cooperative association in the County of Maui to assist farmers with marketing their produce and products.

Your Committee finds that the growth of Hawaii's agricultural industry is not constrained by the ability of local farmers to grow produce and manufacture products, but by their inability to market their produce and products locally, nationally, and internationally. Simply stated, there is no purpose in growing produce or manufacturing a product commercially if it cannot be taken to market.

Your Committee also finds that the Agribusiness Development Corporation, established pursuant to Act 264, Session Laws of Hawaii 1994, is tasked with:

- (1) Assisting agricultural enterprises by conducting detailed marketing analysis and developing marketing and promotional strategies to strengthen the position of those enterprises and to better exploit local, national, and international markets; and
- (2) Developing feasible strategies for the promotion, marketing, and distribution of Hawaii agricultural products in local, national, and international markets.

Your Committee finds that this measure will enable farmers in the county of Maui to market their produce and products in an effective and efficient manner.

Your Committee has amended this measure 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. 2665, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2665, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2541 (Majority) Ways and Means on S.B. No. 2673

The purpose of this measure is to appropriate funds to the Department of Agriculture to conduct a program to achieve a fifty per cent reduction in the total amount of imported food purchased by Hawaii residents that could be purchased from locally produced sources.

Your Committee finds that Hawaii is overly dependent on imported foods, which can put Hawaii in a precarious position in the event of a situation — natural disaster, dock strike, or terrorist act — that impedes the normal flow of commerce. Decreasing dependence on imports will make such an event less problematic. Another benefit is encouraging the growth of Hawaii's promising diversified agriculture, which will help keep Hawaii-earned dollars in Hawaii, thus improving the local economy.

Your Committee understands that the parties affected by this bill need to clarify what is meant by a fifty per cent reduction and is recommending passage to continue discussions.

As affirmed by the record of votes of the members 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. 2673 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 2 (Hemmings, Slom). Excused, 2 (Sakamoto, Tam).

SCRep. 2542 Ways and Means on S.B. No. 2931

The purpose of this measure is to authorize the issuance of general obligation bonds for agricultural irrigation projects throughout the State.

Your Committee finds that the agriculture industry's lifeline is the delivery of reliable irrigation water. Currently, development and maintenance of agricultural water infrastructure systems is impossible without public funding.

This bill provides that funding to improve existing systems, through various means including renovation, rehabilitation, replacement conversion.

Your Committee has amended the bill by broadening the use of the bonds to include the planning and design of new water source developments.

As affirmed by the record of votes of the members 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. 2931, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2931, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2543 Ways and Means on S.B. No. 3038

The purpose of this measure is to make an appropriation to support the growth of Hawaii's apiculture, or bee-keeping, industry.

Specifically, the bill appropriates funds to provide extension services, targeted research, low cost access to state land, cooperative facilities for processing products, and educational activities for the apiculture industry in Hawaii.

Your Committee finds that commercial bee-keeping has potential to make a significant contribution to our State's economy. In addition to honey and wax products, commercially raised bees may be raised for export to the mainland and Canada where commercial ventures have suffered from African bees. State support could double or triple the current apiculture gross of approximately \$3,500,000 annually.

To facilitate further discussion on the funding necessary to carry out the purpose of this bill, your Committee has amended this measure by changing the amount of the appropriation from \$200,000 to 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. 3038, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3038, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2544 Ways and Means on S.B. No. 2582

The purpose of this measure is to replace the separate flat rate premium tax structures for single-owner captive insurers and multi-owner captive insurers with a single declining rate structure for both.

Furthermore, this measure raises the amount of funds that the Insurance Commissioner may transfer from the captive insurance administrative fund to the insurance regulation fund for administrative expenses. It is the intent of your Committee that the additional funds transferred shall be used to provide the captive insurance branch with resources to strengthen that branch's capabilities to attract and regulate captive insurers in Hawaii.

Your Committee finds that under the present law single-owner captive insurers pay a premium tax of .25 per cent on gross premiums while multi-owner captive insurers pay a tax of one per cent. Your Committee further finds that under this measure both types of insurers will pay a premium tax that declines from .25 per cent on the first \$25,000,000 of gross premiums to .05 per cent on gross premiums after the first \$50,000,000.

Your Committee finds that the new premium tax structure will attract captive insurers with large premium bases to domicile their companies 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. 2582 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2545 Ways and Means on S.B. No. 2703

The purpose of this measure is to expand housing opportunities for the elderly in state-funded public and private housing projects.

Your Committee finds that present policies for the elderly in state-funded housing projects prohibit qualifying elderly persons who are sixty-two years of age from living with relatively younger spouses or co-tenants. Also, the age requirement precludes mature adults who have disabilities but who have not reached the age of sixty-two from accessing elderly housing opportunities.

This bill provides needed flexibility in elderly housing policies by recognizing the housing needs of the elderly and those that reside with the elderly. The bill allows a qualifying elderly person to live with a spouse who is at least the age of majority, and any remaining household members must be at least fifty-five years of age.

The bill also allows live-in aides who must be at least eighteen years of age and who provide verifiable services that are essential to the elderly person's health and well being. Finally, the bill includes a person with disabilities under the definition of "elder or elderly housing".

Your Committee has amended the bill by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2703, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2703, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2546 Ways and Means on S.B. No. 2722

The purpose of this measure is to clarify that the Insurance Fraud Investigation Unit of the Insurance Division of the Department of Commerce and Consumer Affairs has the authority to contract with as well as employ experts and personnel for the unit's activities.

Your Committee finds that this measure will clarify that the Insurance Fraud Investigation Unit is authorized to retain private professional, technical, and other support personnel through long-term contracts as needed for the successful prosecution and prevention of insurance fraud. Your committee notes that the Insurance Commissioner indicated in testimony before the prior committee that any reduction in insurance fraud will benefit the consumer by reducing the cost of premiums spent on fraudulent 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. 2722, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2547 Ways and Means on S.B. No. 2723

The purpose of this measure is to merge the insurance regulation fund into the compliance resolution fund.

Your Committee finds that the Department of Commerce and Consumer Affairs is self-supporting and draws its funding through the compliance resolution fund. The Department's Insurance Division is funded through the insurance regulation fund.

Your Committee finds that the merger of these two funds will provide greater efficiency in the administration of departmental funds, while not adversely affecting the Insurance Division's regulatory role or authority.

Your Committee finds that the compliance resolution fund has sub-accounts for each division, so the same fiscal accounting for the Insurance Division's special fund revenues and expenses will remain unchanged. Moreover, there is no cross-subsidization between regulatory programs within the compliance resolution fund, so the Insurance Division's funds will remain intact.

Finally, your Committee finds that with one compliance resolution fund, the fund's annual report will cover the entire department and eliminate the need for a separately filed insurance regulation fund report, thereby making the substantive and fiscal information on insurance in the compliance resolution fund report more comprehensive.

As affirmed by the record of votes of the members 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, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2548 Ways and Means on S.B. No. 2724

The purpose of this measure is to streamline regulatory requirements for out-of-state real estate licensees who have previously met equivalent pre-licensing requirements.

The bill also reduces regulatory requirements for limited-equity housing cooperatives and streamlines regulatory requirements for condominium managing agents.

Your Committee finds that this bill is a continuation of efforts in the SWAT (Slice, Waste and Tape) Project to repeal and reduce regulatory burdens on businesses, the general public, and state government.

Specifically, this bill proposes to:

- (1) Reduce regulatory requirements for out-of-state licensees who meet equivalent pre-licensing requirements by authorizing the Commission to enter into formal licensing reciprocity or recognition agreements;
- (2) Reduce regulatory requirements for limited-equity housing cooperatives;
- (3) Allow principal brokers to delegate their management and supervisory duties to brokers-in-charge; and
- (4) Streamline regulatory requirements for condominium managing agents by removing duplicative registration and fidelity bond requirements.

Your Committee finds that these changes will reduce government red tape and allow the Commission and its staff to concentrate their attention and resources on more substantive matters that affect real estate brokers and salespersons.

Your Committee has amended the bill by changing the effective date to July 1, 2002 to coincide with arbitration provisions referred to in the bill that take effect on that date, and by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2724, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2724, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2549 Ways and Means on S.B. No. 2726

The purpose of this measure is to assist the Department of Commerce and Consumer Affairs in reviewing cemetery and pre-need funeral authority license applications and in other regulatory matters.

Specifically, this bill authorizes the Department to hire consultants, including attorneys, auditors, accountants, investigators, examiners, and other professional, technical and support personnel, to engage in pre-licensing and other post-licensing matters in order to adequately protect the interests of consumers. The costs of hiring a consultant are to be paid by the licensee whose application or activities require the retention of the consultant.

Your Committee finds that the cemetery and pre-need funeral industry has grown to include multi-million dollar corporate operations. As the industry has expanded and become more complex, it has become necessary for regulatory authorities to have certain expertise and skills to provide effective industry oversight.

It is your Committee's intent that the private consultants hired by the Department be independent from the cemetery and pre-need funeral industry.

Upon further consideration, your Committee has amended this bill by making several technical, nonsubstantive amendments for the purpose of clarity and style, including the insertion of the phrase "for cemetery or pre-need funeral authority license" to describe the type of application in section 441- (b)(2), Hawaii Revised Statutes, on page 2, line 1 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. 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 Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2550 Ways and Means on S.B. No. 2743

The purpose of this measure is to require the Director of Finance, from time to time, to transfer five per cent of all receipts in the compliance resolution fund and the insurance regulation fund to the state general fund for the purpose of defraying the prorated estimate of central service expenses of government in relation to each fund.

Your Committee finds that the Department of Commerce and Consumer Affairs' compliance resolution fund and the insurance regulation fund are currently exempted from having to pay the prorated estimate of their central service expenses. Your Committee also finds that this measure will result in the transfer of approximately \$1,300,000 per year from the compliance resolution fund and \$200,000 per year from the insurance regulation fund, to the state general fund. The transfer of \$1,500,000 per year from these special funds to the state general fund will allow the State to better serve the needs of 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 S.B. No. 2743 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2551 Ways and Means on S.B. No. 2254

The purpose of this measure is to appropriate funds to a streaming media project to allow legislative hearings and sessions to be broadcast on the Internet.

Your Committee finds that under the democratic form of government, public participation is essential. Yet too few members of the public can take the time off from work or home obligations to attend legislative sessions. Residents on the neighbor islands are particularly precluded from participation due to the cost of traveling to Oahu.

The concept of a streaming media project would allow anyone with an Internet connection to view legislative sessions and hearings, enabling them to track bills they support or oppose, and generally to become more involved with the legislative process. Your Committee finds that the legislature should take advantage of this technology to reach out to the public at a modest cost.

Your Committee has amended this bill by making the amount of the appropriation blank to support 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. 2254, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2254, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2552 Ways and Means on S.B. No. 2412

The purpose of this measure is to appropriate funds for the Small Business Development Center at the University of Hawaii at Hilo to increase their staffing throughout the State and to meet other expenses.

Your Committee finds that the increased staffing for business consulting is necessary to sustain the survival and growth of small businesses in the State. Your Committee further finds that a significant portion of small business owners in the State believe that their lack of knowledge in operating a business negatively impacts their business. The increased staffing under this measure will thus facilitate knowledge transfer.

Your Committee has amended this measure by changing the appropriations to blank amounts and 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2412, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2412, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2553 Ways and Means on S.B. No. 2540

The purpose of this measure is to appropriate \$150,000 in fiscal year 2002-2003 to provide grants under the community-based economic development program of the Department of Business, Economic Development, and Tourism.

Your Committee finds that the business community, nonprofit organizations, and other entrepreneurs require a functional, service-oriented agency that is readily accessible and able to provide business counseling, financial backing, and general support to foster community-based economic development in the various products and services in Hawaii's diversified economy.

Your Committee finds that the community-based economic development program of the Department of Business, Economic Development, and Tourism was established for this purpose. Your Committee further finds that in order to provide the necessary financial assistance to community-based entrepreneurs, this program has been authorized to provide grants to qualifying applicants.

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. 2540, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2540, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2554 Ways and Means on S.B. No. 2012

The purpose of this measure is to allow the Department of Education to rehire teachers after one year of retirement, instead of the current two years.

Your Committee finds that Act 308, Session Laws of Hawaii 2001, was intended to help reduce Hawaii's teacher shortage by authorizing the Department of Education to hire teachers who had been retired for two years, without penalty with respect to retirement benefits. Since Act 308 was enacted, however, the Department of Education has rehired only three retired teachers. Some suggest that the longer a teacher has been out of the classroom, the less likely it is that the teacher will return.

Your Committee hopes that by reducing the amount of time a retired teacher must be out of the classroom from two years to one year before the teacher may be rehired, this bill will help the Department of Education attract qualified teachers back to the classroom to improve public education for both students and other teachers.

As affirmed by the record of votes of the members 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. 2012, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2555 Ways and Means on S.B. No. 2033

The purpose of this measure is to amend the Hawaii educator loan program by:

- (1) Reducing, from ten years to six years, the period for forgiving loans from the program, and correspondingly changing the amounts forgiven by forgiving one-tenth of the amount of the loan for each of the first five years and five-tenths of the loan for the sixth year;
- (2) Setting a ceiling for the appropriation;
- (3) Authorizing up to five per cent of the total amount of outstanding loans to be spent for administrative expenses; and
- (4) Exempting the University of Hawaii from the public notice and hearing requirements of the Hawaii Administrative Procedure Act, in its adoption of rules to implement the Hawaii educator loan program.

The measure appropriates \$200,000 for fiscal year 2002-2003 to implement the program.

Your Committee finds that this measure is intended to address the current teacher shortage problem faced by Hawaii's public school system by encouraging college students to become public school teachers in Hawaii and to remain in the public school system for at least six years. Your Committee finds that teachers are more likely to remain in the profession after five years. Thus, shortening the forgiveness period from ten years to six years will facilitate both the State's recruitment and retention of qualified and committed teachers.

Your Committee has amended the measure by:

- (1) Deleting the amount of the appropriation to be deposited into the Hawaii educator loan program; and
- (2) Deleting the amount of the appropriation from the Hawaii educator loan program special fund;

in order to encourage further discussion on 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 S.B. No. 2033, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2033, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2556 Ways and Means on S.B. No. 2035

The purpose of this measure is to statutorily establish the Hawaii State Student Council.

Your Committee finds that the Board of Education established the Hawaii State Student Council in 1972. Since then, students have been able to participate in many formal activities organized by the Conference such as Children's Youth Day, the State Student Conference, and student leadership workshops. The Hawaii State Student Council is a mechanism for students to develop leadership skills, voice their opinions, learn how to cooperate and negotiate, and contribute through community service activities. The valuable learning techniques provided through students' participation in the Conference enhance their passage into the adult world.

Your Committee finds that the next logical step of establishing the Hawaii State Student Council by statute will formalize its membership, governance, and participation. The Department of Education provides funding and a staff advisor. The Hawaii State Student Council also makes regular reports to the Board of Education and selects a public high school student as a nonvoting member of the Board, as required by the state constitution.

As affirmed by the record of votes of the members 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. 2035 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2557 Ways and Means on S.B. No. 2038

The purpose of this measure is to designate the Auditor as an authorized representative of the Department of Education and the Department of Health in relation to education programs.

Specifically, the Auditor is made the authorized representative of the Department of Education to have access to student education records in connection with the audit of federally supported education programs. The Auditor also is made a health oversight agency under federal and state law to conduct oversight of the Department of Health to evaluate the effectiveness of the Department of Health in providing services that relate to educational programs. The bill also requires the Auditor to keep the information it collects confidential, and to destroy personally identifiable data when no longer needed.

Your Committee finds that the Office of the Auditor has been thwarted in its efforts, in the Felix consent decree context, to evaluate the effectiveness of state education programs. Both the Department of Education and Department of Health have cited federal laws relating to student privacy in keeping that data confidential. This Act will give the Auditor the authority needed to access these records, while still keeping them confidential, so that it can carry out its mission.

Your Committee has amended this bill by making technical, nonsubstantive amendments for the purpose 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 S.B. No. 2038, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2038, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2558 Ways and Means on S.B. No. 2067

The purpose of this measure is to provide funding to support efforts of the University of Hawaii to increase the number of students from ethnic groups that are currently under-represented in the University of Hawaii system.

Specifically, the bill repeals the Hawaii opportunity program in education (HOPE) endowment special fund and transfers the remaining balance to the University of Hawaii tuition and fees special fund. The transferred funds are to be used to recruit and retain financially needy students, particularly students from under-represented ethnic groups.

Your Committee finds that certain ethnic groups are under-represented at the University of Hawaii: African Americans, Filipinos, native Hawaiians, Laotian, Vietnamese, Samoans, and other Pacific Islanders. For example, native Hawaiians represent twenty-seven per cent of public school students, but are approximately fourteen per cent of the University of Hawaii system. Many students from under-represented ethnic groups need financial assistance and other support services to attend the University of Hawaii.

Your Committee believes that use of funds transferred from the HOPE endowment special fund to provide financial assistance, as well as outreach efforts, will facilitate a diverse student body and improve educational opportunities for certain ethnic groups.

Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2002; and
- (2) Making technical nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2067, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2559 Ways and Means on S.B. No. 2073

The purpose of this measure is to appropriate funds to the University of Hawaii for the satisfaction of claims.

Your Committee finds that Act 115, Session Laws of Hawaii 1998, authorized the Board of Regents of the University of Hawaii to settle claims and lawsuits filed against the university. Furthermore, Act 102, Session Laws of Hawaii 1999, clarified Act 115 by stating that the authorization to settle claims did not preclude the university from requesting and securing legislative appropriations to fund the settlement of any claim or judgment against the university. This measure is designed to do that.

As affirmed by the record of votes of the members 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. 2073 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2560 (Majority) Ways and Means on S.B. No. 2084

The purpose of this measure is to limit the liability of educational officers, teachers, and classified personnel who provide services to exceptional children and members of the plaintiff class under the Felix consent decree.

In addition, this measure provides that suits against educational officers, teachers, or classified personnel may only be brought against the Departments of Education and Health, except for suits claiming gross negligence.

Your Committee finds that while educational officers, teachers, and classified personnel provide valuable and needed services for Hawaii's exceptional children, many find themselves vulnerable to personal legal actions for doing their job. As a result, your Committee finds that current and potential educational officers, teachers, and classified personnel may decide not to expose themselves to possible personal legal liability and forego a career in special education.

This measure limits their liability and allows educational officers, teachers, and classified personnel to help Hawaii's exceptional children without fear of legal action.

Upon further consideration, your Committee has amended this measure by making 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. 2084, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2084, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Hanabusa, Tam).

SCRep. 2561 Ways and Means on S.B. No. 2099

The purpose of this measure is to establish an interagency working group within the University of Hawaii that will establish a comprehensive, linked preschool to graduate school (P-20) student database for Hawaii.

Specifically, this measure requires the working group to define the purpose of the student database within the State's overall educational system and to define an acceptable protocol for linking student data across the State's educational system.

Furthermore, this measure appropriates general funds for the working group.

Your Committee finds that the State's three systems of education – preschool, K-12, and higher education – are interdependent and share common goals, but have no formal mechanisms to ensure linkages. This lack of coherence and connectedness among the systems results in confusion and lower quality educational experiences than is desirable. Your Committee further finds that creation of the working group will assist in developing a seamless system of education that will best meet the needs of all individuals 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. 2099, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2562 Ways and Means on S.B. No. 2100

The purpose of this measure is to authorize the issuance of taxable general obligation bonds, in the form of Qualified Zone Academy Bonds, to enable the Department of Education to renovate a former Hawaii National Guard facility into a state-of-the-art technology enterprise for virtual learning.

Your Committee finds that Qualified Zone Academy Bonds are taxable municipal securities that provide bondholders with payments of principal, and a federal income tax credit in lieu of payments of interest. The full faith and credit of the State would back the Qualified Zone Academy Bonds issued under this measure.

According to the U.S. Department of Education, traditionally, states and local school districts issue bonds and the Internal Revenue Code exempts the bondholders from paying federal taxes on the interest they earn. Many investors consider this an incentive to purchase these bonds; therefore, school districts can sell these bonds at lower interest rates than standard corporate bonds. This tax-code provision allows the district to save about twenty per cent of the interest costs in the current market. However, the district must pay the principal and the interest over the life of the bond.

Under the Qualified Zone Academy Bond program, the federal government provides bondholders with a tax credit in lieu of cash interest payments. The school district or other issuer is then, in general, only responsible for repaying the amount borrowed. This is a substantial benefit because interest payments can equal up to fifty per cent of the economic cost of a bond. A Qualified Zone Academy Bond is a better value for the district because, under these tax-credit bonds, the federal government pays, on average, all of the interest, whereas, under tax-exempt bonds, the school district typically recoups only twenty per cent of the interest payments.

Your Committee has amended this measure 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. 2100, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2100, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2563 Ways and Means on S.B. No. 2205

The purpose of this measure is to provide additional compensation to persons holding an advanced degree of a master or doctoral, in a field related to teaching, public education, or responsibilities of an educational officer.

Your Committee finds that the present salary schedule for educational officers, unlike the salary schedule for teachers, does not take into consideration advanced degrees earned. Your Committee notes that the estimated cost of providing this additional compensation for fiscal year 2002-2003 is \$900,000.

Your Committee finds that this measure will encourage professional growth and improve the quality of leadership in the State's public schools. Your Committee also notes that the Department of Education faces a critical principal shortage. Accordingly, your Committee further finds that this measure will assist the Department in recruiting and retaining qualified school principals.

As affirmed by the record of votes of the members 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. 2205 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2564 (Majority) Ways and Means on S.B. No. 2206

The purpose of this measure is to allow the Department of Education to use and hire attorneys other than the Attorney General.

Your Committee finds that the Department of Education has had occasion in the past to request advice from the Attorney General. Often, these requests require a response as soon as possible to deal with academic, student, or other issues. When these responses are not made quickly, the public perception of the Department of Education is tarnished and its policies are viewed with skepticism. In other instances, the opinion of the Department of Education is different from that of the Executive branch, from which the Attorney General operates, and this causes conflict. This is the reason for the eighteen other agencies listed in the statute herein affected, to have the authority to hire their own attorneys. Your Committee finds that the Department of Education is entitled and has reason to do the same.

As affirmed by the record of votes of the members 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. 2206, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, 1 (Slom). Excused, 1 (Sakamoto).

SCRep. 2565 Ways and Means on S.B. No. 2224

The purpose of this measure is to increase the dedicated funding amount made annually to the state educational facilities improvement special fund.

Your Committee finds that the Department of Education's plan for capital improvement projects, which is financed through the state educational facilities improvement special fund, shows a need of \$1,200,000,000 over the next ten years, or approximately \$120,000,000 per year.

This bill raises the amount of the annual dedicated funding to the special fund from \$45,000,000 to \$90,000,000. The one hundred per cent increase will go a long way to not only meet backlog and current needs, but will also address lump sum items to comply with various federal, state, and municipal laws regarding cesspool removal, playground accessibility, safety, and other 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. 2224 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2566 Ways and Means on S.B. No. 2233

The purpose of this measure is to appropriate funds to continue the development and implementation of the parent-community networking centers in Hawaii's public schools.

The parent-community networking center system of support for students, parents, and teachers, was initially funded by Act 262, Session Laws of Hawaii 2001. In Act 262, the Legislature found that research showed "the critical need for an integrated, comprehensive system of family support, parent education, teacher-parent partnerships, and volunteer and resource development at the neighborhood/school and classroom/family levels". The parent-community networking center system was to be comprised of phases I to IV. However, at this time, all four phases have not yet been implemented.

Your Committee finds that the parent-community networking center system plays an important part in improving Hawaii's system of public education. This Committee is committed to the continued support of the parent-community networking center system.

Your Committee has amended this measure by deleting the appropriation amounts in order 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. 2233, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2233, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2567 (Majority) Ways and Means on S.B. No. 2270

The purpose of this measure is to appropriate funds and allocate state and district resource teacher positions to educate public school students about the history and the lessons of the World War II exclusion, removal, and detention of persons of Japanese ancestry.

Your Committee finds that as time goes on, the lessons and facts of the events of World War II fade from our memory. One of the greatest lessons we may lose sight of is the U.S. government's extreme reaction to a group of Americans, who were singled out for persecution merely due to their different historical and cultural roots. While this reaction affected German-Americans and Italian-Americans, the group most affected were Japanese-Americans who were relocated to concentration camps without benefit of due process, and in contravention of their civil rights.

Your Committee finds that the instant measure seeks to enable school children of today to be mindful of the errors of the past, and that the American way of life, while full of the ideals of civil liberty, justice, and fairness for all, came perilously close to being destroyed during World War II. The lessons that will be developed under this measure will serve to educate public school students about the history and the lessons of the World War II exclusion, removal and detention, along with the inclusion, participation, and empowerment of persons of Japanese ancestry.

Your Committee has made technical amendments to the bill in keeping with proper drafting 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. 2270, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2270, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Hemmings). Excused, 2 (Hanabusa, Tam).

SCRep. 2568 Ways and Means on S.B. No. 2283

The purpose of this measure is to establish a statutory definition of "school readiness".

The measure also requires the interdepartmental council created by Act 77, Session Laws of Hawaii 1997, and the private nonprofit corporation designated in section -1 of Act 77, to report jointly to the Governor and the Legislature, on progress in improving Hawaii's system of early education and care. Specifically, the report is to include a description of the progress made in: enlisting public, private, and community support and family participation in school readiness; and developing policies and strategies for measuring results and performance indicators of school readiness.

Your Committee recognizes the importance of quality early childhood programs and experiences in preparing children for kindergarten so that children will be ready to succeed in school. Research has shown the importance of meeting young children's needs by: sustaining relationships with qualified caregivers; addressing the special needs of children with developmental disabilities or chronic health conditions; and ensuring that children are provided with safe and stimulating settings that are compatible with their family's values and priorities.

Your Committee believes that the definition of "school readiness", as provided in this measure, recognizes the importance of positive interactions among family, school, community, and the child and will encourage conditions that will enable children in Hawaii to succeed in kindergarten and subsequent school experiences.

As affirmed by the record of votes of the members 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. 2283, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2569 Ways and Means on S.B. No. 2284

The purpose of this measure is to appropriate \$391,561 to the Department of Education for fiscal year 2002-2003 to continue the safety resource officer program in the central departmental school district.

Your Committee finds that schools should be safe and caring environments, and that no student should be afraid to go to school. Students who feel threatened or unsafe cannot learn and excel, and cannot enjoy all the wonderful things that school has to offer. Students who bully, threaten, coerce, or intimidate other students, as well as administrators, faculty, and staff, need to be dealt with in a firm but fair manner.

Your Committee finds that the purpose of the safety resource officer program is to ensure a safe school environment at elementary, middle, and high schools.

Your Committee has amended this measure by changing the sum appropriated for the safety resource officer program to an unspecified 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. 2284, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2284, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2570 Ways and Means on S.B. No. 2512

The purpose of this measure is to place new century charter schools and their teachers on a more level playing field with public schools and their teachers.

Specifically, this measure:

- (1) Requires new century charter school teachers to receive probationary and tenure status, and to acquire seniority if they meet the requirements set forth for public school teachers;
- (2) Requires charter schools to receive a per pupil allocation of state funds based on the total Department of Education appropriation and projected per pupil allocation for the current fiscal year, excluding EDN 150 (comprehensive school support services), EDN 407 (public libraries), and AGS 807 (physical plant operations & maintenance—AGS);
- (3) Requires the Department of Education to determine and provide the appropriate level of special education staff and services necessary to ensure that a charter school student's educational needs, as indicated in the individualized educational plan, are met;
- (4) Limits reimbursements to the Department of Education for administrative services related to federal grants and subsidies to six and one-half per cent of a charter school's federal grants and subsidies, rather than six and one-half per cent of a charter school's allocation;
- (5) Requires the Department of Education to:
 - (A) Provide fifty per cent of a charter school's per pupil allocation based on the charter school's projected student enrollment no later than August 1 of each year; and
 - (B) Provide the remaining per pupil allocation of a charter school based on the charter school's verified student enrollment no later than October 15 of each year;
- (6) Repeals the law capping the per pupil allocation for self-contained special education students and for other special education students in charter schools to the increment available to all other public schools;
- (7) Repeals the law capping the per pupil allocation for charter schools to the Department of Education's average per pupil expenditure based upon the inclusion of similar cost items, in the previous fiscal year; and
- (8) Repeals the law requiring the Auditor to explicitly consider the advice of the Superintendent and representatives of local school boards when determining the per pupil allocation for charter schools.

Your Committee has amended this measure by:

- (1) Reinserting the word "general" (as in "state ~~general~~ funds") into section 2 of this measure (at page 1, line 12) as the text of section 302A-1185(a), Hawaii Revised Statutes, differs from the printed version of the Hawaii Revised Statutes; and
- (2) Making a technical nonsubstantive change for 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. 2512, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2512, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2571 Ways and Means on S.B. No. 2619

The purpose of this measure is to redistrict the at-large Board of Education districts and Department of Education school districts.

In particular, this bill amends section 13-1, Hawaii Revised Statutes ("Board members; number"), to conform the descriptions of the school board districts and departmental school districts with the districts established by the 2001 reapportionment.

Your Committee finds that following the 1991 reapportionment, the Chief Election Officer issued a proclamation pursuant to section 13-1.1, Hawaii Revised Statutes, designating which representative districts compose the departmental districts and school board districts described in section 13-1, Hawaii Revised Statutes.

Your Committee finds that although this proclamation met the statutory requirement, it led to confusion by candidates and voters because the statute was not also updated to mirror the proclamation. Accordingly, your Committee finds that amending section 13-1, Hawaii Revised Statutes, should decrease the confusion of candidates and voters as to which representative districts belong to the school board districts and departmental school districts after the 2001 reapportionment.

As affirmed by the record of votes of the members 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. 2619, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2572 Ways and Means on S.B. No. 2660

The purpose of this measure is to require the Department of Education to inform unlicensed teachers employed as emergency hires of various alternative certification and licensure programs.

In addition, this measure requires the Board of Education to:

- (1) Adopt rules that support the hiring of the best qualified staff and the dissemination of information on professional education licensure and content area certification; and
- (2) Consider current data relating to the disparity in educational outcomes for students taught by unlicensed individuals and teachers without content area credentials when adopting the aforementioned rules.

Your Committee finds that this measure is consistent with federal and state initiatives designed to reduce the incidence of out-of-field teaching and increase the prevalence of teachers with appropriate content area preparation. It is your Committee's goal to improve student achievement by ensuring that there is a caring, competent, and qualified teacher in every classroom.

Your Committee has amended this measure by deleting obsolete references to a law that was repealed by Act 312, Session Laws of Hawaii 2001.

As affirmed by the record of votes of the members 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. 2660, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2660, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2573 Ways and Means on S.B. No. 2662

The purpose of this measure is to allow the board of directors of a Hawaii nonprofit organization, as a local school board, to manage and operate an existing Department of Education school as a new century conversion charter school.

In addition, this measure:

- (1) Requires the nonprofit organization to make a minimum annual contribution of \$1 per pupil toward the operation of a new century conversion charter school for every \$4 per pupil allocated by the Department of Education for the operation of the new century conversion charter school;
- (2) Requires the detailed implementation plan for a new century conversion charter school to be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents, rather than sixty per cent of the existing administrative, support, and teaching personnel, and parents;
- (3) Gives the board of directors of the nonprofit organization, as the governing body for the new century conversion charter school that it operates and manages, the same protections that are afforded to the state Board of Education;
- (4) Allows a nonprofit organization to allocate federal and state funds among two or more of the new century conversion charter schools that it operates and manages to the extent permitted by law;
- (5) Gives the State of Hawaii first right, except as provided in the detailed implementation plan, to all the assets and facilities of a new century conversion charter school if the new century conversion charter school dissolves or is denied continuation;
- (6) Requires a nonprofit organization that seeks to manage or operate a new century conversion charter school to have experience in the management and operation of public or private schools, or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing this experience; and
- (7) Limits the number of new century conversion charter schools that may be formed by either a nonprofit corporation or an existing Department of Education school, or both, to twenty-five.

Indirectly, this measure will create slots for two additional new century charter schools (as opposed to new century "conversion" charter schools) formed as either start-up schools or schools-within-schools. In addition, this measure will create slots for twenty-three additional new century "conversion" charter schools formed from existing Department of Education schools. This increase in available slots is the result of Waialae Elementary School and Lanikai Elementary School being considered new century "conversion" charter schools rather than new century charter schools.

Your Committee has amended this measure by reinserting existing statutory material that was accidentally deleted from section 4 of the measure (regarding section 302A-1302, 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. 2662, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2662, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2574 Ways and Means on S.B. No. 2680

The purpose of this measure is to clarify the project specification requirements of state educational facilities repair and maintenance projects.

Specifically, this bill deletes the requirement to develop and maintain a qualified product list by model or catalog number, and instead allows project specifications to be written either as generic specifications or as prescriptive specifications without limiting the acceptable products.

Your Committee finds that this bill does not diminish the requirements of school repair and maintenance but allows more cost-effective and efficient processes to achieve similar results.

As affirmed by the record of votes of the members 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. 2680 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2575 Ways and Means on S.B. No. 2741

The purpose of this measure is to establish a scholarship for educators program to provide financial support to students who are enrolled in a state-approved public teacher-education program who upon graduation, agree to teach in the Hawaii public school system for not less than four years. A check-off box on the State's income tax return will allow public support for the scholarship program.

Your Committee finds that there is a critical shortage of teachers in the State. This measure will provide an incentive for students to become teachers, and an investment in teachers secured for not less than four 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. 2741, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2576 Ways and Means on S.B. No. 2792

The purpose of this measure is to transfer public safety functions and employees relating to the after hour contracts at Department of Education facilities from the Department of Public Safety to the Hawaii State Public Library System.

Your Committee finds that security services are a vital component of the library services to provide a safe and secure environment, to reduce or minimize disruptive behavior, and allow the library staff to concentrate on providing quality and prompt library services to its customers. Your Committee notes that, since 1993, security coverage at the state libraries has been reduced dramatically as a result of budget restrictions, cuts, and hiring delays and freezes.

Your Committee finds that this measure will ensure that public libraries are maintained as safe and secure environments for patrons and employees and therefore is in the public interest.

Your Committee has amended this measure by 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 S.B. No. 2792, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2792, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2577 Ways and Means on S.B. No. 2816

The purpose of this measure is to establish a loan program for students enrolled in state-approved teacher education programs at private colleges and universities in Hawaii.

This bill creates an incentive for students to become teachers and to ensure that these graduates teach in our public schools. Specifically, this bill establishes the Hawaii educator incentive program to provide financial assistance to students who complete a state-approved teacher education program in Hawaii and who teach in the Hawaii public school system for a minimum of six consecutive years.

Your Committee finds that of all government programs affecting the public, education is arguably the most important because it has an impact upon businesses, individuals, parents, higher education, the tourism industry, and even government itself, as an informed and educated public makes for a better democracy.

This bill strives to provide a loan forgiveness payment plan whereby a person who completes a state-approved teacher education program at a private college or university in Hawaii and who teaches in the Hawaii public school system for a minimum of six consecutive years will have their education costs eliminated to the same extent that a comparable education would have cost at the University of Hawaii. It is hoped that this incentive will help boost the numbers of persons entering the teaching profession statewide.

Your Committee has amended this bill by:

- (1) Adding language to clarify that the loan forgiveness payments should commence once an individual is actually employed by the Department of Education and not immediately after graduation;
- (2) Making technical amendments, including correcting the phrase "Hawaii education loan program" to "Hawaii educator loan program" on page 1; and
- (3) Changing the appropriation to a blank amount to allow for 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. 2816, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2816, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2578 Ways and Means on S.B. No. 2938

The purpose of this measure is to establish a commission to celebrate the one-hundredth anniversary of the arrival of Filipinos to Hawaii.

Your Committee finds that Americans of Filipino ancestry have a long and proud heritage. Since the arrival of the first Filipinos in 1906, Filipinos in Hawaii have excelled in every field of endeavor and have figured prominently in the ethnic balance of modern Hawaii.

This bill establishes a temporary commission that will be in charge of all arrangements for the commemoration including duties to:

- (1) Prepare an overall program celebrating the centennial anniversary;
- (2) Identify a nonprofit organization responsible for moneys received and expended for the celebration; and
- (3) Develop, plan, and coordinate various program activities scheduled during the celebration.

As affirmed by the record of votes of the members 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. 2938 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2579 Ways and Means on S.B. No. 3006

The purpose of this measure is to improve the facilities management of public schools by transferring and consolidating school-related functions within the Department of Accounting and General Services.

Specifically, the bill:

- (1) Effective January 1, 2003,
 - (a) Establishes the School Support Division and the General Support Division within the Department of Accounting and General Services;
 - (b) Transfers all school-related functions in the Central Services and Public Works Divisions to the School Support Division; and
 - (c) Consolidates remaining Central Services and Public Works Division functions in the General Support Division; and

- (2) Requires the Department of Education and the Department of Accounting and General Services to determine whether further consolidation would result in more efficient organization to support educational services.

Your Committee finds that although communication and decision-making between the Department of Accounting and General Services and the Department of Education has improved in recent years, the transfer and consolidation of functions set forth in this measure would contribute to additional improvements and greater accountability.

Your Committee has amended this measure by making technical nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3006, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3006, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2580 Ways and Means on S.B. No. 3041

The purpose of this measure is to repeal the Department of Education storeroom revolving fund.

Your Committee agrees that the Department of Education's storeroom has reached a point where it is no longer the most resourceful way to allocate office, custodial, school, and other supplies and should be discontinued, along with the storeroom revolving fund. Slow distribution, loose inventory controls, and excessive ordering attest to the fact that it has outlived its usefulness.

As affirmed by the record of votes of the members 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. 3041, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2581 (Majority) Ways and Means on S.B. No. 2043

The purpose of this measure is to establish a temporary advisory task force to study legal issues relating to hanai adoption. The task force is directed to:

- (1) Review case law, statutory law, and Hawaiian customary and traditional practices related to hanai adoption practices;
- (2) Submit an interim report to the Legislature not later than twenty days prior to the Regular Session of 2003; and
- (3) Submit a final report of findings and recommendations, including proposed legislation, to the Legislature not later than twenty days prior to the Regular Session of 2004.

Your Committee finds that hanai adoption has long been practiced by Hawaiian families, and hanai relationships continue today. Hanai adoption generally refers to a permanent relationship, frequently with family members, that provides for a child's well being, with adults other than the child's biological parents raising and caring for the child. Although it closely resembles today's legal adoptions, early courts in Hawaii failed to grant the same rights to hanai adoptions as those given to legal adoptions that fulfill statutory requirements. Modern courts follow that precedent.

The Hawaii constitution requires that customs and traditions of native Hawaiians be protected and preserved. Your Committee believes that hanai adoption is a customary and traditional Hawaiian practice that continues today, and as such, the State must fulfill its constitutional mandate. The task force established by this bill would clarify the status of hanai relationships, helping those involved to understand their legal rights and obligations.

Your Committee has amended this bill by changing the amount appropriated from \$1 to a blank amount 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2043, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2043, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, 2 (Hemmings, Slom). Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2582 Ways and Means on S.B. No. 2232

The purpose of this measure is to ensure that unencumbered funds that were appropriated for infrastructure improvements at Kikala-Keokea on the island of Hawaii will not lapse at the end of the 2001-2002 fiscal year.

Your Committee finds that Act 144, Session Laws of Hawaii 2001, established and funded an infrastructure development fund, to be administered by the Department of Land and Natural Resources, for the completion of infrastructure at the Kikala-Keokea subdivision, subject to being matched dollar-for-dollar by the Office of Hawaiian Affairs.

However, all funding commitments to complete the design and construction of infrastructure improvements must be agreed upon in a Memorandum of Agreement between the Office of Hawaiian Affairs and the Department before any funds can be expended. The Department is still working on the Memorandum of Agreement with the Office of Hawaiian Affairs and the Attorney General to secure funding commitments and establish payment mechanisms to support this project.

Your Committee further finds that the language contained in Act 144 will not permit the expenditure of funds after June 30, 2002, if they were not encumbered by that date. To address this situation and to meet the Legislature's intended work period through June 30, 2004, the Department has included a request in the LNR 101 (Public Lands Management) program area of the operating budget to extend the authorization for expenditure of the funds to June 30, 2003. If necessary, a similar request would be submitted next fiscal year to extend the authorization to June 30, 2004.

Your Committee supports providing funding for infrastructure improvements at the Kikala-Keokea subdivision either through the Executive Supplemental Budget as requested by the Governor or through the passage of this bill.

Upon further consideration, your Committee has amended this bill by making 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. 2232, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2232, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Chun, Inouye, Kim, Tam, Slom).

SCRep. 2583 Ways and Means on S.B. No. 2478

The purpose of this measure is to allow trustees of the Office of Hawaiian Affairs to participate in and receive retirement benefits as other state elected officials.

Your Committee finds that the inequity in treatment of Office of Hawaiian Affairs trustees for purposes of retirement benefits can be corrected by this measure. Your Committee finds that inasmuch as the Office of Hawaiian Affairs trustees serve their constituency as other elected officials do, it is in the interest of equity, fairness, and parity that the Office of Hawaiian Affairs trustees be allowed to accrue retirement benefits as other elected state and county officials, and employees of the Office of Hawaiian Affairs now do.

As affirmed by the record of votes of the members 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. 2478 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2584 Ways and Means on S.B. No. 2869

The purpose of this measure is to require the Department of Land and Natural Resources to use its powers of eminent domain to acquire the lands adjacent to the Kohala Historical Sites State Monument on the Big Island.

Your Committee finds that the acquisition of those lands is necessary to preserve, protect, and provide public access to the Kohala Historical Sites State Monument. Specifically, the acquisition of the undeveloped lands between Mo'okini Heiau and the Kamehameha birthsite will preserve the historical setting, cultural landscape, and view corridors.

Your Committee has amended this measure by making technical nonsubstantive amendments for the purposes of clarity and style and by changing the effective date to July 1, 2050.

As affirmed by the record of votes of the members 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. 2869, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2869, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2585 Ways and Means on S.B. No. 2895

The purpose of this measure is to appropriate funds to sponsor a Hawaii delegation to the Festival of Pacific Arts.

Your Committee finds that the Festival of Pacific Arts has a long history, having started in Suva, Fiji in 1972 and continuing every four years in a different Pacific nation venue. In 2000 the Festival was held in New Caledonia with more than twenty delegations represented. In 2004 the Festival is scheduled for the north Pacific island nation of Palau.

Your Committee further finds that Hawaii's entry in past Festivals has enriched participants' lives and exposed Hawaii's art, music, drama, dance, and other talents to other Pacific nations. This is important to the emergence of Hawaii's sophistication in the world scene and can only expand Hawaii's renaissance that began in the 1970s.

Hawaii remains an important contributor to the diversity of Pacific island culture. The exchange of skills, talents, and knowledge that goes on during the Festival of Pacific Arts increases the belief in and an appreciation of native island cultures.

As affirmed by the record of votes of the members 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. 2895, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2586 Ways and Means on S.B. No. 251

The purpose of this measure is to establish a professional counselor licensing program.

Your Committee finds that providing for the licensing of professional counselors is critically important, since many who seek counseling are vulnerable and need protection from unskilled, untrained, and ill-prepared practitioners. At present, masters and doctoral level counselors are unregulated in Hawaii, and there are no special safeguards in place to assure consumers of the quality of service they are receiving.

Your Committee notes that in 1998, the United States Congress passed legislation to include professional counselors in United States Public Health Service Act programs. The federal government now recognizes professional counseling as one of the core helping professions along with psychiatry, psychology, psychiatric nursing, social work, and marriage and family therapy.

In addition, your Committee finds that forty-seven states and the District of Columbia already have licensure laws, and two other states are close to passing theirs. Therefore, Hawaii will be the only state in the nation that does not license its mental health professional counselors.

Your Committee finds that establishing educational and experiential standards for professional counselors and requiring their licensure will afford greater protection to the public by providing consistent and accountable standards of practice.

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

- (1) Replacing the sum appropriated with a blank amount to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (2) Making 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. 251, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 251, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2587 Ways and Means on S.B. No. 1399

The purpose of this measure is to appropriate funds to provide emergency advanced life support ambulance service to the residents of Hawaiian Ocean View Estates on the island of Hawaii.

Your Committee finds that a serious deprivation of emergency ambulance services exists in Hawaii county. Unacceptably long and life-threatening delays have occurred for residents of Hawaiian Ocean View Estates when the only ambulance in the area, which is located in Na'alehu, is already on call. Delays can last up to two hours.

While emergency medical technicians are available, they can only provide basic life support until a backup advanced life support ambulance with mobile intensive care technicians can arrive. Your Committee finds that delays in the provision of emergency medical care because of geography need to be addressed.

As affirmed by the record of votes of the members 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. 1399, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2588 Ways and Means on S.B. No. 2026

The purpose of this measure is to increase Medicaid and QUEST reimbursements to hospitals and physicians.

Specifically, this bill appropriates \$1 for fiscal year 2002-2003 to increase the Medicaid reimbursement rate to hospitals and physicians who provide medical services to Medicaid participants in the fee-for-service program and to increase the capitation payments to QUEST plans to allow them to adequately cover the cost of providing these services.

Your Committee finds that there is a financial crisis in the health care industry. It is common knowledge that Medicare and Medicaid payments typically do not cover the actual costs of care. The Medicare Payment Advisory Commission recently recommended an increase in Medicare payments to most providers and that not doing so could jeopardize access to care for the elderly and disabled. This measure promotes such access to care by seeking to cover the actual cost of medical services.

For the purpose of further consideration, your Committee has amended this bill to change the \$1 appropriation to 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. 2026, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2026, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2589 Ways and Means on S.B. No. 2052

The purpose of this measure is to authorize the issuance of up to \$80,000,000 in special purpose revenue bonds to finance health care facilities for Hawaii Pacific Health.

In particular, the special purpose revenue bonds are to assist Hawaii Pacific Health, a not-for-profit corporation, in financing, refinancing, and reimbursing costs related to the acquisition or construction of health care facilities, the renovation of existing health care facilities, and other capital related projects.

Your Committee finds that Hawaii Pacific Health is a new health system formed by the recent merger of Kapiolani Hospitals, Straub Hospital and Clinic, and Wilcox Hospital. As a result of the merger, Hawaii Pacific Health is now the largest healthcare delivery system in Hawaii, consisting of four hospitals, twenty-three clinics, and thirty outreach programs.

Your Committee finds that this measure will allow Hawaii Pacific Health to secure much-needed capital at a low, tax-exempt cost to pay for the renovation of aging facilities and the acquisition of new equipment and technology in order to continue providing high quality health care for the people of this State. Some of the major projects include equipment and improvements to the heart center at Straub, nurseries at Kapiolani Women and Children's Hospital, the operating room and nurse's stations at Pali Momi, and a diagnostic center at Wilcox Hospital on Kauai for early detection and treatment without the need for a trip to Honolulu.

As affirmed by the record of votes of the members 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. 2052 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2590 Ways and Means on S.B. No. 2085

The purpose of this measure is to provide mental illness and drug and alcohol abuse treatment benefits for children under the age of nineteen of public employees.

Specifically, this bill requires the State to provide mental illness and drug and alcohol dependence treatment benefits for children of public employees identical to the benefits provided to adults under chapter 431M, Hawaii Revised Statutes, with certain exceptions. Treatment benefits are not to be provided for children already receiving treatment by the State in accordance with the Individuals with Disabilities Education Act or Section 504 of Rehabilitation Act of 1973.

Your Committee finds that minors are not receiving health care coverage benefits in parity with adults. During the important developmental stages of their lives, minors should receive the mental health and substance abuse treatments they need. This measure affords minors with the necessary health insurance coverage to ensure that they can receive such treatments.

Your Committee has made, for the purpose of clarity and style, several technical nonsubstantive amendments, including deletion of the word "serious" in the definition of "serious mental illness" in section 1 (page 2, line 7) and section 2 (page 3, line 11) to conform to the definition of "mental illness" in section 431M-1, Hawaii Revised Statutes, to which the definition is referenced.

As affirmed by the record of votes of the members 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. 2085, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2085, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2591 Ways and Means on S.B. No. 2140

The purpose of this measure is to provide presumptive eligibility for Medicaid or QUEST coverage to pregnant women for prenatal care and other medically indicated services.

This bill requires the Department of Human Services to presume that pregnant women are eligible for Medicaid or QUEST coverage for prenatal and other medically indicated services, if applicants show proof of pregnancy and meet income qualifications. Under this

bill, infants of women presumptively covered under QUEST are deemed eligible for medical services, and would be processed for the State's Children's Health Insurance Program.

Your Committee believes that early and continuous prenatal care for pregnant women is the primary cost-effective method for preventing low birthweight in infants and poor birth outcomes. Having a low birthweight infant has been determined to be among the three most expensive hospital stays. Pregnant women were presumed eligible for prenatal Medicaid care prior to the inception of the QUEST program in 1994. That presumption did not carry over to QUEST, which has caused lengthy processing delays under QUEST. This bill would eliminate these delays, which may take up to an unacceptable four to six weeks.

As affirmed by the record of votes of the members 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. 2140 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2592 Ways and Means on S.B. No. 2145

The purpose of this measure is to appropriate unspecified sums to the Department of Education for fiscal year 2002-2003 to expand the Families for R.E.A.L. program to the Honolulu, Central, Kauai, and Hawaii departmental school districts, and to conduct a longitudinal study of the Families for R.E.A.L. program.

Your Committee finds that the Families for R.E.A.L. (Resources for Early Access to Learning) program is based on the premise that parents serve as their children's first and most important teachers. Consequently, parents have the opportunity to positively influence their children's learning experiences and development long before they enter school.

Your Committee also finds that the Department of Education currently operates a Families for R.E.A.L. program in the Windward, Central, and Maui departmental school districts. Since the Department of Education is planning to eventually establish fourteen Families for R.E.A.L. program sites throughout the State, your Committee believes that a longitudinal study of the program is in order.

Such a study will help to validate mounting anecdotal and circumstantial evidence that the Families for R.E.A.L. program exerts a positive influence on student achievement. For example, long waiting lists (ranging from 100-500 families per site) and consistent teacher reports (upon entry to elementary school) suggest that children who attend the Families for R.E.A.L. program are more ready to learn than children who do not have this experience.

As affirmed by the record of votes of the members 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, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2593 Ways and Means on S.B. No. 2150

The purpose of this measure is to require the Department of Human Services to review every report of suspected child abuse or neglect submitted to it to determine whether the case should be referred to a physician for a definitive medical opinion on whether child abuse or neglect has occurred.

Furthermore, this measure requires the Department to immediately refer the child for a medical opinion once the Department determines a referral should be made.

Your Committee finds that under present law health care providers, schools, child care providers, law enforcement agencies, medical examiners and coroners, and recreational and sports activities providers are required to report suspected cases of child abuse or neglect to the Department or the police.

Your Committee further finds that the accurate diagnosis of child abuse relies on the joint work of both medical and social service specialists in the field of child abuse.

Your Committee has amended this measure by changing the effective date for the appropriation section to July 1, 2050 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. 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 Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2594 Ways and Means on S.B. No. 2227

The purpose of this measure is to appropriate funds for the unique dental care needs of the counties of Hawaii, Kauai, and Maui.

Your Committee finds that dental care is an important component of overall health. Unfortunately, not all residents have access to such care. The Oral Health 2001 Report identified neighbor island disparity and access as an obstacle to dental health on the neighbor islands. There is an acute shortage of dentists in some areas, combined with a high poverty rate that puts dental care out of reach for too many state residents. The intent of this bill is to address the specific and unique needs of dental health for the residents of the neighbor islands.

It is your Committee's intent that the funds be used to provide as much dental care directly on each neighbor island as possible.

Your Committee has amended this bill by making the appropriation blank for the purposes of 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. 2227, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2227, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2595 Ways and Means on S.B. No. 2274

The purpose of this measure is to appropriate funds to the Department of Health to support the case management program of the Maui AIDS Foundation.

Your Committee finds that this measure is necessary to maintain the existence of the Maui AIDS Foundation, which has experienced numerous funding cuts over the past years while its case load has continued to increase.

Your Committee has amended this measure by changing the appropriation to 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. 2274, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2274, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2596 Ways and Means on S.B. No. 2275

The purpose of this measure is to appropriate moneys to the Department of Human Services for the Maui Adult Day Care Center.

Specifically, this bill appropriates \$250,000 in fiscal year 2002-2003 to provide activities and activity materials, administrative expenses, fee waivers, and operating expenses for the Maui Adult Day Care Center, to be expended by the Department of Human Services.

Your Committee finds that the number of elders in the State continues to increase. The services provided in adult day care centers are valuable resources that help to prevent premature institutionalization for this segment of the population. The Maui Adult Day Care Center provides relief for working families, structured activities for its clients, and is affordable.

Upon further consideration, your Committee has amended this bill to change the appropriated amount to a blank amount for the purpose of promoting 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. 2275, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2275, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2597 Ways and Means on S.B. No. 2351

The purpose of this measure is to establish a five-year nursing education loan program under the University of Hawaii.

Specifically, this measure authorizes the University of Hawaii to provide loans during the period to students who reside in the State who have been accepted into a nursing program in either a public or private institution in the State and who agree to work in the State upon graduating. Furthermore, under this measure, twenty per cent of the loan amount is forgiven each year that the loan recipient works as a registered nurse in the State.

Your Committee finds that this measure is needed to alleviate the growing nursing shortage in the State that is primarily due to the aging of the current nursing workforce and the decline in younger people selecting nursing as a career. This measure will attract younger people into the profession by providing them with financial support both during and after their training.

Your Committee has amended this measure by changing the appropriation to a blank amount and 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2351, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2351, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2598 Ways and Means on S.B. No. 2432

The purpose of this measure is to appropriate \$750,000 to the Department of Health for fiscal year 2002-2003 for emergency medical services at the Waianae Coast Comprehensive Health Center.

Your Committee finds that maintaining emergency room services at the Waianae Coast Comprehensive Health Center is critical to the forty thousand residents of the Waianae area. The next closest emergency room is twenty miles away at Saint Francis West Medical Center. If emergency medical services at the Waianae Coast Comprehensive Health Center are not maintained, the lives of Waianae area residents will be at substantial risk.

Your Committee has amended this measure by:

- (1) Changing the sum appropriated from \$750,000 to an unspecified amount; and
- (2) Making a technical nonsubstantive change 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 S.B. No. 2432, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2432, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2599 Ways and Means on S.B. No. 2591

The purpose of this measure is to appropriate \$810,000 as a grant-in-aid to the Hana Community Health Center to cover operational costs. In addition this measure:

- (1) Creates a one-year pilot project within the Hana Community Health Center to provide case management and procure services for children entitled to services under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) who attend Hana high and elementary school;
- (2) Requires that \$390,000 of the Community and Adolescent Mental Health Division of the Department of Health budget be used to contract on behalf of Hana high and elementary school with the Hana Community Health Center to implement the pilot project;
- (3) Requires Hana high and elementary school to oversee and monitor the pilot project and convene an advisory committee consisting of community representatives; and
- (4) Requires a report on the pilot project to the 2004 regular session of the Legislature.

Your Committee finds that as one of the more remote and isolated residential communities of our State, Hana's population of two thousand to three thousand people live dispersed in a geographical area of over two hundred thirty-three square miles. This community has the dubious distinction of having federal designations as underserved medically and being a professional shortage area for primary care, dental health, and mental health.

There is one school, the Hana high and elementary school with about four hundred students, and a Hana Community Health Center serving these residents.

A recent federal grant implemented the Hana Health Initiative for Children and Adolescents to provide eye exams, hearing screening, pediatric care, dental care, and behavioral health services by linking both the school and the health center.

It is estimated that about one hundred school children qualify for special services under the Felix consent decree who could benefit from the delivery of case management and other health related services that is proposed in the instant measure that would also link the school and the health center.

Your Committee has amended this bill by changing the amount for the grant-in-aid and the portion of the Department of Health Budget for the Child and Adolescent Mental Health Division to blank amounts to allow for further discussion. Your Committee also made technical non-substantive amendments in keeping with proper drafting 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. 2591, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2591, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2600 Ways and Means on S.B. No. 2717

The purpose of this measure is to make an emergency appropriation to the Employees' Retirement System for the employer's share of contributions to cover Social Security and Medicare costs.

Your Committee finds that funds that were transferred in 2001 to operate the Convention Center (authorized by Act 259, Session Laws of Hawaii 2001), included \$10,125,000 transferred from funds budgeted for payment of Social Security expenses. These Social Security and Medicare expenses are expenses the State is obligated by law to fund and which now represent a shortfall requiring emergency provision. Your Committee supports this emergency 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 S.B. No. 2717, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2601 Ways and Means on S.B. No. 2753

The purpose of this measure is to appropriate funds for the Department of Human Services to comply with state and federal program mandates to provide care to abused and neglected children and to find permanent homes for those children who are unable to return to their original home.

Your Committee finds that increasing demands have been placed on the entire Department of Human Services child protective system. In particular, the State's economic downturn, compounded by the aftermath of the tragic events of September 11, 2001, have placed record demands on Child Protective Services and its foster care and adoption system.

Your Committee finds that additional funds are necessary if permanent homes are to be found for the children who cannot return to their original homes, as mandated by state and federal law. In order to maintain at least a minimum of services to its child welfare system, there is a need to appropriate funds for foster board and board related costs, permanency assistance, and difficulty-of-care payments for foster and adoptive parents, permanent custodians, and guardians of special needs children.

Your Committee finds that this bill is necessary to ensure the integrity of the Department of Human Services' child protective system and to protect the safety of all of Hawaii's children.

As affirmed by the record of votes of the members 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. 2753 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2602 (Majority) Ways and Means on S.B. No. 2761

The purpose of this measure is to establish a consistent fee structure for permits relating to burial and disinterment that are issued by the Department of Health.

The measure also provides for the deposit of one-half of the moneys collected from these fees into the vital statistics improvement special fund, to enable the Department of Health to automate and modernize the process of registering death events. The remainder of the fee will be deposited into the general fund.

Your Committee notes that there presently is no fee assessment for the issuance of burial-transit permits; however, a \$5 fee is assessed for disinterment permits. This measure imposes a fee of \$20 for both permits. Your Committee finds that automating the process for requesting and issuing of burial-transit and disinterment permits will result in a more efficient and convenient means of obtaining permits for the disposition of a dead body and re-burial of human remains in the State, by eliminating the need for in-person or mail-in request and issuance of these permits.

Your Committee has amended this measure by:

- (1) Changing the text at line 12 of page 1 to reflect accurately the printed version of the Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive changes for 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. 2761, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2761, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 2 (Hemmings, Slom). Excused, 2 (Sakamoto, Tam).

SCRep. 2603 Ways and Means on S.B. No. 2764

The purpose of this measure is to require the Department of Health to ensure adequate safety measures to safeguard its electronic vital statistics records.

The bill also provides a more efficient process for registering births and deaths in the State.

Your Committee finds that identity theft is a serious problem that is aggravated when the thief gains access to vital statistics records to more easily and convincingly impersonate the victim. Records of death, and especially births, can be used to create alternative identities that can cost the victim thousands of dollars to straighten out. Keeping this data secure will help protect the residents of this State.

The bill also allows for filing of vital statistics records in a more efficient manner that makes the records easier to access, and also allows them to be accessed in a more timely manner. This provides an important community service.

Your Committee has amended the bill by making technical nonsubstantive corrections to make the text conform to the existing Hawaii Revised Statutes 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. 2764, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2764, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2604 (Majority) Ways and Means on S.B. No. 2770

The purpose of this measure is to establish the public health nursing services special fund to receive and expend Medicaid reimbursements for case management services to meet the needs of medically fragile children.

Your Committee finds that although medically fragile children often require early and periodic screening, diagnosis, and treatment case management services, there is a shortage of agencies qualified to provide the needed services. As a result, the Department of Health has requested the public health nursing branch program of the Department of Health to provide case management services that will help these children obtain medical, social, and education services they require. Your Committee believes that establishing the special fund and authorizing the Department of Health to expend the Medicaid reimbursements deposited into the special fund will help medically fragile children receive the services that they need.

Your Committee has amended this bill by:

- (1) Replacing the amount appropriated with a blank amount to promote continued discussions; and
- (2) 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. 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 Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Sakamoto, Tam).

SCRep. 2605 Ways and Means on S.B. No. 2773

The purpose of this measure is to make an emergency appropriation for services provided by the Department of Health's Child and Adolescent Mental Health Division associated with the *Felix v. Cayetano* consent decree.

Specifically, \$1 is appropriated for fiscal year 2001-2002 for this purpose.

Your Committee notes that your Committee on Health and Human Services expressed its belief in SSCR No. 2316 dated February 15, 2002, that the original \$8,750,603 requested should be re-allocated for completely different purposes, including:

- (1) \$1,000,000 to the Children's Health Insurance Program under the Department of Human Services;
- (2) \$1,000,000 for the Department of Human Services to fund the preemptive eligibility program for QUEST coverage for pregnant women;
- (3) \$1,000,000 for the Department of Health's neo-natal preventive services for potential Felix children;
- (4) \$1,000,000 for the Department of Health's poison center;
- (5) \$2,000,000 for the Department of Health pilot project to serve Felix children through community health centers on the neighbor islands; and

(6) \$500,000 for the birth defects program.

Your Committee finds that although funds were appropriated for these services for fiscal year 2001-2002, the program will expend all appropriated funding before the end of the fiscal year and the Department will be unable to meet its fiscal obligation to provide these 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. 2773, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Chun Oakland, English, Ige, Kim, Tam).

SCRep. 2606 Ways and Means on S.B. No. 2775

The purpose of this measure is to make an emergency appropriation to the Hawaii Health Systems Corporation for fiscal year 2001-2002.

Specifically, this bill makes an emergency appropriation of \$5,000,000 to repay funds advanced by the State and to pay for mandated and rural health care costs.

Your Committee finds that the Hawaii Health Systems Corporation and its facilities play an important role in providing medical services and care to the people of Hawaii, especially on the Neighbor Islands. This measure will ensure that the Hawaii Health Systems Corporation meets its fiscal obligations in providing services to members of the general public who need hospital-based 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. 2775 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, Chun Oakland, Ige, Kim, Tam).

SCRep. 2607 Ways and Means on S.B. No. 2776

The purpose of this measure is to expand the responsibilities of the Department of Health by permitting the department to assist in the implementation of a statewide poison control program.

The State funded the poison control center until 1995, when it was advised that it could no longer do so without statutory authority. However, your Committee agrees with the Department of Health that a full-time poison control center needs to be reinstated in Hawaii. A twenty-four-hour poison control center is an integral part of an emergency services system. Poisoning is often an acute crisis in which every minute counts, and action must be taken immediately. A phone call to a poison control center can start life-saving treatment immediately when there is no time to make a doctor's appointment or even get to an emergency room.

Your Committee finds that a poison control center saves lives and needs to be active around the clock to avert the pain, suffering, and death arising from crisis poisoning situations.

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. 2776, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2776, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2608 Ways and Means on S.B. No. 2781

The purpose of this measure is to authorize the Department of Health to implement and maintain a trauma registry.

The registry will collect information concerning the treatment of critical trauma patients at state-designated trauma centers, and administer a system for the management of that information.

Your Committee finds that statutory authority to continue receiving trauma registry data is necessary to comply with the Federal Health Insurance Portability and Accountability Act.

A trauma registry abstracts information for continuous quality improvement of ground ambulance services, referring medical facilities, aeromedical service, and trauma centers. The trauma registry information supports injury surveillance for injury prevention control strategies. A trauma registry also allows health care administrators and clinicians to engage in evidence-based decision making for policy development and resource allocation.

As affirmed by the record of votes of the members 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 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2609 Ways and Means on S.B. No. 2782

The purpose of this measure is to expedite the annual state licensing of hospitals by the Department of Health.

Specifically, this measure allows the Department of Health to accept accreditation by the Joint Commission on Accreditation of Healthcare Organizations as evidence that a hospital demonstrates compliance with all state licensing requirements for the year in which the accreditation is issued.

Your Committee finds that this measure will expedite the licensing of hospitals by the Department of Health by relieving it of the need to conduct annual inspections for all hospitals in certain years. Your Committee further finds that most states have adopted this same accreditation program which, in effect, duplicates the costly task of inspection currently being performed by the Department, but at the hospitals' own expense. In addition, the Centers for Medicare and Medicaid Services also use accreditation by the Joint Commission on Accreditation of Healthcare Organizations to certify hospitals for Medicare/Medicaid reimbursement. In Hawaii, twenty-two of thirty hospitals currently licensed are accredited by the Joint Commission on Accreditation of Healthcare Organizations. While saving costs, the Department maintains its authority to conduct inspections upon the receipt of complaints.

Your Committee has amended the bill by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2782 as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2782, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2610 Ways and Means on S.B. No. 2867

The purpose of this measure is to set Medicaid payments at a level closer to the actual costs of care provided.

Specifically, this bill prohibits the Department of Human Services from implementing Medicaid plan amendments that reduce Medicaid payments until the federal government approves a state Medicaid plan amendment to raise reimbursements to providers closer to actual costs of care provided. This bill also requires the Department to set implementation dates for the elimination of certain payment-reducing components and for a program to raise reimbursements to providers closer to actual costs of care provided. In addition, the bill requires the Department, in future health plan contract negotiations, to propose adjustments within the limits of appropriations to the per capita payments based on an increasing factor.

This bill appropriates \$3,400,000 in general funds and \$4,387,448 in other federal funds in fiscal year 2002-2003 to raise provider reimbursements closer to actual costs of care for aged, blind, and disabled Medicaid recipients. Finally, this bill appropriates or authorizes \$3,636,119 of general funds and \$4,725,500 in other federal funds in fiscal year 2002-2003 for an increasing factor for health care payments for the QUEST program.

Your Committee finds that a financial crisis exists in the State's Medicaid payment system to reimburse providers adequately in order to maintain access to essential health care services.

Upon further consideration, your Committee has amended this bill to delete the appropriations made in section 5 of the bill relating to an increasing factor for health care payments for the QUEST program, by amending the appropriated amounts in section 4 of the bill to blank amounts for the purpose of promoting further discussion, and by renumbering the remainder of the bill appropriately.

As affirmed by the record of votes of the members 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. 2867, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2867, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2611 Ways and Means on S.B. No. 2881

The purpose of this measure is to extend the repeal date of the PACE demonstration project at Maluhia Hospital by three years to June 30, 2005.

This measure also makes conforming amendments to the federal agency's new name, the Centers for Medicare and Medicaid Services, and the Department of Health's new Office of Health Care Assurance Branch, replacing the old Hospital and Medical Facilities Branch.

Act 211, Session Laws of Hawaii 1992, established a demonstration project at Maluhia Hospital known as the program for all-inclusive care for the elderly (PACE). PACE provides a complete package of health services that enhances the quality of life for the elderly using a capitated rate structure that costs less than Medicare and Medicaid.

The extension of the sunset date from June 30, 2002, to June 30, 2005, provides the necessary transition period for PACE to attain permanent status when it is granted a permanent provider status by the federal government.

Your Committee has made several technical nonsubstantive amendments, including correcting the organization title "Center of Medicare and Medicaid Services" to "Centers for Medicare and Medicaid 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. 2881, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2881, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2612 Ways and Means on S.B. No. 2944

The purpose of this measure is to help those who cannot afford health care to obtain access to primary health care by ensuring the viability of the nonprofit, community-based health care system.

Specifically, this bill directs the Department of Health to provide resources to nonprofit, community-based health care providers to pay for providing direct care, including primary medical care, dental care, behavioral and mental health care, and optometry services, which may be on a per-visit basis. The bill appropriates \$3,750,000 for fiscal year 2002-2003, to be expended by the Department of Health, for health care for the medically underserved.

Your Committee finds that these nonprofit community centers provide a needed service. Not only do they provide cost-effective care to the uninsured, but the care they provide prevents more serious and costly health conditions in the vulnerable uninsured population. Due to the recent economic downturn in Hawaii many people lost their job or suffered a reduction in work hours, thus losing their health care coverage. This measure will provide some assurance that those without health care coverage may be able to afford the services they need.

Upon further consideration and to promote further discussion, your Committee has amended this bill by changing the appropriated amount to a blank amount. Your Committee has also made 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. 2944, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2944, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2613 Ways and Means on S.B. No. 3047

The purpose of this measure is to appropriate funds for the operation of the Waipahu Community Adult Day Health Center and Youth Day Care Center pilot project.

Your Committee finds that more and more working families fit the "sandwich generation". This is the group of families who must not only provide for their children's care during the day, but who for one reason or another are also responsible for the care of elderly parents. It is part of Hawaii's culture and high cost of living that necessitates the multi-generational living arrangement. Your Committee further finds that this measure keeps the elderly from being institutionalized and is less costly than having persons in nursing homes. The added benefit here is that youngsters too little to attend school would also be able to attend a day care setting. This could help both generations, which your Committee fully supports.

Your Committee has amended this bill by changing the appropriation to a blank amount to allow for 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. 3047, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3047, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2614 Ways and Means on S.B. No. 3053

The purpose of this measure is to codify the public health nursing program of the Department of Health.

Your Committee finds that codification is necessary to ensure that the State has a structural framework in place to respond to events threatening the health and safety of the community.

Your Committee has amended this measure 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3053, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3053, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2615 Ways and Means on S.B. No. 3077

The purpose of this measure is to require the Department of Health to include in the standards for emergency medical services a requirement that ambulance service providers licensed by the State establish and maintain an alcohol and substance abuse policy for employees that is equivalent to that established for holders of commercial drivers' licenses.

The measure also requires licensed service providers to establish an employee wellness program for emergency medical services employees.

Your Committee finds that this measure is necessary to protect the health, safety, and welfare of the public, because it will ensure that the quality of care given by emergency medical services employees is maintained. Your Committee further finds that this measure will provide a safe working environment for all emergency medical services employees, while helping those employees who abuse drugs and alcohol.

As affirmed by the record of votes of the members 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. 3077, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2616 Ways and Means on S.B. No. 1381

The purpose of this measure is to change the reporting time for the Elections Appointment and Review Panel (Panel) to report to the Legislature on its biennial performance evaluation from every odd-numbered year to every even-numbered year.

Your Committee notes that the law presently requires the Panel to conduct a biennial performance evaluation of the operation of elections and the performance of the Chief Election Officer and to submit its findings and recommendations to the Legislature twenty days before the convening of the regular session in odd-numbered years. However, because election operations begin in February of every even-numbered year and end twenty days after the general election, the Panel has only one month to prepare the report prior to this deadline. Your Committee finds that this deadline provides an insufficient amount of time for the Panel to evaluate effectively the election operations and the Chief Election Officer's performance and to prepare a comprehensive report.

Your Committee has amended this measure by:

- (1) Changing the appropriation amount specified to an unspecified amount to facilitate further discussion;
- (2) Changing the fiscal year, at line 5 of page 3, from "2001-2002" to "2002-2003" and changing the effective date from "upon approval" to "July 1, 2002"; and
- (3) 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 S.B. No. 1381, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1381, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2617 Ways and Means on S.B. No. 2223

The purpose of this measure is to appropriate \$35,500 for Hawaii's contribution in the form of state dues to the costs of the National Conference of Commissioners on Uniform State Laws.

The funds are also to be used for the registration and travel expenses for Hawaii's Commission to Promote Uniform Legislation of the Department of the Attorney General, and the assigned Deputy Attorney General to attend the 2002 annual meeting of the National Conference of Commissioners on Uniform State Laws.

Your Committee finds that the National Conference of Commissioners on Uniform State Laws, as a state service organization, depends upon state appropriations for its continued operation. All states, the District of Columbia, Puerto Rico, and the United States Virgin Islands are asked to contribute a specific amount, based on population, for the maintenance of that organization, and each state commission requests an amount to cover its travel to the annual meeting.

Your Committee finds that the work of the National Conference of Commissioners on Uniform State Laws, which includes the development of many uniform laws adopted by Hawaii, including the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Interstate Family Support Act, cannot be accomplished independently by a small state such as Hawaii. Continued support of and participation in the National Conference by this State is essential to continue the work of drafting and revising uniform laws concerning matters of state interest.

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

- (1) Replacing the sum appropriated with a blank amount to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (2) Making 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. 2223, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2223, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2618 Ways and Means on S.B. No. 2634

The purpose of this measure is to increase the number of judges in the second and third circuit from three to four.

The second judicial circuit has only two Circuit Court judges to serve the entire circuit, which is comprised of Maui, Molokai, and Lanai. Your Committee finds that in the ten years since the last judgeship was granted to the second judicial circuit, the population of this tri-island county has expanded by twenty per cent and, concomitantly, the number of court cases and their complexity have increased significantly. This situation has resulted in additional overtime work for the existing judges, with a corresponding increase in the overtime cost for court staff, and an increase in the cost of per diem judges.

Your Committee further finds that the third judicial circuit, which serves the entire county of Hawaii, will be home to the impending Drug Court. To ensure the success of the Big Island Drug Court, an additional circuit-level judge will be necessary to handle the judicial processes of the court full-time.

Your Committee notes that the funds for these additional judgeships are currently in the Judiciary's budget request, and that this measure is needed to authorize the appointments.

Your Committee has amended this bill by 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 S.B. No. 2634, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2634, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2619 Ways and Means on S.B. No. 2819

The purpose of this measure is to convert the two part-time members of the Hawaii Paroling Authority to full-time members.

In addition, the measure: appropriates funds for the additional compensation, office equipment, and related expenses; requires the position of Chairperson to rotate among the members every two years; and prohibits the members from engaging in outside employment.

Your Committee notes that the Hawaii Paroling Authority was created in 1976 and that its composition of one full-time chair and two part-time members was adequate for the workload at that time. However the increasing prison population in recent years and the effects of mandatory sentences have caused the Paroling Authority's caseload to increase exponentially. Your Committee finds that the role of the Paroling Authority is vital to our criminal justice system and to the public's safety. Your Committee further finds that the Paroling Authority's present workload justifies three full-time members.

Your Committee has amended this measure by changing the amount specified to an unspecified amount to facilitate 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. 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 Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2620 Ways and Means on S.B. No. 2821

The purpose of this measure is to increase the allowable compensation awarded to crime victims for medical expenses.

More specifically, the measure provides that, if compensable, medical expenses are in excess of the compensation award ceiling of \$10,000, the maximum award is limited to \$20,000 or the amount of the compensable medical expenses.

Your Committee finds that the vast majority of states have higher compensation award ceilings: these range from \$15,000 to a high of \$150,000 in Washington State, with no statutory ceiling imposed in New York. In contrast, only eight states, including Hawaii, have a \$10,000 award ceiling. Your Committee believes that the State's present compensation award ceiling of \$10,000 is woefully inadequate to address cases involving catastrophic medical care and should be raised in cases involving compensable medical expenses that are in excess of \$10,000.

Your Committee has amended this measure by:

- (1) Clarifying that, in such instance, the compensation award shall be limited to the lower of either \$20,000 or the actual amount of the compensable medical expenses; and
- (2) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means 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 Third Reading in the form attached hereto as S.B. No. 2821, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2621 Ways and Means on S.B. No. 941

The purpose of this measure is to include services rendered to employees by occupational therapists and occupational therapy assistants in medical care or services covered under Hawaii workers' compensation law.

Your Committee finds that occupational therapists and occupational therapy assistants are skilled health care providers who provide beneficial service or treatment to employees with a work-related injury. This measure will facilitate access to treatment that will help an injured worker return to the workplace in good health and without delay.

Your Committee has amended this measure by:

- (1) Replacing the term "masseur" with "licensed massage therapist"; and
- (2) Making technical nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 941, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 941, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2622 Ways and Means on S.B. No. 2078

The purpose of this measure is to require the Employees' Retirement System to pay interest on pensions that are not processed and issued within ninety days of retirement.

Your Committee finds that it is unreasonable for new retirees to wait an excessively long time for their first retirement check. Waiting ninety days means that unless the retiree has other sources of savings, three months might elapse before the retiree has the funds to pay for living and housing expenses from his or her retirement benefits. It is possible that the retiree would face hardships in paying for food, medicine, and rent under these circumstances. Consequently, your Committee finds that it is not unreasonable to require the Employees' Retirement System to pay interest on pensions that are not processed and issued within ninety days of retirement, especially since the Employees' Retirement System is earning interest on the moneys that are supposed to go to the pensioners.

As affirmed by the record of votes of the members 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. 2078, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2623 Ways and Means on S.B. No. 2111

The purpose of this measure is to allow a public employer and an exclusive representative to determine whether non-cost items in a collective bargaining agreement will become effective upon ratification, upon the acceptance of all cost items by the appropriate legislative body, or at some other agreed upon time.

In addition, this measure consolidates existing laws governing conflicts between a collective bargaining agreement and rules adopted by a public employer, the civil service law (chapter 76, Hawaii Revised Statutes), and the law relating to public service (chapter 78, Hawaii Revised Statutes).

Your Committee finds that existing law makes all non-cost items in a collective bargaining agreement valid, enforceable, and effective before the acceptance of all cost items by the appropriate legislative body. In recognition of the fact that public employers and exclusive representatives occasionally exchange concessions on cost items for concessions on non-cost items, and vice-versa, your Committee finds that existing law actually fragments the collective bargaining process and undermines the work of negotiators. This measure is intended to give negotiators the power to determine, through the collective bargaining process, whether non-cost items in a collective bargaining agreement will become effective upon ratification, upon the acceptance of all cost items by the appropriate legislative body, or at some other agreed upon time.

As affirmed by the record of votes of the members 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. 2111 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2624 Ways and Means on S.B. No. 2114

The purpose of this measure is to allow family leave benefits, greater than the four weeks already authorized in statute, to be negotiated for employees subject to collective bargaining.

Your Committee finds that this measure will enable employers and employees to negotiate more aspects of the employees' terms of employment, in keeping with the intent of Act 253, Session Laws of Hawaii 2000, otherwise known as the Civil Service Modernization Act.

Your Committee has amended the measure by making technical, nonsubstantive changes for purposes of consistency 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. 2114, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2114, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2625 Ways and Means on S.B. No. 2120

The purpose of this measure is to allow payment of temporary partial disability benefits to an injured employee who returns to work, but requires treatment not obtainable before or after work hours. The bill provides that the employee with a work related injury is entitled to temporary partial disability benefits for the time off from the job that is required to receive treatment.

Your Committee finds that employees who have sustained an injury at work may need medical treatment even after they return to work. However, treatment is often not available before or after work, and getting treatment during working hours presents financial difficulties for an employee because the time out of the office generally does not qualify for temporary total or temporary partial disability benefits or sick leave benefits. Allowing employees to receive temporary partial disability benefits for time out of the office for medical treatment will encourage employees to obtain the appropriate medical treatment that will help maintain good health and enable them to remain in the workplace as productive employees.

Your Committee has amended this bill to clarify that the temporary partial disability benefits to which an employee is entitled if the employee obtains medical care not available before or after working hours are subject to the same limitations on weekly benefit rates prescribed in section 386-31, Hawaii Revised Statutes, for temporary total disability benefits.

As affirmed by the record of votes of the members 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. 2120, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2120, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2626 Ways and Means on S.B. No. 2127

The purpose of this measure is to provide special compensation payments to pensioners aged seventy years and older with at least twenty years of service.

Your Committee finds that longer-lived retirees living on fixed incomes that were calculated at the time of retirement may, over time, face financial hardship due to rising health care and cost of living expenses. This measure is designed to provide special

compensation to these older retirees based on a formula that takes into consideration the number of years the pensioner has been retired, and the number of years of credited 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 S.B. No. 2127 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2627 Ways and Means on S.B. No. 2467

The purpose of this measure is to reinstate binding interest arbitration for bargaining unit (9), registered professional nurses and, consequently, to eliminate their right to participate in a strike.

Your Committee finds that state hospitals cannot function safely without their registered professional nurses. A strike by registered professional nurses would jeopardize the health and safety of patients, and could expose the State to lawsuits if these patients are injured or become ill because of inadequate nursing care. A strike by registered professional nurses could also expose certified nurse assistants and licensed practical nurses to disciplinary action if they perform work that is clearly outside the scope of their certification or licensure. With the repeal of the essential worker law, there is no effective means—other than binding interest arbitration—for protecting the health and safety of the public from imminent or present danger during a strike.

Your Committee has amended this measure by making a technical nonsubstantive change 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 S.B. No. 2467, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2467, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2628 Ways and Means on S.B. No. 2571

The purpose of this measure is to allow retired members of the Employees' Retirement System who continues or restarts employment with the State or a county to participate in the State's Deferred Compensation Plan.

Your Committee agrees with the intent of this bill, and finds that retired members of the Employees' Retirement System who return to active public service, other than emergency hires or those hired for short-term personal service contracts, should be able to participate in the State's Deferred Compensation Plan.

As affirmed by the record of votes of the members 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. 2571 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2629 Ways and Means on S.B. No. 2715

The purpose of this measure is to simplify laws relating to the Employees' Retirement System to enable state or county employees to receive their pension benefits in a timely manner.

Specifically, this measure:

- (1) Allows a pensioner's beneficiary to receive a full monthly pension for the month in which the retiree dies;
- (2) Provides that individuals who retire or become beneficiaries after January 1, 2003 are paid benefits monthly instead of every two weeks;
- (3) Authorizes the Employees' Retirement System to require state or county departments or agencies to furnish information in a timely manner;
- (4) Simplifies the computation of retirement service credits and average final compensation;
- (5) Extends the period to file written application specifying date of retirement to one hundred fifty days; and
- (6) Provides that retirement is effective on the first day of a month.

Your Committee finds that this measure will facilitate processing and payment of retirement, disability, and death benefits for members of the Employees' Retirement System on a timely basis, benefiting both the Employees' Retirement System members and the state and county payroll and personnel offices.

As affirmed by the record of votes of the members 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, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2630 Ways and Means on S.B. No. 2718

The purpose of this measure is to extend the payment period to liquidate the Employees' Retirement System's unfunded accrued liability from twenty-one years to twenty-nine years beginning in the plan year 2001.

Your Committee finds that the economic repercussions from the September 11 tragedy have negatively affected Hawaii's economy to such a degree that the Council of Revenues in November, 2001, amended its previous projections for fiscal year 2001-2002 from 4.1 per cent to -0.7 per cent and the fiscal year 2002-2003 projection from 5.2 per cent to 5.1 per cent. This means that over the planning period, a general fund reduction of about \$1,186,800 can occur.

Your Committee finds that a reduction of revenues for the State requires re-examination of all expenditure areas, and this measure, by reducing the State and counties' annual payments by amortizing the liability over a longer time period will help the State address the current fiscal situation.

Your Committee has amended this bill by correcting the number of years in the purpose section from fifteen to twenty-one years which is the current number of years required for liquidation. Your Committee has also made technical non-substantive corrections in keeping with proper drafting 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. 2718, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2718, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2631 Ways and Means on S.B. No. 2757

The purpose of this measure is to expedite the effective date of Act 253, Session Laws of Hawaii 2000, which sought to reform public employment laws, for jurisdictions that are ready to implement that Act.

In addition, this measure extends the sunset date of part V of Act 253 relating to separation incentives from July 1, 2003 to 2008. That part authorizes the state executive branch to offer a voluntary severance or a special retirement incentive benefit to state employees who elect to voluntarily separate from service when their positions are identified for abolishment, or when they are directly affected by a reduction-in-force or a workforce restructuring plan.

Your Committee finds that the Legislature intentionally delayed the effective date of Act 253 to give the various jurisdictions sufficient time to put into place the rules, collective bargaining provisions, policies, and procedures that were necessary to replace provisions that were being repealed.

Your Committee notes, however, that the Department of Human Resources Development is progressing ahead of schedule, and will soon be ready to implement all the provisions of Act 253. Your Committee finds that this measure will enable the Department to start its civil service modernization sooner than July 1, 2002, which is the effective date of the major provisions of Act 253.

This bill also allows other jurisdictions to move up the effective date with respect to those jurisdictions by having the respective director certify that the jurisdiction is ready to implement Act 253. In any event, Act 253 will be effective no later than July 1, 2002.

Upon further consideration, your Committee has amended the measure by making technical, nonsubstantive amendments 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. 2757, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2757, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2632 Ways and Means on S.B. No. 2758

The purpose of this measure is to make housekeeping amendments to various laws affected by the enactment of Act 253, Session Laws of Hawaii 2000 (Act 253), otherwise known as the Civil Service Modernization Act.

Your Committee finds that the amendments contained in this measure are necessary to further effectuate the Legislature's intent when it embarked on its quest to modernize Hawaii's civil service system.

The measure accomplishes this by correcting statutory references or language changes that were inadvertently left out and subsequently identified by the Department of Human Resources Development and the Legislative Reference Bureau as extraneous, unnecessary, or in need of clarification.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2758, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2633 Ways and Means on S.B. No. 2759

The purpose of this measure is to shift funding from the Department of Human Resource Development's 2001-2002 appropriation for unemployment claims for former state employees into the Department's workforce attraction, selection, classification, and effectiveness program.

Act 259, Session Laws of Hawaii 2001, appropriated \$19,830,591 to the Department of Human Resource Development for workforce attraction, selection, classification, and effectiveness program, including \$4,933,726 for workers' compensation claims. The same act appropriated \$2,221,620 for unemployment compensation claims of former state employees.

The Department now finds that a critical funding emergency exists in regard to the workers' compensation fund, which will be exhausted by the end of March. This bill would revise the appropriations by taking away \$1,000,000 from the unemployment compensation fund and adding \$1,000,000 to the workers' compensation fund. No additional funds will be required. The rearrangement of the funds will not affect the State's duty to meet its unemployment insurance requirement.

Your Committee finds that the switching of funds as provided in this bill will not harm the unemployment insurance requirement and will help fulfill the State's workers' compensation obligation. Your Committee recognizes that the Department is not asking for additional money but just reallocating funds already appropriated to it.

As affirmed by the record of votes of the members 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. 2759, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2634 Ways and Means on S.B. No. 2786

The purpose of this measure is to further standardize the Hoisting Machine Operators Advisory Board.

Specifically, this measure places the Board within the Department of Labor and Industrial Relations for administrative purposes, and authorizes the Board to employ a half-time Executive Director and fix the Executive Director's compensation.

Your Committee finds that article V, section 6 of the state constitution requires state executive branch agencies to be placed within the principal departments of the executive branch of state government unless they are agencies or commissions that are both temporary and for special purposes.

In accordance with this constitutional requirement, this measure corrects an oversight in the occupational safety and health law, namely, the failure to place the hoisting machine operators advisory board within an executive department, by attaching that board to the Department of Labor and Industrial Relations for administrative purposes. Your Committee finds that without this amendment, all of the actions of the Board could be challenged on constitutional grounds.

In addition, your Committee finds that the hiring of a half-time Executive Director will greatly assist the Board in performing a number of necessary functions, such as scheduling meetings, receiving and reviewing certification applications, and disseminating application materials, and that funding for the position would be through the assessment of fees from the certification of hoisting machine operators.

As affirmed by the record of votes of the members 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. 2786, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2635 Ways and Means on S.B. No. 2789

The purpose of this measure is to clarify Act 6, Third Special Session Laws of Hawaii 2001, concerning when reimbursement of payments for temporary health insurance for persons who have lost employment on or after September 11, 2001 can be made.

This bill stipulates that reimbursements are to be made for the period beginning September 11, 2001 to June 30, 2002 or until such time as the money appropriated has been expended, whichever occurs sooner.

Your Committee finds that the clarifications to Act 6 that are contained in this measure will enable the State to effectively administer the temporary health insurance program and consequently ensure the continuation or provision of health insurance coverage to dislocated workers of the State.

Upon further consideration, your Committee has made one technical nonsubstantive amendment to remove a redundant phrase "section 5" on page 1, line 7 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. 2789, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2789, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2636 Ways and Means on S.B. No. 2900

The purpose of this measure is to make an unspecified appropriation to the University of Hawaii for fiscal year 2002-2003 to continue the emergency environmental workforce established under Act 4, Third Special Session of 2001.

Your Committee finds that the emergency environmental workforce was established to improve the State's economy by employing residents to protect the environment. The emergency environmental workforce is, in many ways, reminiscent of the very successful and highly popular Civilian Conservation Corps created by President Franklin Delano Roosevelt in 1933--a time of rampant unemployment, economic chaos, and unchecked destruction of the nation's natural resources.

The emergency environmental workforce program allows the State to protect Hawaii's natural resources from destruction while providing a paycheck to people who lost their jobs due to the downturn in the islands' economy following the tragic events of September 11.

As affirmed by the record of votes of the members 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 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2637 (Majority) Ways and Means on S.B. No. 2967

The purpose of this measure is to prohibit employers from requiring employees to work more than eight hours continuously without a fifteen minute break, unless a collective bargaining agreement otherwise expressly provides for breaks.

Your Committee finds that requiring a break should increase worker productivity by lessening the risk of worker inattention and industrial accidents.

As affirmed by the record of votes of the members 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. 2967 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 1 (Hemmings). Excused, 4 (Inouye, Kim, Tam, Slom).

SCRep. 2638 Ways and Means on S.B. No. 3008

The purpose of this measure is to delay by one year the transfer of personnel responsibility for teaching assistants, educational assistants, school psychologists, speech pathologists, and other classes of education-related civil service employees from the Department of Human Resources Development to the Department of Education.

In addition, this measure:

- (1) Transfers the class of civil service employees known as "communication aides" from the Department of Human Resources Development to the Department of Education effective July 1, 2003; and
- (2) Exempts teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the Department of Education from the civil service law (chapter 76, Hawaii Revised Statutes) effective July 1, 2003, instead of July 1, 2002.

Your Committee finds that an additional year is required to ensure the orderly and efficient transfer of teaching assistants, educational assistants, school psychologists, speech pathologists, and other classes of education-related civil service employees from the Department of Human Resources Development to the Department of Education. Because of the enormous numbers of employees

involved in this transfer, your Committee finds that the efficiency and effectiveness of the Department of Education may actually be increased, rather than decreased, by delaying the transfer until July 1, 2003.

Your Committee has amended this measure 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 S.B. No. 3008, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3008, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Inouye, Kim, Tam).

SCRep. 2639 Ways and Means on S.B. No. 3010

The purpose of this measure is to amend the pension and retirement systems law relating to firefighters.

In particular, this measure enables a firefighter who has at least ten years of credited service as a firefighter, has been subsequently medically disqualified from services as a firefighter, and subsequently serves in a capacity other than as a firefighter, to retain the two and one-half per cent annual pension accrual rate earned as a firefighter.

Your Committee finds that under existing law, firefighters are provided with a higher annual pension accrual rate than normal class A, contributory members of the Employees' Retirement System, in part because of the risks taken by firefighters.

However, if a firefighter suffers a service-related disability and can no longer fulfill his or her duties, the firefighter is medically disqualified from service as a firefighter. If the medically disqualified firefighter takes a subsequent public sector position, the firefighter loses the right to have the years of service as a firefighter computed at the accelerated pension accrual rate.

Your Committee finds that firefighters who become medically disqualified due to a service-related disability should not have their retirement benefits penalized for assuming the risks of their jobs as firefighters.

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

- (1) Deleting section 88-74(5), Hawaii Revised Statutes, as added by section 1 of the bill, and replacing that language with a new subparagraph (G) to section 88-74(1). The new subparagraph specifies that the firefighter must have at least ten years of credited service as a firefighter, is deemed permanently medically disqualified to be a firefighter by the employer's physician, and continues employment in a class A or B position other than as a firefighter;
- (2) Deleting section 2 of the bill. Your Committee finds that firefighters are not like elected officials, who receive comparatively lower salaries but a higher percentage formula, so a firefighter continuing employment as a general employee should be subject to a regular "high three" average final compensation calculation;
- (3) Amending the effective date section to provide that the Act is to take effect on July 1, 2002, rather than upon its approval. This amendment is required by the new subparagraph (G) to section 88-74(1); and
- (4) Renumbering the remaining sections and 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 S.B. No. 3010, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3010, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Inouye, Kim, Tam).

SCRep. 2640 Ways and Means on S.B. No. 3025

The purpose of this measure is to re-create a temporary window of opportunity for successor employers to utilize the predecessor employer's experience record in computing the successor employer's contribution rates for unemployment insurance.

Specifically, this measure opens the new window period from July 1, 2001 to December 31, 2002.

Your Committee finds that under previous law a window period had existed from December 31, 1988 to December 31, 1992. Your Committee further finds that allowing a successor employer to use the predecessor's experience record will assist in minimizing the start up costs of the successor employer, thereby increasing the employer's chances for survival.

As affirmed by the record of votes of the members 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. 3025 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Inouye, Kim, Tam).

SCRep. 2641 Ways and Means on S.B. No. 2421

The purpose of this measure is to improve the operation of the Hawaii Tourism Authority.

To this end, this measure:

- (1) Increases and clarifies the membership of the Hawaii Tourism Authority board and clarifies that it is a policy-making board;
- (2) Expands the board's duties to include assistance with state policies relating to natural resources infrastructure;
- (3) Requires legislative notice for contracts over \$25,000;
- (4) Requires the Auditor to periodically audit all contracts over \$15,000,000 awarded by Authority; and
- (5) Specifically limits the Executive Director's salary from exceeding fifteen per cent of the three per cent allowed for the Authority's administrative costs.

Your Committee agrees that increasing the membership of the Authority's board to reflect the diverse nature of the tourism industry will strengthen the board's ability to respond to an increasingly sophisticated and competitive global tourism market. The other provisions of this bill will also help to ensure that the Hawaii Tourism Authority performs more efficiently and in a financially and programmatically accountable manner.

Upon further consideration, your Committee has amended section 4 of this bill, currently written as uncodified session law material, to codify it in chapter 23, Hawaii Revised Statutes, for ease of reference because the audit requirements contained in section 4 are intended to be permanent and ongoing.

As affirmed by the record of votes of the members 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2421, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Kokubun, Tam).

SCRep. 2642 Ways and Means on S.B. No. 2635

The purpose of this measure is to clarify the duties and responsibilities of the Hawaii Tourism Authority.

In particular, this measure implements recommendations of the Auditor to repeal the statutes establishing the Office of Tourism in the Department of Business, Economic Development, and Tourism; repeal certain other tourism statutes related to that department; and assign to the Hawaii Tourism Authority the key duties and responsibilities that were formerly assigned to the Office of Tourism.

Your Committee finds that since its inception in 1998, the Hawaii Tourism Authority has assumed the duties of the Office of Tourism. Accordingly, your Committee agrees with the amendments made by this measure to repeal the laws establishing the Office of Tourism and other related tourism statutes that are no longer relevant.

Your Committee also agrees with the shift to the Authority the key duties of the Office of Tourism, including the responsibility to promote the tourism industry in the State, develop and implement the state tourism marketing plan, and review the expenditure of public funds by any visitor industry organization with which the Authority's Board of Directors contracts to perform tourism marketing, promotion, and development.

Upon further review, your Committee has amended this measure by making technical, nonsubstantive changes. Since section 2 of this bill repeals chapter 201, part VII, Hawaii Revised Statutes, your Committee has added a new section amending section 201B-11 to delete a cross-reference to the repealed Office of Tourism established in section 201-92. Your Committee has also renumbered the remaining sections 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. 2635, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2635, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Kokubun, Tam).

SCRep. 2643 Ways and Means on S.B. No. 2875

The purpose of this measure is to provide the counties with greater flexibility and control over the use of Hawaii Tourism Authority (Authority) tourism product enrichment and diversification grants.

Your Committee finds that the Authority has implemented its strategic initiative in tourism product enrichment and diversification by providing resources to community organizations to enhance Hawaii's inventory of tourism product offerings. Despite the best intentions of the Authority, the program has not been without its problems.

This bill addresses these problems by allowing the Authority to retain overall policy control of the program and by increasing the involvement of the counties as follows:

- (1) Specifying how the grants shall be divided among the counties;
- (2) Requiring the mayors of each county to establish certain criteria for the program; and
- (3) Allowing an agency, selected by the mayors in each county to administer the grant 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. 2875, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Kokubun, Tam).

SCRep. 2644 Ways and Means on S.B. No. 2904

The purpose of this measure is to appropriate funds for a second ambulance for the Waianae Coast area.

Specifically, this bill appropriates \$1 for this purpose.

Your Committee has made a technical amendment to this bill by making the appropriation a more appropriate grant-in-aid to the City and County of Honolulu. Your Committee has also amended the appropriated amount to a blank amount for the purpose of promoting 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. 2904, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2904, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Kokubun, Tam).

SCRep. 2645 Ways and Means on S.B. No. 2068

The purpose of this measure is to appropriate \$51,312 for fiscal year 2002-2003 to continue a position in the Department of Accounting and General Services to coordinate public and private efforts to repair and maintain public schools through Hawaii 3R's.

Your Committee finds that Act 309, Session Laws of Hawaii 2001, created an innovative, nonprofit grant program called Hawaii 3R's (Repair, Remodel, Restore our Schools) to help address the \$640,000,000 backlog in repair and maintenance projects in Hawaii's public school facilities.

In addition to saving the State \$440,000 on \$550,000 worth of projects, the newly created Hawaii 3R's program has allowed individual schools to complete repair and maintenance projects that would have normally been displaced by projects with higher state or district priority. In addition, the Hawaii 3R's program has allowed the State to leverage \$500,000 in general funds per year in order to obtain private grants and commitments totaling \$350,000 and federal funds totaling \$500,000. It is expected that the federal Native Hawaiian Education Act will provide the Hawaii 3R's program with another \$1,200,000 to \$1,500,000. Finally, the Hawaii 3R's program has resulted in a tremendous outpouring of civic pride, volunteerism, and corporate giving, which is especially notable given the condition of the State's economy.

Your Committee has amended this measure by replacing the sum appropriated with an unspecified 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. 2068, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2068, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2646 Ways and Means on S.B. No. 2077

The purpose of this measure is to repeal the traffic enforcement demonstration project.

In addition, this measure reenacts affected sections of the Hawaii Revised Statutes in the form in which they read prior to their amendment by the traffic enforcement demonstration law, requires the Department of Transportation to terminate all contracts with private entities for the provision of photo traffic enforcement services, and transfers all moneys in the photo enforcement revolving fund to the state general fund.

Your Committee finds that Act 234, Session Laws of Hawaii 1998, as amended in 1999 and 2000, required the Department of Transportation to contract with a private vendor to implement the traffic enforcement demonstration project. The project involves the use of photo speed imaging detectors to deter speeders, photo red light imaging devices to catch red light runners, and other photo technology systems to deter motorists from illegally crossing longitudinal lane markings.

Your Committee further finds that the Department contracted with a private vendor, and the photo speed imaging system went into effect in January, 2002, but that the photo red light imaging and photo technology systems are not yet in place.

Your Committee finds that the demonstration project, as currently implemented, has caused numerous disruptions to drivers and pedestrians in the State, and agrees that the entire project should be discontinued and that the contract with the private vendor should be terminated as soon as possible.

Upon further consideration, your Committee has amended this bill by making 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. 2077, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2077, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2647 Ways and Means on S.B. No. 2221

The purpose of this measure is to change the Department of Accounting and General Services' annual deadline for reporting to the Legislature on the State Educational Facilities Improvement Special Fund.

Currently, the Department of Accounting and General Services is required by law to submit its annual financial statement and status report of the State Educational Facilities Improvement Special Fund to the Legislature, no later than twenty days prior to the convening of each regular session.

This bill provides an unspecified deadline for the Department to submit its report to the Legislature. Your Committee has not proposed a date for a new deadline, and instead prefers to leave the bill unamended in order to promote further 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. 2221 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2648 (Majority) Ways and Means on S.B. No. 2306

The purpose of this measure is to streamline the process of implementing capital improvement projects at Hawaii airports.

Upon due consideration, your Committee has amended the bill by deleting its contents and replacing it with a passenger facility charge. The charge or fee is capped at \$4.50 and applies only to overseas or international passengers. The fee does not apply to interisland passengers and must comply with applicable federal laws and regulations.

Your Committee finds that the passenger facility fee will offset the additional security expenses sustained by state airport facilities since September 11 and will provide a dedicated source of funds for the continued and efficient operation of state airports.

As affirmed by the record of votes of the members 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. 2306, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2306, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 1 (Slom). Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2649 (Majority) Ways and Means on S.B. No. 2325

The purpose of this measure is to require the Insurance Commissioner to raise the drivers education fund underwriters fee on each insured motor vehicle from \$2 to \$3.

Furthermore, this bill alters the fee allocation between the Insurance Commissioner and the Director of Commerce and Consumer Affairs. Specifically, this measure reduces the Commissioner's share from fifty per cent to one-third, and raises the Director's share from fifty per cent to two-thirds.

Your Committee finds that under present law the Commissioner's share of the fee is expended for the Judiciary driver education program while the Director's share is expended by Department of Education's driver education and traffic safety education programs.

Your Committee further finds that the fee increase is needed to accommodate the growth of the Department of Education's driver education 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. 2325, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, 5 (Chun, English, Ige, Hemmings, Slom). Excused, 2 (Buen, Tam).

SCRep. 2650 Ways and Means on S.B. No. 2331

The purpose of this measure is to reestablish the Fiftieth Anniversary Commemoration of the Korean War Commission (Commission) and to appropriate funds to enable the Commission to complete its work.

Your Committee finds that while the Commission was established in 1999 through Executive Order No. 99-07 and was directed to complete its work by the end of this year's legislative session, it still needs more time. Your Committee also finds that next year, 2003, represents the 50th anniversary of the end of the Korean conflict. Hawaii sent many of its young men to the Korean peninsula to fight in the conflict of the 1950s. Those who still survive and those who died can be honored and remembered during the 50th anniversary celebrations. Your Committee therefore finds that an extension of the Commission's life and provision of more funds are appropriate under the circumstances.

Your Committee has amended this bill by making technical amendments in keeping with proper drafting style and also changed the appropriation to a blank amount to allow for 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. 2331, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2331, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2651 Ways and Means on S.B. No. 2488

The purpose of this measure is to appropriate funds for a program to issue removable windshield placards to qualified persons with disabilities.

Your Committee finds disabled motor vehicle drivers who meet certain eligibility criteria are able to receive parking placards that allow the driver to park in certain stalls designed and reserved for them. Furthermore, your Committee finds that the counties have issued parking placards to persons with disabilities since 1984 for a small fee to recoup costs. However, under recent court rulings under the Americans with Disabilities Act, counties are no longer able to charge this fee. This measure is designed to help the counties cover the administrative costs of the program for the fiscal year 2002-2003.

Your Committee has amended this bill by:

- (1) Formally designating the appropriation as a grant-in-aid to the counties;
- (2) Changing the appropriated amount to an unspecified amount to allow for further discussion; and
- (3) Making technical 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. 2488, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2488, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2652 Ways and Means on S.B. No. 2545

The purpose of this measure is to establish a state information practices commission to study and make recommendations on where the Office of Information Practices should be permanently placed. Additionally, the commission is charged with recommending changes to the Uniform Information Practices Act and other issues of government records, disclosure, and privacy.

Your Committee finds that the Office of Information Practices has played a significant role in ensuring public access to government information while balancing privacy rights. At present, the Office of Information Practices is administratively attached to the Office of Lieutenant Governor as a temporary agency. Your Committee favors the designation of the Office of Information Practices as a permanent agency, but is aware that the Office of the Attorney General has opined that placing a permanent agency within the Office of the Governor or Lieutenant Governor may subject the agency to a constitutional challenge. The commission established by this measure can help avoid a constitutional challenge by providing valuable assistance on issues related to the Office of Information Practices' status as a permanent agency, as well as the Uniform Information Practices Act, and government information disclosure and privacy concerns.

Your Committee would like to explore the possibility of placing the Office of Information Practices under the Legislature and has amended the bill by changing the effective date from upon approval to July 1, 2050 to facilitate further discussion on 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 S.B. No. 2545, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2545, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2653 Ways and Means on S.B. No. 2702

The purpose of this measure is to consolidate the Barber's Point Naval Air Station Redevelopment Commission into the Hawaii Community Development Authority.

In particular, this measure designates the Hawaii Community Development Authority as the local redevelopment authority for the Barbers Point Naval Air Station surplus lands that are being conveyed to the State and the City and County of Honolulu under the base realignment and closure process.

This measure also authorizes the Authority to redevelop the Barbers Point lands in accordance with the reuse plan for the Barbers Point Naval Air Station approved by the governor, and provides economic development incentives to improve the Authority's prospects of attracting private sector investment in the Kalaeloa Community Development District. This measure also includes a Hawaiian cultural specialist on the panel of members appointed to assist the Authority with this project.

Your Committee finds that Barbers Point Naval Air Station was officially closed on July 1, 1999, and the United States Navy is in the process of conveying 2,150 acres of this property, which has been named the Kalaeloa Community Development District, to various agencies of the State and of the City and County of Honolulu. Development of this district is currently the responsibility of the Barbers Point Naval Air Station redevelopment commission.

Your Committee finds that these lands present unique opportunities for economic development and job creation for the area. Your Committee further finds that transferring the oversight authority from the Commission to the Authority will not only streamline operations, but will also provide an ongoing funding mechanism for the Authority's redevelopment operations at Kalaeloa.

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

- (1) Replacing the sums appropriated with blank amounts to facilitate further discussion on the funding necessary to carry out the purposes of this measure;
- (2) Changing the lapse date for appropriations made for capital improvement projects authorized in this measure from June 30, 2005 to June 30, 2004; and
- (3) Making 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. 2702, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2702, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2654 Ways and Means on S.B. No. 2736

The purpose of this measure is to exclude positions and exempt employees in the Hawaii National Guard Youth Challenge Academy from the civil service law and the law relating to collective bargaining in public employment, respectively.

Your Committee finds that the Hawaii National Guard's Youth Challenge Academy provides sixteen to seventeen-year-old "at risk" youths a second chance to obtain their high school diploma and become productive citizens. Your Committee also finds that the State's civil service and collective bargaining laws create pay-related conflicts with the Master Youth Cooperative Agreement between the State and federal government. The Master Youth Cooperative Agreement governs the conduct of the Youth Challenge Academy, identifies the number of positions the program can staff and the pay ceiling for each position.

Your Committee finds that Congress enacted legislation in the 1993 Defense Authorization Bill authorizing and appropriating funds for the conduct of the Challenge youth program. The National Guard Bureau, under auspices of the Assistant Secretary of Defense, Reserve Affairs, manages the program. The legislation allows the National Guard Bureau to enter into agreements with state governors to conduct the program. The governor delegates the authority to execute and conduct the program to the Adjutant General. Consequently, adherence to the Master Youth Cooperative Agreement is not a state option but a requirement specified by federal law.

Your Committee has amended this measure by:

- (1) Correcting existing statutory material in section 3 of this measure (regarding section 76-16(b), Hawaii Revised Statutes) that was inadvertently changed; and
- (2) Making a technical nonsubstantive change 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. 2736, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2736, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2655 Ways and Means on S.B. No. 2737

The purpose of this measure is to clarify the protections afforded private agencies and entities engaged in civil defense functions.

Your Committee recognizes that, in addition to federal, state, and county agencies and the military, there are private agencies or entities that are key participants in the civil defense system to ensure the State is prepared for any type of disaster or emergency. Present law provides that the State, counties, and persons engaged in civil defense functions are not liable for the death of or injury to persons or for damage to property. Your Committee finds that providing private agencies and entities that assist the public in times of disasters with immunity from liability will encourage them to provide tourists and the general public with private shelters in times of disasters or civil defense.

As affirmed by the record of votes of the members 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. 2737 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2656 Ways and Means on S.B. No. 2785

The purpose of this measure is to lengthen the state reinspection period for elevators and kindred equipment from eight months to one year.

Your Committee finds that decreasing the number of inspections will lessen costs imposed on both the Department of Labor and Industrial Relations and building owners on the one hand and maintain adequate levels of public safety on the other.

Your Committee has amended this measure 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2785, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2785, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2657 Ways and Means on S.B. No. 2817

The purpose of this measure is to reduce the number of administrative rules.

In particular, this bill repeals certain administrative rules that are deemed unnecessary or null and void. This bill also specifies that to expedite the streamlining of state government and to increase government efficiency, agencies whose rules are repealed by this bill need not comply with the requirements for the repeal of rules under the Hawaii Administrative Procedure Act with respect to those rules. In addition, this bill provides for the continuation of contracts entered into pursuant to the repealed rules.

Your Committee finds that this measure is the product of an ongoing effort by the Lieutenant Governor to streamline administrative rules to relieve the burden on the public and Hawaii's businesses. The rules specified in this measure have been found to be unnecessary, or the underlying statutory authority has been repealed, making them null and void. Act 283, Session Laws of Hawaii 2000, was a similar measure passed by the Legislature.

Upon further consideration, your Committee has amended this bill by making 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. 2817, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2817, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Sakamoto, Tam).

SCRep. 2658 Ways and Means on S.B. No. 3049

The purpose of this measure is to authorize the issuance of special facility revenue bonds to construct facilities for a ferry service between Iroquois Point and Ford Island to Aloha Tower and Hilton Hawaiian Village Pier on Oahu.

Your Committee finds that development of a ferry system will ease traffic congestion in the Leeward area and promote Ford Island as a tourist destination.

Your Committee has amended this measure by changing the appropriation figure to 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. 3049, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3049, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Sakamoto, Tam).

SCRep. 2659 Ways and Means on S.B. No. 3086

The purpose of this measure is to amend the election law in several varied ways.

Specifically, this measure:

- (1) Requires special elections to be conducted solely by mail;
- (2) Provides for an automatic recount in close election contests;
- (3) Changes to an as-yet unspecified amount, the maximum allowable campaign contributions that can be made by persons and entities;
- (4) Requires the names of candidates on each official party primary ballot to be printed on separate ballots;
- (5) Requires persons holding public office to forfeit the office held upon conviction rather than date of sentencing; and
- (6) Appropriates \$300,000 to the Office of Elections to maximize voter registration and education.

Your Committee finds that these amendments to the election law are designed to not only simplify the voter's participation in the election process, but also to restore public confidence in the way candidates acquire funds and hold office. At a time when the number of eligible voters continues to decline, these changes are needed and welcome.

Your Committee has amended this measure by changing its appropriated amount to an unspecified amount to allow for 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. 3086, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3086, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2660 Ways and Means on S.B. No. 2003

The purpose of this measure is to require all state agencies to comply with water conservation requests.

The bill also requires state agencies to dedicate a portion of their maintenance funds to retrofit older facilities with water-saving plumbing fixtures.

Water is the most precious natural resource in Hawaii. We can never forget that we are an island state and cannot import water as mainland states can. Hawaii must conserve its water for future use. Unfortunately, appeals to the public for conservation are not always successful: water use on Oahu grew in 2000, despite public requests for conservation.

The State is a very visible user of water, and it needs to provide leadership to the public by conserving when requested. One of the easiest ways to do so is to retrofit older state facilities with water-saving plumbing fixtures. Your Committee finds that this two-prong approach will save water and provide impetus to the community to do the same.

Your Committee has amended the bill by making technical nonsubstantive changes for the sake 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 S.B. No. 2003, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2003, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2661 Ways and Means on S.B. No. 2179

The purpose of this measure is to encourage the evaluation and implementation of energy efficiency and renewable technologies in Hawaii.

To accomplish this, the bill adds a new part to Chapter 196, Hawaii Revised Statutes, and repeals current provisions that would be in conflict with the new part.

Your Committee finds that this bill is modeled after Presidential Executive Order 13123 and would help to ensure that state government leads by example in managing energy use. Your Committee has received reports that the program has been very effective at the federal level by advancing energy efficiency and water conservation, as well as improving utility management decisions at federal sites.

Your Committee has made several 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. 2179, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2179, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2662 Ways and Means on S.B. No. 2238

The purpose of this measure is to authorize the issuance of special purpose revenue bonds to assist in establishing nonfossil fuel generating plants and related facilities in Hilo.

Your Committee finds that the Wailuku River Hydroelectric Power Company, Inc. is engaged in the development of renewable energy projects. It is planning to sell the electricity it generates to Hawaii Electric Light Co., Inc. (HELCO), which is the electric utility that serves the county of Hawaii.

Your Committee finds that Wailuku River Hydroelectric Power Company created a successful hydropower project in 1991 in the area near Hilo, which sells its electricity to HELCO, as this endeavor also will do. Your Committee finds that this type of progressive energy project is appropriate and will save significantly on imported fuel, which not only keeps Hawaii money in the local economy, but provides an alternate source of some electricity in case of shipping delays for oil products.

Your Committee has amended the bill by specifying the type of special purpose revenue bonds – to assist industrial enterprises – that is authorized to be issued for this project.

As affirmed by the record of votes of the members 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2238, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2663 Ways and Means on S.B. No. 2516

The purpose of this measure is to extend the authorization deadline for issuing special purpose revenue bonds for projects on the Big Island from June 30, 2003 to June 30, 2007.

Furthermore, this measure authorizes the Department of Budget and Finance to issue refunding special purpose revenue bonds to refund the special purpose revenue bonds for those projects. Also, this measure eliminates related water production facilities from the scope of the projects for which the bonds are issued, leaving just cogeneration facilities.

Your Committee finds that the cogeneration facilities will produce electric energy that can be sold to electric utilities, which will make that energy available to the general public as well as manufacturing and processing enterprises.

Your Committee has amended this measure by changing the effective date from June 29, 2002 to “upon approval”.

As affirmed by the record of votes of the members 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. 2516, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2516, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2664 Ways and Means on S.B. No. 2615

The purpose of this measure is to implement the recommendations of the Energy Efficiency Policy Task Force.

That Task Force, which was established by Act 163, Session Laws of Hawaii 1998, explored and made recommendations to the Legislature on the most cost-effective means of supporting increased energy efficiency and sustainability in Hawaii.

In particular, this measure establishes an income tax credit for renewable energy technology systems that are installed and placed in service after June 30, 2003. These systems capture and convert a renewable source of energy, such as wind, sun, and biomass, into a usable source of thermal or mechanical energy, electricity, or fuel.

In addition, this measure requires the Department of Business, Economic Development, and Tourism to provide and support efficiency and renewable energy education programs.

Your Committee agrees with the intent of this measure, and finds that the recommendations of the Energy Efficiency Policy Task Force, as implemented by this measure, will provide appropriate incentives for the purchase and use of renewable energy technology systems.

Upon further consideration, your Committee has amended this bill by making 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. 2615, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2615, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2665 Ways and Means on S.B. No. 2667

The purpose of this measure is to broaden the authority of the Board of Land and Natural Resources to lease public lands for historic preservation and restoration projects by repealing the requirement that lands may be leased for "urban" projects.

Your Committee finds that this bill would provide the Department of Land and Natural Resources greater flexibility in historic preservation efforts. By removing the "urban" requirement, the Department of Land and Natural Resources will be able to consider historic preservation efforts in awarding public land leases. This will be particularly helpful for state owned fishponds, lo'i kalo, and rural historic buildings.

As affirmed by the record of votes of the members 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. 2667 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2666 Ways and Means on S.B. No. 2669

The purpose of this measure is to authorize the issuance of special purpose revenue bonds to assist Pacific Wind Energy LLC in the construction of three wind energy conversion systems facilities on Maui and Hawaii.

Your Committee finds that developing alternative means of energy generation in the State is in the public interest, given the State's geographic isolation from sources of oil. Your Committee further finds that abundance of wind in the State is a viable source for the production 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. 2669 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Kim, Sakamoto, Tam).

SCRep. 2667 Ways and Means on S.B. No. 2713

The purpose of this measure is to establish the brownfields cleanup revolving loan fund to provide low interest loans to clean contaminated industrial and commercial sites, and to monitor cleanup effectiveness.

Your Committee finds that brownfields redevelopment stimulates economic growth of communities and safeguards the public's health by eliminating health risks at contaminated sites. The cost and risks associated with using brownfields sites, however, have lowered interest in redevelopment. The Department of Business, Economic Development, and Tourism has applied for a U.S. Environmental Protection Agency grant for funds to capitalize the revolving loan fund. The fund would reduce the risks associated with brownfields redevelopment by providing low interest loans for public and private borrowers to finance cleanup.

As affirmed by the record of votes of the members 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, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Kim, Sakamoto, Tam).

SCRep. 2668 Ways and Means on S.B. No. 2774

The purpose of this measure is to broaden the class of recipients eligible for assistance in financing nonpoint source pollution and other eligible water pollution control projects.

Specifically, the measure adds private entities and landowners to counties and state agencies, as parties eligible for financial assistance.

Your Committee finds that most of the pollution found in Hawaii's water environment results from nonpoint sources, the vast majority of which occur on private lands. These nonpoint sources of pollution include polluted runoff from communities, construction sites, agricultural and other sources, and cesspool and septic tank seepage, leaks, and runoff. Your Committee further finds that protecting and improving the quality of state waters by providing loans and other financial assistance to water pollution prevention, control, and abatement projects, including projects by counties, state agencies, and private landowners and individuals, is in the interest of the public's health, safety, and welfare.

Your Committee has amended the measure by 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 S.B. No. 2774, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2774, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Kim, Sakamoto, Tam).

SCRep. 2669 Ways and Means on S.B. No. 2805

The purpose of this measure is to allow Hawaii's soil and water conservation districts to retain funds deposited with the conservation districts.

Your Committee finds that soil and water conservation districts are cooperatives made up of local landowners that assist other districts or cooperatives setup soil conservation programs.

Presently, these conservation districts receive the bulk of their funding directly from the federal, state, and county governments in the form of grants. These grants, as well as any other funds received by the conservation district, are by law, automatically transferred to the general fund upon receipt. Subsequently, the same funds are then redistributed back to the conservation districts for their intended use.

This bill would eliminate the unnecessary step of transferring conservation district funds to the general fund and re-transferring the same funds back to the conservation district. The time saved would allow conservation districts to provide their services in a more cost-effective and efficient manner. Your Committee notes that the grants received by the conservation districts are supervised by the granting agency.

As affirmed by the record of votes of the members 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. 2805 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2670 Ways and Means on S.B. No. 2811

The purpose of this measure is to increase the funds deposited into the Bureau of Conveyances' special fund from its recordation fee from \$2 per fee to \$7 per fee to allow the Bureau to become self-sufficient and to provide more service to the public.

Your Committee finds that the Bureau of Conveyances, the public repository for land title documents and maps, has seen its personnel dwindle from sixty-five in fiscal year 1994-1995 to fifty-three in the current fiscal year. This decrease in staff has come during a period where the Bureau is handling more complex transactions, including timeshares, lease to fee conversions, and conveyances from individuals to trusts. The Bureau is also making a major effort to have all of its records accessible via the internet, a labor-intensive project that will provide a greater benefit to the public. Additional staff is needed to support the critical work of the Bureau.

Your Committee finds that allowing the Bureau to add needed staff and making the Bureau self-supporting by allowing it to keep more of the funds that it generates is an appropriate goal and one that will be of significant value to state 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 S.B. No. 2811 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Chun, Kim, Tam).

SCRep. 2671 Ways and Means on S.B. No. 2824

The purpose of this measure is to conform the Hawaii State Tax Laws with changes to the Internal Revenue Code as directed by Hawaii Revised Statutes section 235-2.5(c).

Your Committee received testimony in favor of this measure from the Department of Taxation and the Department of Human Resources, and comments from Tax Foundation of Hawaii.

Your Committee finds that the adoption of the amendments to the Internal Revenue Code sections for State income tax purposes assures continued State conformity with federal income tax law and minimizes taxpayers' burdens in complying with Hawaii's income tax law.

The following amendments, among others, are adopted:

- (1) Education Incentives – Increases the limit for contributions to education IRAs; expands the definition of “qualified tuition programs”; and extends the exclusion for employer-provided educational assistance; and
- (2) Pensions and Individual Retirement Accounts – Increases contribution limits for IRAs and qualified retirement plans; and allows distributions from qualified retirement plans, §403(b) annuities, and governmental §457 plans to be rolled over.

However, this measure does not conform to the following Internal Revenue Code changes:

- (1) Deduction for Qualified Higher Education Expenses – Permits taxpayers to take an above-the-line deduction for higher education expenses paid by the taxpayer during a taxable year; and
- (2) Dependent Care Credit – Increases the amount of expenses eligible for the dependent care credit, the maximum credit, and the income levels at which the credit begins to phase-out.

Your Committee has amended this measure in the following ways:

- (1) Deleting, in section 2, paragraph (11) of the bill, the words “paid by the taxpayer during the taxable year” to conform to the title of Internal Revenue Code Section 222;
- (2) To provide consistent tax treatment for the taxation of trusts and trust beneficiaries subject to taxation in Hawaii, special income tax rules provided for Alaska Native Claims Settlement Trusts are designated inoperative for Hawaii income tax law; and
- (3) Making other technical changes for accuracy.

As affirmed by the record of votes of the members 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2824, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2672 Ways and Means on S.B. No. 2814

The purpose of this measure is to prevent the repeal of section 171-13, Hawaii Revised Statutes.

Your Committee finds that Act 15, Third Special Session Laws of Hawaii 2001 provided the Governor with temporary emergency powers during the economic crisis that followed September 11. Part of Act 15 amended section 171-13, Hawaii Revised Statutes (relating to the disposition of public lands), that provided economic assistance to persons unable to meet their financial obligations with respect to certain land transfers involving public lands.

According to the State Attorney General, the sunset of Act 15 on April 30, 2002 may have the inadvertent effect of repealing section 171-13, Hawaii Revised Statutes, in its entirety, rather than just the amendments made by Act 15. This bill provides a reenactment clause to preserve section 171-13 in the form in which it read on the day before the approval of Act 15.

As affirmed by the record of votes of the members 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. 2814 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Sakamoto, Tam).

SCRep. 2673 Ways and Means on S.B. No. 2682

The purpose of this measure is to appropriate funds to satisfy claims against the State.

Your Committee received testimony in strong support of this measure by the Attorney General.

Your Committee has amended this measure by incorporating new claims recommended by the Attorney General. Your Committee has also amended this measure by correcting a section reference in the bill.

The addition of these additional claims adds a total of \$416,656.16 to the amount being appropriated by this bill. As amended, this bill now appropriates a total of \$1,923,990.35.

As affirmed by the record of votes of the members 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, 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 placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Sakamoto, Tam).

SCRep. 2674 Ways and Means on S.B. No. 2826

The purposes of this measure are to:

- (1) Expand the Department of Taxation's current authority to ascertain the true value of sales of products between affiliated companies or persons when the consideration paid is not indicative of the true value to sales of services and all taxes administered under title 14, Hawaii Revised Statutes;
- (2) Provide a continuous levy on the salary or wages of a delinquent taxpayer;
- (3) Indemnify a person from third parties when the person honors a state tax levy; and
- (4) Expand the authority for recovering unpaid withholding taxes.

Testimony in support of this measure was received from the Department of Taxation (Department). The Tax Foundation of Hawaii submitted comments.

Your Committee finds that under current law the Department is hampered in its collection of taxes by limitations on its authority in the specific instances outlined in the purpose section of this Act.

Your Committee is in agreement with the enhanced authority, which will allow the Department to collect taxes owed to the State. Your Committee has amended this measure to provide for the "fair market value" rather than "true value" of sale between affiliated companies or persons, since, according to the Department, "fair market value" is used in accounting and tax practice while "true value" is subject to interpretation. Your Committee further amended this measure to define "affiliated companies or persons", and to make technical, nonsubstantive amendments to conform to preferred drafting 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. 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 Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Sakamoto, Tam).

SCRep. 2675 Ways and Means on S.B. No. 2827

The purpose of this measure is to create a General Excise Tax (GET) credit for taxes paid in another state to avoid constitutionally prohibited multiple taxation.

Your Committee received testimony in support of this measure from the Department of Taxation (DOTAX). The Tax Foundation of Hawaii submitted comments.

Your Committee notes that this bill is necessary to avoid possible constitutional problems resulting from the taxation of the same goods or services by Hawaii and another jurisdiction. While this does not occur with great frequency, the Department of Taxation presently has no tools to avoid a possible court case in this area. The provisions of this bill will give the Department of Taxation the appropriate language to address the possibility of double taxation in a manner similar to that provided the Department under section 238-3(a), Hawaii Revised Statutes.

Your Committee amended this measure to use the term "offset," rather than "credit," for accuracy.

Your Committee also amended this measure to clarify when the offset is applied and incorporated language to give DOTAX greater flexibility in implementing this offset.

As affirmed by the record of votes of the members 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. 2827, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2827, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Sakamoto, Tam).

SCRep. 2676 Ways and Means on S.B. No. 2899

The purpose of this measure is to make permanent the law allowing special purpose revenue bonds to be issued to assist not-for-profit corporations that provide health care facilities to the general public, by repealing the sunset provision authorizing such bonds.

The Department of Budget and Finance, the Queen's Health Systems, Hawaii Pacific Health, and Healthcare Association of Hawaii testified in support of the measure.

Your Committee notes that the State is not obligated for any payments or expenses associated with special purpose revenue bonds and that the bonds have no effect on the State's debt ceiling or debt rating. Your Committee finds that use of special purpose revenue bonds allows not-for-profit health care entities to secure low-cost capital to upgrade and enhance facilities and equipment, thus improving access to and the quality of health care for the people of Hawaii. Your Committee further finds that repealing the sunset provision authorizing such bonds will ensure that bonds currently outstanding can be refinanced to take advantage of lower interest rates and that health care facilities will be able to continue to provide the general public with access to quality healthcare services. Accordingly, your Committee finds that it is in the public interest to make available special purpose revenue bonds to lower the financing costs of not-for-profit corporations that provide health care facilities 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. 2899 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Sakamoto, Tam).

SCRep. 2677 (Joint) Tourism and Intergovernmental Affairs, Transportation, Military Affairs, and Government Operations and Judiciary on S.B. No. 2748

The purpose of this measure is to restrict the eminent domain powers of the counties to ensure that private property, if required, is acquired only for public uses and not for private use.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, a Member of the City Council of the City and County of Honolulu, Libertarian Party of Hawaii, Kahala Beach Condominium Association, and five individuals. The Department of the Corporation Counsel and Department of Planning and Permitting of the City and County of Honolulu testified in opposition. The Department of Community Services of the City and County of Honolulu, Hawaii Council of Apartment Owners, and eight individuals submitted comments.

Your Committees find that in 1984, the United States Supreme Court in the case of Hawaii Housing Authority et al. v. Frank E. Midkiff et al., upheld the Hawaii Land Reform Act of 1967, which is now codified as Chapter 516, Hawaii Revised Statutes (HRS). The Court stated that "one person's property may not be taken for the benefit of another private person without a justifying public purpose, even though compensation be paid." (467 U.S. 241)

Your Committees have heard that the intent of this measure is not to prohibit all private-to-private condemnations, but to establish a clear legislative intent when defining public purpose, especially where a single landowner will be the primary beneficiary. Through its reference to Chapter 53, HRS, the Urban Renewal Law, this bill intends to place those condemnations dealing with urban renewal clearly under the jurisdiction of a duly established redevelopment authority.

Your Committees understand that this measure is intended to prevent an exercise of the power of eminent domain, such as the City and County of Honolulu's actions to acquire certain lands in Waikiki with the intent to convey these lands to a private developer. Your Committees have heard from some of the parties directly affected by this particular incidence, and fully understand their frustration and outrage at the proposed condemnation of their private properties under the guise of a public purpose.

Your Committees are in agreement that additional protective measures are warranted and have amended this bill to:

- (1) Add language to clarify that this measure will not impede implementation of fee conversions under Chapter 38, City and County of Honolulu Revised Ordinances 1990 or a similar ordinance;
- (2) Clarify the proposed language regarding Chapter 53, HRS, to read: "for urban renewal consistent with chapter 53; and
- (3) Make technical amendments to reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2748, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2748, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 12. Noes, none. Excused, 7 (Hanabusa, Inouye, Matsuura, Menor, Sakamoto, Tam, Taniguchi).

SCRep. 2678 Tourism and Intergovernmental Affairs on S.B. No. 2934

The purpose of this measure is to expand the definition of "special liquor district" to include areas designated for historic preservation and residential protection, and to add possible adverse effects on the community as part of the report of the liquor inspector required for every application for a license.

Testimony in support of this measure was received from the Hawaii Council of Associations of Apartment Owners, Waikiki Citizen's Patrol, Waikiki Neighborhood Board, Ala Moana-Kakaako Neighborhood Board, and four individuals.

Your Committee finds that while communities often welcome businesses as neighbors because they provide goods and services for the community, this is not the case for bars, nightclubs, and other liquor serving and dispensing establishments. Your Committee heard of numerous incidents of crime, property damage, and disturbances in neighborhoods near establishments that sell or serve liquor. These create a climate of fear, particularly for the elderly living in such areas, as well as a loss of property values.

Your Committee is supportive of this measure as a means to help address these issues.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2934 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Buen, Kawamoto, Sakamoto).

SCRep. 2679 Commerce, Consumer Protection and Housing on S.B. No. 2075

The purpose of this measure is to allow licensed dental hygienists to operate under the general or direct supervision of a licensed dentist in public health settings.

Testimony in support of this measure was received from the Hawaii Dental Hygienists' Association, Hawaii Primary Care Association, Hawaii Institute for Wellness in Dentistry, and thirty individuals. The Department of Commerce and Consumer Affairs and Hawaii Dental Association, while supporting its intent, expressed concerns about the measure.

Hawaii's children suffer from high rates of dental caries and baby bottle tooth decay. The Dental Health Division of the Department of Health, which provides dental hygiene services in Hawaii's public schools, is only able to access one third of the schools every third year due to budgetary constraints. In addition, many adults lack proper dental care due to lack of insurance or the unavailability of dental care in rural areas.

In order to address the need for better access to dental care, this measure authorizes licensed dental hygienists to provide services under the direct or general supervision of a licensed dentist in public health settings, such as health clinics, schools, hospitals, nursing homes, day care centers, and mental institutions. Dental hygienists providing services in these settings would be prohibited from receiving direct reimbursement.

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

- (1) Specify the services a dental hygienist may perform in a public health setting and require that other services may be performed only if authorized by a supervising licensed dentist and the dentist determines that equipment and facilities are appropriate and satisfactory;
- (2) Clarify that dental hygienists may be employed in nonprofit health clinics; and
- (3) Make technical nonsubstantive changes for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2075, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2075, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Matsunaga).

SCRep. 2680 Commerce, Consumer Protection and Housing on S.B. No. 2106

The purpose of this measure is to repeal the sunset of the marriage and family therapist licensing law, authorize licensure by reciprocity, repeal the licensure exemptions for practitioners in overlapping professions, and disallow action against a license for violation of recognized ethical standards.

The Hawaii Association for Marriage and Family Therapy, Argosy University, Hawaii School Counselors Association, Hawaii International Child, and thirty-five individuals testified in support of this measure. The Hawaii Psychological Association, National Association of Social Workers, Christian Science Committee on Publication for Hawaii, and Hawaii Nurses' Association testified in opposition to the measure's repeal of the licensure exemptions. The Department of Commerce and Consumer Affairs (DCCA) proposed clarifying amendments to the reciprocity provision and opposed the repeal of the licensure exemptions and the provision authorizing sanctions for violation of recognized ethical standards.

State law requires that persons representing themselves as marriage and family therapists in this State meet minimum educational and experiential requirements and pass a national exam. Once licensed, if individuals are found in violation of recognized ethical standards or commit other proscribed acts, they are subject to license revocation or suspension.

The laws regulating marriage and family therapists are scheduled for repeal on December 31, 2002. This measure makes the licensing of these professionals permanent by repealing this sunset date. Your Committee finds that continued regulation of marriage and family therapists will enhance consumer confidence and provide the State with the authority to prohibit unqualified individuals from representing themselves as marriage and family therapists.

Additionally, this measure authorizes license reciprocity agreements with states whose licensing standards are at least as stringent as Hawaii's standards, eliminates licensure exemptions for persons practicing marriage and family therapy within the scope of their profession, and eliminates as a basis for license denial, revocation, or suspension, the violation of recognized ethical standards.

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

- (1) Clarify that a state with whom Hawaii wishes to enter into a reciprocal licensing agreement must have standards at least as stringent as Hawaii's current licensing requirements;
- (2) Retain the licensure exemptions for persons practicing within the scope of their professions whose practice overlaps with the practice of marriage and family therapy, but who do not purport to be marriage and family therapists;
- (3) Retain DCCA's authority to take action against a licensee for violating recognized ethical standards; and
- (4) Make a technical, nonsubstantive change to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2106, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2106, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, Matsunaga).

SCRep. 2681 Water, Land, Energy, and Environment on S.B. No. 2008

The purpose of this measure is to clarify the accreted lands law by:

- (1) Defining "accreted lands";
- (2) Including accreted lands in the definition of "public lands"; and
- (3) Requiring that accreted lands along the ocean shall be state lands, except land accreted within established private property lines that restores eroded areas, provided that these lands shall be considered in the conservation district unless otherwise determined by the state land use commission.

Testimony in support of this measure was received from Life of the Land and six individuals. The Department of Land and Natural Resources testified in opposition. The City and County of Honolulu Department of Planning and Permitting and one individual submitted comments.

Your Committee has heard that the State's accretion law, although well intended, has allowed private parties to claim accreted lands on beachfront properties, thus depriving the public of the right to use and enjoy such lands. The problem is further enhanced because the shoreline changes often, both by natural actions, and as the result of seawalls and other structures built to control the natural erosion and other shifts in the shoreline and the vegetation line.

Your Committee is supportive of these efforts to reserve and protect accreted lands for public use. Your Committee understands that the parties have been working to develop an amended draft of this measure, but that a Deputy Attorney General has raised concerns regarding the proposed changes. However, your Committee has not received any specific requests for changes.

Accordingly, your Committee has amended this measure to incorporate changes developed by the interested parties, by:

- (1) Deleting the exception for accumulation within private property lines in the definition of "accreted lands";
- (2) Requiring the Office of Environmental Quality Control to inform the public of any application for the registration of accreted land along the ocean filed with the land court; and
- (3) Deleting the land use commission's authority to designate accreted lands as other than conservation.

In addition, your Committee has heard S.B. No. 2806, which is also an accreted lands bill, although one with a more focused intent. After careful consideration, your Committee has approved both measures for the purposes of continuing discussion.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2008, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2008, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Ihara, Kokubun).

SCRep. 2682 Water, Land, Energy, and Environment on S.B. No. 2806

The purpose of this measure is to clarify that all accreted lands shall be considered within the State's conservation district by eliminating qualifying language that would allow the land use commission to designate otherwise.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism Office of Planning, Department of Land and Natural Resources, Sierra Club Hawai'i Chapter, and Life of the Land. One individual testified in opposition. One individual submitted comments.

Your Committee finds that this amendment will clarify that any land claimed under the State's accretion laws shall remain zoned conservation, ensuring the protection and preservation of these resources for the public. In addition, your Committee has heard S.B. No. 2008, which is also an accreted lands bill, although one with a broader concept. After careful consideration, your Committee has approved both measures for the purposes of continuing discussion.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2806 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Ihara, Kokubun).

SCRep. 2683 Transportation, Military Affairs, and Government Operations on S.B. No. 2001

The purpose of this measure is to replace the University of Hawaii (UH) Dean of the School of Public Health with the UH Dean of the School of Medicine as a voting member of the Hawaii State Emergency Response Commission (Commission).

Your Committee received testimony in support of this measure from the Department of Health and the UH School of Public Health Alumni Association.

Your Committee finds that the closure of the School of Public Health has left a void on the Commission. The Commission members have already voted to fill the vacant position with the Dean of the UH School of Medicine. Therefore, your Committee supports this amendment to the Hawaii Revised Statutes to authorize the change in membership.

Your Committee amended this measure to provide greater flexibility in the future. If the School of Public Health again receives accreditation, your Committee believes that the Governor should have the flexibility to appoint either the Dean of the School of Medicine or the Dean of the School of Public Health to the Commission, and has amended this measure accordingly.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Inouye, Menor, Tam, Taniguchi).

SCRep. 2684 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2323

The purpose of this measure is to allow veterans to be issued military specialty license plates for more than one noncommercial passenger vehicle.

Your Committees received comments on this measure from the Honolulu County Department of Customer Services and a proud veteran.

Your Committees find that military veterans deserve our utmost honor and respect for protecting the causes of freedom and democracy. Your Committees further find that existing law allows military veterans to receive a military specialty license plate to honor their service, but that they may only receive a specialty license plate for one vehicle.

Since many veterans own more than one noncommercial passenger vehicle, your Committees find that it makes sense to allow these proud heroes to display military specialty plates on all of their cars.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2323 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2685 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2277

The purpose of this measure is to authorize up to four different war or military campaign designations on a single license plate.

Your Committees received testimony in support of this measure from the Office of Veterans' Services. The Honolulu County Department of Customer Services submitted testimony in opposition to this measure.

Your Committees find that military veterans deserve our utmost honor and respect. Your Committees further find that existing law allows each proud veteran in Hawaii to use a specially issued license plate that signifies the war or military campaign in which the veteran served.

Many veterans, however, have served their country in numerous wars or military campaigns. Therefore, your Committees support this measure, which authorizes up to four different war or military campaign designations on a single license plate.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2277 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2686 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2313

The purpose of this measure is to authorize the examiner of drivers to examine applicants whose instruction permits have expired without requiring an additional 90 day permit holding period, if the applicant has obtained a new instruction permit within 30 days of expiration of the old permit.

Your Committees received testimony in support of this measure from the Department of Transportation and the Honolulu City and County Department of Customer Services.

Your Committees find that under existing law, a person holding an expired instruction permit may not take the examination for a driver's license without first obtaining a new permit and holding it for at least 90 days.

Your Committees find that if the person holding the expired permit renews it within 30 days after expiration, that person's driving skills are unlikely to have deteriorated during that short period, and that the person should be allowed to take the examination for a driver's license.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2313 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2687 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2314

The purpose of this measure is to authorize a temporary instruction permit holder to renew the permit within 30 days prior to its expiration without requiring full reexamination of the applicant.

Your Committees received testimony in support of this measure from the Department of Transportation and the Honolulu City and County Department of Customer Services.

Your Committees find that applicants for temporary instruction permits are examined for knowledge of traffic laws, highway signs, and physical and mental ability to operate a motor vehicle.

If a permit holder applies for renewal of the permit less than 30 days prior to expiration of the permit, your Committees find that there is no need to reexamine the applicant, and therefore your Committees support this measure. Your Committees note that if renewal is applied for more than 90 days following expiration of the instruction permit, the applicant is subject to full reexamination.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2314 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2688 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2315

The purpose of this measure, as referred to your Committees, was to require the Director of Finance (Director) to notify the seller of a vehicle when the buyer has registered the vehicle in the buyer's name.

Your Committees received testimony in opposition to this measure from the Honolulu County Department of Customer Services.

Your Committees find that this measure was designed to address a persistent problem with automobile sales in the State. Under existing law, when a car is sold, the buyer has the responsibility to re-register the car under the buyer's name.

Until re-registration has occurred, the seller is still the registered owner, and although the seller may not be liable for violations committed with the sold vehicle after that date on which the seller notifies the Director of the sale, many sellers are troubled by the lack of closure and finality of the transaction when the buyer neglects to re-register the vehicle in a timely manner.

Therefore, your Committees support the intent of this measure, to set sellers' minds at ease.

However, your Committees amended this measure to place the burden on the seller to re-register the automobile in the buyer's name following a sale. As amended by your Committees, a motor vehicle sale will work as follows: The seller and buyer will both endorse the certificate of title, which will then be taken by the seller to the appropriate agency for issuance of a new certificate. Upon payment by the seller of the fee, a new certificate of title will be sent to the buyer for the remainder of the registration period for that vehicle. Your Committee has made the effective date January 1, 2003, to allow the administrators of the law time to change any necessary policies.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2315, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2315, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2689 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2322

The purpose of this measure is to authorize all licensed drivers to apply for renewal by mail.

Your Committees received testimony in support of this measure from the Department of Transportation and the Honolulu City and County Department of Customer Services.

Your Committees find that under existing law, only persons who are temporarily absent from the State may apply for renewal of a driver's license by mail.

Your Committees further find that since there are no residency requirements for initial issuance of a driver's license, and since persons applying for renewal by mail must still undergo a physical examination, renewal by mail should be offered to all licensed drivers.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2322 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2690 Economic Development and Technology on S.B. No. 2609

The purpose of this measure is to add call centers that provide customer and technical support services for health care providers to the list of businesses eligible for Hawaii's Enterprise Zone hiring incentives due to its potential to enhance our ongoing efforts to diversify Hawaii's health care industry.

Your Committee received testimony in favor of this measure from American Healthways and Kapolei Property Development, LLC. Your Committee received comments on this measure from the Department of Business, Economic Development, and Technology.

Your Committee finds that the addition of health care providers to the definition of "call center" to give the emerging call center industry in Hawaii one more opportunity to attract specific niches is important to building a credible sector in the State. The call center industry in Hawaii currently employs an estimated 4,000 people in 68 centers. The industry rule of thumb is that approximately five per cent of a location's available workforce can be employed in call centers before reaching saturation. For Hawaii that would be in the neighborhood of 30,000 people which means we have a great opportunity for development of the call center industry in our State.

Your Committee has amended this measure by replacing the term health care providers with "disease management services" to narrow the scope of qualified companies. Additionally, a definition of "disease management services" has been added to section 209E-2, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2609, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2609, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ihara, Matsunaga, Taniguchi).

SCRep. 2691 Tourism and Intergovernmental Affairs on S.B. No. 3017

The purpose of this measure is to request the Legislative Reference Bureau to review the Hawaii Visitors and Convention Bureau warrior marker program.

Testimony in opposition to this measure was submitted by the Hawaii Tourism Authority (HTA).

Your Committee finds that while the HTA has indicated it has additional information as requested by this measure, it would be more appropriate for a neutral party to conduct a thorough review of the warrior market program.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3017 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2692 Ways and Means on S.B. No. 2131

The purpose of this measure is to appropriate funds for fiscal year 2002-2003 to make various improvements to the Molokai Irrigation System.

Your Committee finds that in 2001 the Legislature appropriated funds to identify new water sources for Molokai for long-term needs and expansion. Since the funds were not expended and needed improvements to the Molokai Irrigation system have been identified, your Committee feels that a reappropriation to meet the more immediate and current needs would be more suitable.

Your Committee has amended this bill by changing the appropriation to a blank amount to allow for 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. 2131, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2131, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2693 Ways and Means on S.B. No. 2666

The purpose of this measure is to establish a seal of quality program for fresh and processed agricultural products that are produced within the State.

Your Committee finds that Hawaii's agricultural products inherently maintain a distinct and well-deserved reputation of freshness, value, and quality in the market. In order to compete nationally and internationally, there needs to be a consolidated and uniform method of indicating that an agricultural product originates from Hawaii and carries with it Hawaii's valuable goodwill. This bill establishes a program that provides Hawaii's agriculture industry a labeling standard that preserves and enhances the value of Hawaiian products.

Upon further consideration, your Committee has amended this bill by expanding the types of moneys and contributions that may be deposited into the 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. 2666, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2666, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 7 (Buen, Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2694 (Majority) Ways and Means on S.B. No. 2172

The purpose of this measure is to establish a loss mitigation grant fund special fund and to authorize the transfer of funds between the hurricane reserve trust fund and the loss mitigation grant fund.

Furthermore, this measure requires the Insurance Commissioner to develop and implement a three-year loss mitigation grant program to encourage single and multi-family residential dwellings to install wind resistive devices. This measure also authorizes the Commissioner to use the loss mitigation grant fund to make those grants. Also, this measure transfers general funds into the loss mitigation grant fund over the next three fiscal years.

Your Committee finds that the grant program will assist in reducing the incidence and severity of personal injury and property damage in the event of a hurricane, thereby preserving human life and property values and minimizing disruptions to the State's economy, business activity, and the delivery of public services.

Your Committee has amended this measure by:

- (1) Allowing interest from the Hawaii hurricane relief trust fund to be deposited into the general fund;
- (2) Authorizing only former policyholders to participate in the loss mitigation grant program during the program's first year of operation;
- (3) Authorizing all single and multi-family residential owners, including townhouse and condominium owners, to participate in the loss mitigation grant program from the second year of the program's operation;
- (4) Requiring the Commissioner to create a technical advisory committee to assist in implementing the loss mitigation grant program;
- (5) Blanking out the appropriations;
- (6) Appropriating funds for only fiscal year 2002-2003; and
- (7) 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. 2172, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2172, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, 2 (Hemmings, Slom). Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2695 (Majority) Ways and Means on S.B. No. 2520

The purpose of this measure is to establish the Hawaii Rx program to reduce prescription drug costs for residents of Hawaii. The bill establishes a Prescription Drug Advisory Commission to review access to prescription drugs in Hawaii and advise the program administrator on drug prices and access, as well as rules needed to implement the program.

In addition, the measure:

- (1) Authorizes the Department of Human Services to contract with a third party to administer a component or combination of Hawaii Rx components;
- (2) Provides that all Hawaii residents are eligible to participate in Hawaii Rx;
- (3) Allows manufacturers that sell prescription drugs in Hawaii to enter a rebate program, with the Hawaii Rx administrator to negotiate the rebate amount;
- (4) Authorizes a review to determine whether products made by nonparticipating manufacturers will require prior authorization in state funded prescription drug programs;
- (5) Requires manufacturers of drugs dispensed in Hawaii to file an annual report of their marketing costs to the Department of Human Services;
- (6) Provides that retail pharmacy participation is voluntary, but requires participating pharmacies to sell drugs covered by Hawaii Rx to program participants at a discount price established by the Department of Human Services and allows a pharmacy to charge a dispensing fee not greater than Medicaid fee;
- (7) Establishes the Hawaii Rx program special fund to receive rebate and other funds to be used to reimburse retail pharmacies, pay administrative costs, including contracted services;
- (8) Requires retail pharmacies to disclose the amount saved to Hawaii Rx participants;
- (9) Authorizes the Department of Human Services to seek waivers of federal law required to implement Hawaii Rx;
- (10) Appropriates funds for positions for outreach activities, to contract for claims management services, and for costs of issuing prescription cards for the program.

Your Committee finds that the rising cost of prescription drugs affects public programs, consumers, health care plans and insurers, and private businesses or employers. High costs most often negatively impact the health and financial well being of individuals who lack prescription drug benefits, particularly the low to moderate income elderly and the disabled. Residents without health insurance or prescription drug benefits fill prescriptions less often than individuals with drug coverage, placing their health at risk. When the uninsured do buy prescription drugs, they pay two or three times the amount paid by a person with drug benefits for the same prescription drug.

Thirty-one states have established or authorized a state pharmaceutical assistance program. Most use state revenues to provide prescription drugs at a nominal cost to a target population, generally low-income seniors, and sometimes the disabled. The program established by this measure is based on Maine Rx, a program intended to offer prescription drugs at discounted prices to any Maine resident. Maine Rx, however, is not yet operational. Litigation in federal court has halted its implementation until the issues are resolved. Unlike Maine Rx, Hawaii Rx provides that rebates from drug manufacturers are not mandatory. Participation by manufacturers and retail pharmacies is voluntary. Your Committee is hopeful that Hawaii Rx can avoid legal challenges encountered by Maine Rx, making access to more affordable prescription drugs available to all residents of Hawaii.

Your Committee has amended this measure by clarifying various issues relating to the Hawaii Rx special fund. Specifically, the reference to a special account within the Hawaii Rx special fund was deleted and permitted expenditures and sources of funding to be deposited were clarified.

As affirmed by the record of votes of the members 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. 2520, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2520, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 2 (Hemmings, Slom). Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2696 Ways and Means on S.B. No. 2247

The purpose of this measure is to establish a task force to develop an action plan to transfer jurisdiction over state parks to the counties.

Specifically, the bill directs the task force to:

- (1) Develop an action plan to transfer functions and funding of state parks to the counties;
- (2) Develop a cost-effective timetable for the transfer that does not disrupt public use;
- (3) Include contracts and appropriations that would be affected; and
- (4) Make recommendations for enactment of county ordinances or policies necessary for a timely and efficient transfer of responsibility and jurisdiction of state parks to the counties.

Your Committee finds that the existence of county park systems and a state park system sometimes causes confusion or inconsistency. Your Committee believes that transfer of state parks to the counties would result in a more efficiently administered park system and eliminate duplication of services caused by different jurisdictions dealing with common or similar issues. A more efficient park system would benefit Hawaii residents and visitors alike.

Your Committee has amended this measure to clarify that the task force serves in an advisory capacity only.

As affirmed by the record of votes of the members 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. 2247, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2247, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2697 Ways and Means on S.B. No. 2411

The purpose of this measure is to appropriate funds to market Hawaii's products and services.

Your Committee finds that the economic repercussions following the tragic events of September 11 still linger in our community today. The slowdown in tourism has had a trickle down economic effect in the State, causing higher unemployment rates and decreased consumer spending.

This bill addresses the State's economic situation by providing funds to enhance marketing efforts to increase sales of products and services originating or produced in the State to ultimately boost employment and the local economy.

Your Committee has amended the bill by changing the appropriation to an unspecified amount in order to promote further 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. 2411, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2411, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2698 Ways and Means on S.B. No. 3014

The purpose of this measure is to require the Stadium Authority to review and compare the current artificial turf with more technologically advanced turf products.

In addition, the review is to include an assessment of those injuries attributed to the current artificial surface, costs of installation and maintenance, liability concerns, questions as to how the type of surface affects the booking and contracting for events at the stadium, and any other issues that may be appropriate. The Authority is to report its findings and recommendations back to the Legislature prior to the 2003 Regular Session.

Your Committee finds that some forms of artificial turf have been cited as the cause of sports injuries, and that the synthetic turf at Aloha Stadium, which serves as the State's showcase during the football season, has generated similar controversy since its installation.

Your Committee further finds that the NFL Pro Bowl contract includes a provision that requires the Hawaii Tourism Authority to use best efforts to provide a natural turf playing surface at Aloha Stadium, or other alternative turf that is acceptable to the NFL. While some efforts have been made to ban the use of artificial turf, advances in technology have improved the safety features of synthetic surfaces. Your Committee finds that this measure will serve to enhance the safety of all athletes playing at Aloha Stadium.

Upon further consideration, your Committee has amended this bill by making 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. 3014, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3014, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2699 Ways and Means on S.B. No. 2032

The purpose of this measure is to change the date used to determine a child's age to begin kindergarten and to require funds saved by this change to be used for certain educational programs that include early education, school readiness, class size reduction, and repair and maintenance.

Specifically, the measure:

- (1) Requires that a child be at least five years of age before January 1 of the school year to enter kindergarten, instead of the current requirement of on or before December 31;
- (2) For school year 2003-2004, requires a child to be at least five years of age before October 1 of the school year;
- (3) For school year 2004-2005, requires a child to be at least five years of age before July 1 of the school year; and
- (4) Directs cost savings to be used for specified educational programs and other enhancements as determined by the Superintendent of Education and approved by the Board of Education.

Your Committee finds that changing the date for determining a child's kindergarten entry will help later born children be better prepared and more successful in kindergarten. Research has shown that students born in the first half of the year achieve higher test scores than children born in the last six months. Statistically, later born children are classified as specific learning disabled more often than children born between January and June. By changing the date from December 31 to January 1, your Committee hopes to enable all children to begin kindergarten at an age when they are most likely to be prepared to succeed.

Some of your Committee members expressed their concerns about the current draft of this bill. The prior Committee was supposed to include language that would establish an assessment process for children born between the period of September 30 and June 30. This is the period between the current entry date and the proposed entry date for kindergarten. The assessment process would allow a child born between those dates to enter kindergarten if the assessment indicates that the child is ready for school. Your Committee is making this bill defective so that substantive discussions on this issue will continue and to consider including the assessment process at a future date.

Your Committee has amended this measure by delaying its implementation so that children will be required to be at least five years of age before October 1 for school year 2005-2006. For subsequent years, a child must be at least five years old before January 1 of the school year. Reference to reaching age 5 before July 1 for school year 2004-2005 has been deleted. Additionally, the effective date of this measure has been changed from upon approval to July 1, 2050.

As affirmed by the record of votes of the members 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. 2032, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2032, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2700 Ways and Means on S.B. No. 2060

The purpose of this measure is to fund the highly successful curriculum research and development group of the University of Hawaii to produce a strategic analysis report on the educational materials production industry in Hawaii.

The measure also establishes a policy of the State to identify, track, analyze, and support public and private organizations capable of providing high-quality, marketable educational services capable of generating economic benefits.

Your Committee finds that education is not only a function of government, but a potentially lucrative industry for the State. The development of high quality educational books, materials, and curricula is a multi-billion dollar industry. Hawaii has shared in some of that benefit through the efforts of the University of Hawaii's curriculum research and development group. For example, for a \$500,000 investment, the group produced its highly regarded Fundamental Approaches to Science and Technology science materials and marketed it on the mainland and throughout the world. Those materials have brought in nearly \$50,000,000 to the State – nearly one hundred times the initial investment.

Your Committee finds that the educational materials industry has a promising future in Hawaii. By stating a policy of supporting this industry, and by funding a strategic analysis for the curriculum research and development group, the potential for expansion of this industry is significant and potentially very lucrative.

Your Committee has amended this measure by leaving the amount of the appropriations blank to further discussion, 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. 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 Chair on behalf of the Committee.

Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2701 Ways and Means on S.B. No. 2069

The purpose of this measure is to appropriate \$75,000 to the Research Corporation of the University of Hawaii for fiscal year 2002-2003 for the Hawaii educational policy center to prepare and distribute original research, reports, and summaries of existing research to help inform education policy in Hawaii.

In addition, this measure requires the director of the Hawaii educational policy center to provide a report to the Legislature on the center's research activities and funding acquired from other sources prior to the convening of the Regular Session of 2004.

Your Committee finds that the Legislature needs timely, concise, relevant, and objective policy briefs, reports, articles, studies, forums, and workshops that reflect the needs and requests of lawmakers. The conduct and interpretation of education research has become increasingly complex and is subject to the biases of researchers, funding agencies, and research institutions. Your Committee also finds that the Legislature needs a trusted partner who can help lawmakers understand, nurture, improve, and enact the best and most appropriate laws for life-long learners in Hawaii.

Your Committee has amended this measure by:

- (1) Changing the sum appropriated for the Hawaii educational policy center to an unspecified amount; and
- (2) 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 S.B. No. 2069, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2069, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 14. Noes, none. Excused, 1 (Sakamoto).

SCRep. 2702 Ways and Means on S.B. No. 2211

The purpose of this measure is to authorize the Department of Education to establish a tuition reimbursement program for graduates of a state-approved teacher training program who teach in the public schools for at least six years.

The measure also: establishes a ceiling on tuition reimbursement, up to a limit of the regular session tuition at the University of Hawaii for verifiable tuition expenses; makes the tuition reimbursement available only to graduates of Hawaii high schools; and stipulates that the tuition reimbursement cannot be used in conjunction with any other forms of tuition assistance (such as waivers or scholarships), except for the Hawaii Educator Loan Program.

Your Committee finds that the public school teacher shortage necessitates creative measures to encourage college students to enter the teaching profession and remain in the public school system after they graduate. Your Committee believes this measure will assist in the effort to recruit and retain experienced public school teachers.

Your Committee has amended the measure by:

- (1) Adding a new subsection (b) to clarify that the teacher reimbursement program does not apply to teachers presently or formerly employed by the Department of Education and redesignating the remaining subsections consecutively; and
- (2) Making a technical nonsubstantive change for 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. 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 Chair on behalf of the Committee.
Ayes, 14. Noes, none. Excused, 1 (Ige).

SCRep. 2703 Ways and Means on S.B. No. 2512

The purpose of this measure is to place new century charter schools and their teachers on a more level playing field with public schools and their teachers.

Specifically, this measure:

- (1) Requires new century charter school teachers to receive probationary and tenure status, and to acquire seniority if they meet the requirements set forth for public school teachers;
- (2) Requires charter schools to receive a per pupil allocation of state funds based on the total Department of Education appropriation and projected per pupil allocation for the current fiscal year, excluding EDN 150 (comprehensive school support services), EDN 407 (public libraries), and AGS 807 (physical plant operations & maintenance—AGS);
- (3) Requires the Department of Education to determine and provide the appropriate level of special education staff and services necessary to ensure that a charter school student's educational needs, as indicated in the individualized educational plan, are met;
- (4) Limits reimbursements to the Department of Education for administrative services related to federal grants and subsidies to six and one-half per cent of a charter school's federal grants and subsidies, rather than six and one-half per cent of a charter school's allocation;
- (5) Requires the Department of Education to:
 - (A) Provide fifty per cent of a charter school's per pupil allocation based on the charter school's projected student enrollment no later than August 1 of each year; and
 - (B) Provide the remaining per pupil allocation of a charter school based on the charter school's verified student enrollment no later than October 15 of each year;
- (6) Repeals the law capping the per pupil allocation for self-contained special education students and for other special education students in charter schools to the increment available to all other public schools;
- (7) Repeals the law capping the per pupil allocation for charter schools to the Department of Education's average per pupil expenditure based upon the inclusion of similar cost items, in the previous fiscal year; and
- (8) Repeals the law requiring the Auditor to explicitly consider the advice of the Superintendent and representatives of local school boards when determining the per pupil allocation for charter schools.

Your Committee has amended this measure by:

- (1) Reinserting the word "general" (as in "state [general] funds") into section 2 of this measure (at page 1, line 12) as the text of section 302A-1185(a), Hawaii Revised Statutes, differs from the printed version of the Hawaii Revised Statutes; and
- (2) Making a technical nonsubstantive change for 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. 2512, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2512, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Tam).

SCRep. 2704 (Majority) Ways and Means on S.B. No. 2738

The purpose of this measure is to require the Department of Education to deposit school bus fares into a special fund and to pay for the operating costs of school buses from that special fund.

Your Committee finds that creation of a special fund for school bus fares will enable the Department of Education to account for a source of funds that was previously collected by contractors and to avoid exceeding the student transportation services program general fund appropriation.

Your Committee has amended this measure by establishing a revolving fund 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. 2738, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2738, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Hanabusa, Tam).

SCRep. 2705 Ways and Means on S.B. No. 2793

The purpose of this measure is to provide an emergency appropriation to the Hawaii State Public Library System to complete Phase I of Kapolei public library.

Your Committee has amended this measure by increasing the Hawaii State Public Library System's general fund operating budget for fiscal year 2001-2002 by \$1,000,000.

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. 2793, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2793, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Hanabusa, Kim).

SCRep. 2706 Ways and Means on S.B. No. 2926

The purpose of this measure is to compensate public high school assistant athletic directors in the same manner as public high school coaches.

The bill also allows public high school assistant athletic directors to waive their stipends and dispense the funds to the school employing the assistant athletic director.

Your Committee finds that athletics play a major role in the lives of many high school students. High school athletics provide students with lifelong skills and knowledge that emphasizes good health and physical fitness. Additionally, athletics sometimes serves as an incentive for students who would not otherwise be in school but for the academic prerequisite requirements of many athletic programs.

As vital as athletics is to a student's overall growth, recognition of the dedicated people responsible for successful athletic programs - coaches, athletic directors, and assistant athletic directors, is sometimes slow to materialize. This bill provides for recognition of that dedication and commitment and specifically authorizes the compensation of assistant athletic directors in the same manner as high school coaches.

Your Committee has amended the bill by changing the appropriation to an unspecified amount in order to further discussion on this matter, and by making a technical change that has no substantive effect.

As affirmed by the record of votes of the members 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. 2926, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2926, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Hanabusa, Kim, Tam).

SCRep. 2707 (Majority) Ways and Means on S.B. No. 3007

The purposes of this measure are to:

- (1) Propose constitutional amendments to abolish the Board of Education and establish the Superintendent and Education Select Commission; and
- (2) Require the Superintendent to be appointed by the governor, by and with the advice and consent of the Senate, from a list of nominees presented to the Governor by the select commission.

Your Committee finds that this measure was passed along unamended to the Committee in order to provide a vehicle for developing broad-based consensus on various educational reform initiatives.

Your Committee has amended the measure by deleting its contents in favor of new language that will address a particularly important educational reform model: charter schools. This measure, as amended, would allow greater autonomy to new century charter schools, and other innovative schools and alternative learning programs, by:

- (1) Establishing a nine-person Innovative Schools Commission, administratively attached to the department of education, to formulate policy for new century charter schools and other innovative schools and alternative learning programs; and
- (2) Requiring the members of the Innovative Schools Commission to be appointed by the Governor, by and with the advice and consent of the Senate, from a list of nominees presented to the Governor by innovative 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. 3007, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3007, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 3 (Tam, Hemmings, Slom). Excused, 2 (English, Kim).

SCRep. 2708 Ways and Means on S.B. No. 3018

The purposes of this measure are to:

- (1) Replace the current Board of Education with regional boards of education and a statewide board of education composed of its members; and
- (2) Establish an educational region commission to determine educational regions within the State.

Your Committee finds that Hawaii's public education system is in need of a significant change to its governance structure, which continues to be plagued with problems. Therefore, alternative organizational structures should be seriously considered and bold new steps need to be taken to improve quality, effectiveness, and efficiency.

Your Committee is aware of other measures that propose structural changes to the public education system and has recently adopted the concepts proposed in Senate Bill No. 2102, S.D. 1, which:

- (1) Establishes district boards of education throughout the State comprised of elected members to formulate educational policy within their respective educational districts;
- (2) Provides that a nonvoting student member of the district and statewide boards of education shall be selected as provided by law; and
- (3) Replaces the current elected statewide board of education with a statewide board comprised of the member representatives of the district boards of education to formulate statewide educational policy, appoint the superintendent of education, and ensure fair and equitable funding to each educational district.

However, your Committee believes that these concepts require further scrutiny as it proceeds through the legislative process.

Therefore, your Committee has amended this measure to operate in tandem with Senate Bill 2102, S.D. 1, by replacing its contents with provisions that:

- (1) Designate seven educational districts within the State in which district boards of education shall be established;
- (2) End the terms of the current members of the Board of Education and require an election of all members of the district boards of education at the 2004 general election; and
- (3) Provide that this measure shall take effect when constitutional amendments to establish district boards of education comprised of members from educational districts are ratified.

As affirmed by the record of votes of the members 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. 3018, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3018, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 13. Noes, none. Excused, 2 (English, Kim).

SCRep. 2709 (Majority) Ways and Means on S.B. No. 2476

The purpose of this measure is to specify interim revenue for the Office of Hawaiian Affairs.

In 1997, a court decision threw into question the amount of funds due to the Office of Hawaiian Affairs under the state constitution. The Legislature passed section 10-13.3 to provide for interim revenue for fiscal years 1997-1998 and 1998-1999 while the issue was undergoing clarification. In fiscal years 1999-2000 and 2000-2001, the Legislature funded the Office of Hawaiian Affairs' budget.

More recently, in 2001, another court decision effectively cut off the ceded land revenue to the Office of Hawaiian Affairs due to it under the state constitution. Your Committee finds that the Legislature must do its part to provide funding for the Office of Hawaiian Affairs to continue its mission until a settlement can be reached. Your Committee acknowledges and reaffirms the State's responsibilities for Hawaiians and Native Hawaiians, which are the basis for the creation of the Office of Hawaiian Affairs.

Your Committee has amended this measure by reinstating it in its original form, which better represents legislative intent. In reverting this measure to its original form, your Committee has removed the requirement of an annual report and the definition of "public land trust", and deleted the conforming changes to chapter 10, Hawaii Revised Statutes, with the exception of the amendment to section 10-13.3 specifying the amount of interim revenue for 2002-2003. Your Committee has further amended the interim revenue provision by deleting the appropriation section. Your Committee kept the appropriation section contained in S.B. No. 2477 to provide this funding. The bill also deletes language from the purpose section that stated a purpose outside the scope of the title of the 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 S.B. No. 2476, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2476, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, 2 (Hemmings, Slom). Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2710 (Majority) Ways and Means on S.B. No. 2763

The purpose of this measure is to require the Department of Health to establish a birth defects program.

In addition, this measure clarifies the general obligations of the program, provides for the confidentiality of data, enables the Department to adopt rules to implement the program, and imposes penalties for violations.

This measure also creates a birth defects registry to record information collected by the birth defects program, prohibits the collection of birth defects information for individuals who do not wish to participate, and specifies the permissible use and confidentiality of the collected information. This measure also appropriates \$500,000 from the general fund for fiscal year 2002-2003 to implement this measure, to be expended by the Department.

Your Committee finds that each year, approximately eight hundred to one thousand babies, or one out of twenty births in Hawaii, have birth defects. Birth defects are the leading cause of infant mortality and contribute significantly to childhood morbidity and long-term disability. Your Committee finds that birth defects information can be used to identify possible causes or risk factors and populations at risk, and assist in strategies of prevention.

Your Committee further finds that the Department of Health administratively created the program thirteen years ago, making Hawaii one of thirty-three states that have such a program. This measure would formalize the program into statutory law, making it a permanent program with a dedicated source of funding.

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

- (1) Adding a new section re-establishing the Hawaii birth defects special fund, which was deleted from the original version of this measure, and allowing a portion of the marriage license fee under section 572-5, Hawaii Revised Statutes, to be deposited into this fund;
- (2) Adding a new section to define terms used in the new part added to chapter 324, Hawaii Revised Statutes, in section 2 of the bill;
- (3) Deleting the general fund appropriation in section 3 of the bill, and inserting in its place a blank appropriation out of the Hawaii birth defects special fund to pay the operating expenses of the birth defects program, to be expended by the Department. Your Committee has inserted a blank amount to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (4) Making technical nonsubstantive changes for the purposes of clarity and consistency.

Finally, your Committee notes that the Department of Health is not authorized to adopt rules under chapter 324, Hawaii Revised Statutes, to implement the birth defects studies legislation. Your Committee recommends that this issue be reviewed further to ensure that all elements of this legislation can be properly implemented.

As affirmed by the record of votes of the members 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. 2763, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2763, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, 1 (Slom). Excused, 7 (Buen, Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2711 (Majority) Ways and Means on S.B. No. 2027

The purpose of this measure is to create a Medicaid prescription drug rebate special fund that will be used to expand Medicaid prescription drug benefits for certain qualified individuals.

Specifically, the bill provides that all moneys received by the State as Medicaid rebates from drug manufacturers for prescription drugs sold to Medicaid participants shall be deposited into the Medicaid prescription drug rebate special fund and used to expand Medicaid prescription drug benefits. The Department of Human Services is directed to use Medicaid prescription drug rebate special fund revenues to pay \$1 for each prescription written in the expanded Medicaid prescription drug program, provided that the Department obtains a waiver to provide drugs at Medicaid rates to persons with incomes no more than three hundred per cent of the federal poverty level.

Your Committee finds that the rising cost of outpatient prescription drugs has a serious impact on individuals who lack prescription drug benefits, particularly seniors and the disabled. Individuals without drug benefits fill their prescriptions less often than those with coverage, placing their health at a serious risk. Many states have a state pharmaceutical assistance program that makes prescription drugs available to a specific target population at more affordable prices. This measure will increase the availability of affordable outpatient prescription drugs in Hawaii for individuals who meet the income requirements.

As affirmed by the record of votes of the members 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. 2027, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, 1 (Slom). Excused, 2 (Sakamoto, Tam).

SCRep. 2712 Ways and Means on S.B. No. 2276

The purpose of this measure is to appropriate \$100,000 for fiscal year 2002-2003 for the food program and administrative and operating expenses of the Maui Food Bank.

Your Committee finds that welfare reform has resulted in many Hawaii families needing additional help from food banks. This situation has been exacerbated by the September 11, 2001, terrorist attacks, in which thousands of workers lost their jobs or suffered a reduction in work hours.

Your Committee agrees with the intent of this measure, and finds that it will ensure that the Food for Families, Mobil Pantry, community distribution programs, and other initiatives will continue to reach those in need and provide barrier-free access to high quality nutritional food on an ongoing, reliable basis.

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. 2276, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2276, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 15. Noes, none. Excused, none.

SCRep. 2713 (Majority) Ways and Means on S.B. No. 2302

The purpose of this measure is to regulate health insurance rates for all types of health insurance offered by managed care plans.

Specifically, this measure requires every managed care plan to file their rates with the Insurance Commissioner in advance of the effective date of those rates and subject to the Commissioner's disapproval of the filings. Furthermore, this measure prohibits any managed care plan from issuing policies except in accordance with the filings that are in effect.

Your Committee finds that this measure will benefit the public by requiring health plans to:

- (1) Bring their premium-setting practices into the sunshine;
- (2) Subject their premiums to actuarial review by the Insurance Division, to ensure that premiums are adequate and not excessive;
- (3) Return excess reserves to members; and
- (4) Consider investment gains when calculating premiums.

Your Committee further finds that without rate oversight, the Insurance Division is unable to ascertain whether premiums are used to provide the medical care promised by the plans. Without rate oversight, employers and employees will not be able to know whether their rates are in line with actual health care costs.

Your Committee has amended this measure 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2302, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2302, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, 2 (Hemmings, Slom). Excused, 1 (Ige).

SCRep. 2714 (Majority) Ways and Means on S.B. No. 2416

The purpose of this measure is to create a mandatory income tax assessment system to finance long-term care services for most residents of Hawaii.

Specifically, this bill imposes a monthly long-term care tax of \$10, to be collected by the Department of Taxation from each person who is aged twenty-five to ninety-eight and is a regular employee or self-employed, and deposited into the Hawaii long-term care benefits fund. After December 31, 2003, the tax is to be increased to \$10.50, \$11.03, \$11.58, \$12.16, and \$12.77 a month in the taxable years 2004 through 2008, respectively. Thereafter, the amount may be increased upon request of the Board of Trustees, who is to administer the program, to the Legislature. The bill specifies the duties of the board, including annual reports to the Legislature.

The tax is to be withheld by the employer or paid directly to the Department of Taxation by the self-employed. Individuals who are fully vested (ten years) receive full benefit payments. Those partially vested receive proportional benefits. Payments begin in July 1, 2005, thirty days after approval of the written certification from a physician or advanced practice registered nurse assigned by the Board of Trustees that the person needs one or more long-term care services. Services that qualify as long-term care services are enumerated in the bill.

The Auditor is required to audit the Hawaii long-term care benefits fund annually for the first three years and every three years thereafter. The bill requires the Board of Trustees to prepare an annual actuarial report and opinion and prescribes the contents of the actuarial report.

To be eligible, a vested individual must need help with two or more activities of daily living or have Alzheimer's disease or dementia. The benefit payment is \$70 a day up to a cumulative three hundred sixty-five days. Payments are primary to Medicaid and private insurance payments but are not made when a person is receiving Medicare benefits for long-term care.

The Hawaii long-term care benefits fund is required to reimburse the general fund the amount of any appropriations for start-up costs, after five years from July 1, 2002. The bill appropriates a blank amount for fiscal year 2002-2003 for such start-up costs, to be expended by the Department of Taxation.

Upon further consideration, your Committee has amended this bill to make the following technical nonsubstantive amendments:

- (1) Replacing the word "latter" with "later" in the phrase "the later years of life" on page 3, line 2;
- (2) Adding the phrase "Hawaii long-term care financing" before the word "program" in the first sentence in section 235-C(a) on page 7, line 3;
- (3) Replacing the word "ensuring" with "ensuing" in the phrase "the next ensuing ten fiscal years" in section 235-I(b)(2) on page 14, line 12;
- (4) Deleting the word "state" before the phrase "director of finance" in the first sentence in section 235-K(b) on page 17, line 14;
- (5) Inserting the words "The trustees shall" before the word "submit" in the first sentence in section 235-K(c) on page 19, line 14, and deleting the phrase ", but not limited to," on page 19, line 16;
- (6) Inserting the words "The trustees shall" before the word "maintain" in the first sentence in section 235-K(d) on page 20, line 5;
- (7) Deleting the word "state" before the phrase "insurance commissioner" in the last sentence in section 235-K(e) on page 20, line 12;
- (8) Capitalizing the word "acts" in section 3 of the bill on page 21, line 8; and
- (9) Changing all references to "sections 235-A to 235-J" throughout the bill to "sections 235-A to 235-K" to properly include section 235-K relating to the board's fiduciary and other duties.

Your Committee notes that the concept of providing long-term care for most of Hawaii residents is laudable but is moving this bill with a defective date in hopes that the concerns of your Committee will be addressed at a later date.

Your Committee provided funds for the executive office on aging to hire a consultant to do an actuarial study for the long-term care program. Your Committee needs more information on the actuarial calculations, analysis, and basis for setting the tax rate and future tax rates contained in the measure. The slightest inaccuracy may jeopardize the program. Thus, your Committee needs more time to carefully review the 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 S.B. No. 2416, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2416, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, 2 (Hemmings, Slom). Excused, none.

SCRep. 2715 Ways and Means on S.B. No. 2568

The purpose of this measure is to provide funding to the Departments of Human Services and Health to enhance their ability to provide services to persons with limited proficiency in English.

The bill also establishes a Commission on Language Access to develop a statewide plan to enhance access to services for persons with limited proficiency in English.

Your Committee realizes that under Title VI of the Civil Rights Act of 1964, states that receive federal financial assistance are supposed to provide meaningful access to services, programs, and activities for persons with limited English proficiency. Since the State receives federal funds, its programs must be in compliance with this requirement. Your Committee also finds that it is appropriate for the State to protect the health, safety, and welfare of all of its citizens, including those with limited proficiency in English, by ensuring that all residents have meaningful access.

In addition to funding crucial programs in the Departments of Human Services and Health, the institution of a Commission on Language Access is necessary. The Commission will help the State to become proactive in making all of its programs and services accessible, rather than waiting until the lack of access forces expensive remedial action on the State.

Your Committee has amended this bill by changing the amount of the appropriation for part-time assistance to a blank amount for further discussion, 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. 2568, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2568, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2716 Ways and Means on S.B. No. 2829

The purpose of this measure is to provide the same general excise tax benefits to persons with impaired sight, hearing, or who are totally disabled regardless of the entity in which they choose to do business.

Your Committee finds that certain general excise tax benefits are available to deaf, blind, and totally disabled persons. These provisions, however, may not be available depending on the entity in which impaired persons choose to do business. Currently, section 237-17, Hawaii Revised Statutes, provides a one-half per cent general excise tax rate for individuals who are blind, deaf, or totally disabled, or corporations all of whose outstanding shares are owned by individuals who are blind, deaf, or totally disabled. Similarly, section 237-24(13), Hawaii Revised Statutes, exempts from the general excise tax \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging in business. This bill recognizes the various other entities that may be formed to do business, such as partnerships of all types and limited liability 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. 2829, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2717 (Majority) Ways and Means on S.B. No. 2871

The purpose of this measure is to require health insurers, health maintenance organizations, and mutual benefit societies providing health insurance coverage that claim income and general excise tax exemptions to submit timely annual financial reports to the Department of Taxation.

The measure also requires the Auditor to conduct regular audits of all companies within the health care industry.

Your Committee believes that the State must carefully oversee entities providing health care insurance in Hawaii. Therefore, it is appropriate to require health care providers claiming tax exemptions to provide annual financial reports to the Department of Taxation.

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

- (1) Changing the reference to the Public Employees Health Fund to the "Hawaii employer-union health benefits trust fund" in section 23-4(c) on page 2, line 12, because the Public Employees Health Fund is repealed on July 1, 2003;
- (2) Replacing the incorrect phrase "insurer or health maintenance organization" with "mutual benefit society" in section 432:1-403(b) on page 8, lines 5-6;
- (3) Replacing the clause "any other entity offering or providing health benefits or services under the regulation of the insurance commissioner" with the phrase "mutual benefit society under chapter 432" in section 235-9(b) on page 3, lines 13-15, and in section 237-29.7(b) on page 5, lines 11-13; and
- (4) Adding "mutual benefit society" or similar phrase to "insurer or health maintenance organization" or similar phrase to sections 235-9 and 237-29.7, 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. 2871, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2871, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, 4 (Chun Oakland, Ige, Hemmings, Sлом). Excused, none.

SCRep. 2718 Ways and Means on S.B. No. 2964

The purpose of this measure is to statutorily establish the Hawaii Commission for National and Community Service.

This bill places the Commission within the University of Hawaii.

The Commission was created by Executive Order 94-01 and was placed in the Department of Labor and Industrial Relations for administrative purposes. Hawaii is required to have the Commission in order to receive federal funds through the Corporation for National Service for the AmeriCorps national service program, as part of the National and Community Service Act of 1993.

Your Committee finds that this bill gives the Commission a permanent home, inasmuch as an executive order is necessarily temporary in nature in accordance with section 26-41, Hawaii Revised Statutes, relating to the creation of temporary boards and commissions by the Governor.

Your Committee has amended this bill as follows:

- (1) In section 2 of the bill, by providing for the transfer of one, rather than three positions from the existing Commission to the new one;
- (2) In section 3 of the bill, by deleting the words "appropriations," "maps," "used," and "or held" relating to the transfer of records and equipment to the new Commission;
- (3) In section 8 of the bill, by clarifying that any federal funds received for the Commission are to be transferred to the University of Hawaii; and
- (4) In section 7, by changing the appropriated amount to a blank amount for purposes of promoting 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. 2964, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2964, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 7 (Buen, Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2719 Ways and Means on S.B. No. 2985

The purpose of this measure is to create an income tax credit for costs related to qualified capital improvements made by a taxpayer who owns a federal qualified health center.

Your Committee finds that the financial condition of Hawaii's non-profit health care facilities has been negatively impacted by the downturn in the State's economy. More specifically, many health centers have experienced a reduction in revenues, while concomitantly facing an increased demand for health care services from a growing financially distressed population. Your Committee further finds that this income tax credit will target capital improvements made to facilities that serve the most depressed communities in the State, through the requirement that they serve low income populations with a high incidence of medical problems and limited service providers.

To qualify for the income tax credit under this measure, the qualified improvement costs must be \$300,000 or more in one year. However, if improvement costs in a year are under \$300,000, a credit can still be claimed if improvement costs over a three-year period total \$1,000,000 or more. For example, over a three-taxable-year period the improvement costs might be \$250,000 for the first

taxable year, \$250,000 for the second taxable year, and \$500,000 in the third taxable year, or \$1,000,000 over a three-taxable-year period. The applicable credit percentage would be applied to the \$1,000,000. If, however, the improvement costs are \$300,000 for the first taxable year, \$250,000 in the second taxable year, and \$500,000 in the third taxable year, then the costs for which a credit was claimed for the first taxable year would be deducted from the costs for the three-taxable-year period.

Your Committee has amended the measure to specify that the improvement costs are incurred in taxable years after December 31, 2001, and that the credit claimed for improvement costs over a three-year period are for cumulative improvement costs. Your Committee also has made technical, non-substantive changes 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. 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 Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2720 (Majority) Ways and Means on S.B. No. 2760

The purpose of this measure is to streamline the process for registering and recording marriage events in Hawaii with the Department of Health.

Among other things, this measure:

- (1) Increases the marriage license fee from \$50 to \$90, of which \$10 is to be allocated to the vital statistics improvement special fund;
- (2) Requires the counties to serve as agents for the Department of Health to grant marriage licenses;
- (3) Deletes the requirement that applications for marriage licenses contain information consistent with the standard marriage certificate as recommended by the Public Health Service, National Center for Health Statistics;
- (4) Requires applicants for marriage licenses to provide complete applications and such documentary requirements as prescribed by the Department by rule;
- (5) Provides that all licenses to solemnize marriages issued pursuant to section 572-11, Hawaii Revised Statutes, shall automatically expire five years from the date of issuance, and makes license holders responsible for timely renewal;
- (6) Imposes a \$1 fee for an application for a license or renewal of a license to solemnize marriages; provided that one-half of the fee is to be deposited into the vital statistics improvement special fund and the other half into the state general fund;
- (7) Provides that licenses to solemnize marriages issued before the effective date of this measure are void one hundred eighty days after that date;
- (8) Requires the Department to make available to the public a listing of those to whom licenses to solemnize marriages have been issued; and
- (9) Deletes the requirement that persons who performed a marriage ceremony report those ceremonies in the district in which the marriage takes place, and instead requires reports only to the Department.

Your Committee finds that this measure provides for a more efficient and convenient process for registering and recording marriage events occurring in the State with the Department of Health, and provides more effective oversight of those who solemnize marriages.

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

- (1) Deleting language requiring the counties to serve as agents for the Department of Health to grant marriage licenses;
- (2) Increasing the marriage license fee from \$50 to \$60, instead of \$90, of which \$10 is to be allocated to the Hawaii birth defects special fund, rather than the vital statistics improvement special fund;
- (3) Amending the effective date section to provide that section 1 of this bill (which increases the marriage license fee and allocates the \$10 of additional revenue to the Hawaii birth defects special fund) shall take effect only if a bill establishing a Hawaii birth defects special fund in any form, whether in S.B. No. 2763 or in any other measure establishing such a fund, is passed by the Legislature in the 2002 Regular Session and becomes an Act; and
- (4) Making 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. 2760, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2760, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, 1 (Slom). Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2721 Ways and Means on S.B. No. 2457

The purpose of this measure is to make an appropriation to the University of Hawaii, for the Department of Anatomy and Molecular Biology in the John A. Burns School of Medicine to conduct research on mouse embryos in order to develop novel techniques for deriving mouse embryonic stem cells.

Your Committee finds that a United States patent was recently issued to the University of Hawaii for its cloning discovery using somatic cells. The patent gives the University of Hawaii a brief window of opportunity (in research terms) to capitalize on potential biomedical applications for its discovery. The financial return to the State of Hawaii from this one patent could support present and future research programs at the University of Hawaii for years to come. If the State fails to support mouse embryonic stem cell research at the Institute for Biogenesis, which has reached a critical juncture with the issuance of the patent, it will have squandered an opportunity to capitalize on this discovery.

Your committee has amended this measure 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. 2457, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2457, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2722 Ways and Means on S.B. No. 3051

The purpose of this measure is to authorize the issuance of special purpose revenue bonds for constructing a drug rehabilitation and parole violation center for men and women in Halawa, Oahu.

Your Committee finds that there are insufficient drug rehabilitation and parole violation facilities on Oahu. Accordingly, financing the construction of such facilities constitutes assistance to a health care facilities enterprise.

Your Committee has amended this measure by changing the appropriation to a blank amount and the effective date to July 1, 2050 and 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3051, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3051, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2723 Ways and Means on S.B. No. 2112

The purpose of this measure is to eliminate fact-finding as a means for resolving an impasse between a public employer and an exclusive representative, and to move up the deadline for declaring an impasse in order to give the Legislature time to approve or reject the cost-items in a collective bargaining agreement before adjourning sine die.

Specifically, this measure:

- (1) Requires the Hawaii Labor Relations Board to declare an impasse by January 31 of the year in which a collective bargaining agreement is due to expire, rather than by April 15 of an even-numbered year;
- (2) Allows the Hawaii Labor Relations Board to compel a public employer and an exclusive representative to attend mediation after the twentieth day of an impasse and until the fiftieth day of an impasse;
- (3) Requires the Hawaii Labor Relations Board to inform the appropriate legislative bodies, on or about the fiftieth day of an impasse, that mandatory mediation has failed to resolve the impasse;
- (4) Allows a public employer and an exclusive representative, after the fiftieth day of an impasse, to resort to such other remedies that are not prohibited by any agreement pending between them, other provisions of the collective bargaining law, or any other law;
- (5) Requires an exclusive representative to give a statement of its position on all remaining issues in dispute to a public employer and the Hawaii Labor Relations Board when the exclusive representative gives its ten-day notice of intent to strike;
- (6) Requires a public employer, within three days of receipt of a notice of intent to strike, to submit its position on the remaining issues in dispute that are included in the statement transmitted by the exclusive representative with its notice of intent to strike; and

- (7) Gives part-time faculty of the University of Hawaii or graduate students with compensated teaching of research duties, herein constituted as bargaining unit (14), the right-to-strike like faculty of the University of Hawaii and the community college system in bargaining unit (7).

Your Committee believes that eliminating fact-finding as a means for resolving an impasse, and moving up the deadline for declaring an impasse will improve the effectiveness and efficiency of the collective bargaining 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 S.B. No. 2112, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2724 Ways and Means on S.B. No. 2983

The purpose of this measure is to expand the range of investments that may be made by the Employees' Retirement System.

In particular, this measure:

- (1) Allows the Employees' Retirement System to invest in interests in protected intellectual property which, in the informed opinion of the Board of Trustees, it is prudent to invest funds;
- (2) Requires the Employees' Retirement System to invest a certain percentage of its investment portfolio in economically targeted investments, including venture capital enterprises and funds, with the intent to assist in the improvement of the economic well-being of the State, its localities, and residents; and
- (3) Requires the Employees' Retirement System's Board of Trustees to execute all shareholder proxies and voting instructions in a manner that supports corporate governance, social justice, and environmental protection issues unless such a vote would result in long-term harm to the company.

Your Committee agrees with the intent of this measure to expand investment opportunities to the Employees' Retirement System, in order to assist in the improvement of the economic diversification and well-being of the State, its localities, and residents.

Your Committee further finds that having the Employees' Retirement System's Board of Trustees execute shareholder proxies and voting instructions in a reasonably socially responsible manner will ensure that the Board will be more aware of the governing of its assets.

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

- (1) Deleting the requirement that the Employees' Retirement System invest a certain percentage of its investment portfolio in economically targeted investments, and instead requires investment in an appropriate venture capital fund that invests in venture capital enterprises and is managed by a private firm under the supervision of the Hawaii Strategic Development Corporation pursuant to section 211F-33(5), Hawaii Revised Statutes. In addition, the measure is amended to add a legislative declaration that investment in such a fund is consistent with the board's fiduciary obligations under the Employees' Retirement System law.

The intent of this change is to require the Employees' Retirement System to invest in the Hawaii Strategic Development Corporation's "fund of funds" managed by MN Capital under the supervision of the Corporation. Your Committee finds that this amendment will assist Hawaii's entrepreneurs in obtaining critically needed access to local venture capital, while at the same time allowing the Employees' Retirement System to exercise its fiduciary correctness.

In essence, this amendment shifts the responsibility for investment decision making onto the fund's managers, while assuring that the investment will be spread across all Hawaii venture funds, thereby mitigating the risk that the Employees' Retirement System may face from challenges to its fiduciary responsibility; and

- (2) Making 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. 2983, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2983, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 13. Noes, none. Excused, 2 (Ige, Sakamoto).

SCRep. 2725 Ways and Means on S.B. No. 3078

The purpose of this measure is to void certain beneficiary designations for earned and unpaid wage purposes if the employee has undergone a significant life change that would make keeping a pre-designated beneficiary contrary to the deceased employee's wishes.

At present, when an employee dies, the employee's accumulated or current accrued vacation allowance and unpaid wages will go to one or more beneficiaries designated by the employee. Your Committee finds that a problem arises when the employee designates a

beneficiary, and then experiences a significant life change such as divorce, marriage, or death, and fails to redesignate a more appropriate beneficiary. A classic example is the employee who designates his wife, then divorces her and remarries, but fails to change his designation. In that situation, all benefits will go to his ex-wife, which is probably not what the employee intended.

This bill provides that designations of beneficiaries will be void if (1) the beneficiary predeceases the employee; (2) the employee is divorced from the beneficiary; (3) the employee is unmarried and subsequently gets married; or (4) the employee enters into or terminates a reciprocal beneficiary relationship.

Your Committee has amended this bill to clarify that if an employee has two or more beneficiaries, and one beneficiary is voided, the others will not be voided. Your Committee has also amended condition (3), in which the employee is unmarried and later married, to provide that it applies only when the employee makes the designation prior to the marriage. An additional change was made to condition (4), relating to reciprocal beneficiaries, to provide that the designation is only void if made prior to a reciprocal relationship, or, if made during a reciprocal relationship, it is void if the relationship is then terminated.

As affirmed by the record of votes of the members 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. 3078, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3078, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Inouye, Kim, Tam).

SCRep. 2726 Ways and Means on S.B. No. 2350

The purpose of this measure is to set a limit on the transient accommodations tax (TAT) revenues deposited in the tourism special fund.

Specifically, the measure amends the laws governing the tourism special fund by:

- (1) Setting a \$61,000,000 limit on the TAT revenues deposited in the tourism special fund;
- (2) Requiring revenues, in excess of the \$61,000,000, up to a maximum of \$2,000,000, to be deposited as follows: ninety percent in the state parks special fund and ten percent to the Hawaii statewide trail and access program to care for those trails not under parks jurisdiction; and
- (3) Depositing any moneys in excess of \$63,000,000 in the tourism special fund into the state general fund.

Your Committee finds that Hawaii's parks are some of the most spectacular places in the world, and part of what brings people to visit the State. These resources should be experienced in the context of world class, well-designed, well-maintained park facilities, but unfortunately, this is not always the case. Facilities designed and built decades ago to handle a few dozen visitors are now overwhelmed by thousands of people every day. To various degrees, roads are crumbling, sewage systems overloaded, water supplies overdrawn, trails eroding, irrigation systems failing, picnic tables are collapsing, and shelters are falling apart. Work crews have little time for preventative maintenance in the struggle to keep the failing basic facilities on line.

Your Committee has heard that the DLNR Na Ala Hele Program, under the Division of Forestry and Wildlife, currently manages approximately 277 miles of hiking and multiple use trails statewide. A study in 2000 of fourteen trails located in both state parks and under the Na Ala Hele Program, conducted by students from the University of Hawaii Department of Urban and Regional Planning, determined that seventy-eight per cent of over 2000 individuals interviewed were from out of state. In addition, Na Ala Hele manages and regulates the commercial trail tour activities of twenty-one permitted operators on select trails statewide. Ten years ago there were virtually no trail tours in existence, and currently there is a growing demand for trail activity from visitors.

Your Committee acknowledges the nexus between the visitor industry and Hawaii's natural resource areas. Well over half of state park users are visitors to the islands, and as the survey has shown, the percentage is even higher on trails.

Your Committee has amended the measure to:

- (1) Cap the amount that contractors who receive contracts from the Hawaii Tourism Authority can expend on administrative costs, including salaries and wages of the contractor, at ten percent of the contracted amount;
- (2) Cap the TAT revenues deposited in the tourism special fund at \$50,000,000, rather than \$61,000,000, annually; and
- (3) Authorize any excess money in the tourism special fund over \$52,000,000, rather than \$63,000,000, be deposited into the 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. 2350, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2350, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2727 Ways and Means on S.B. No. 2556

The purpose of this measure is to exempt the Executive Director of the Hawaii Tourism Authority from the Employees' Retirement System and to give the Board additional flexibility in making the appointment.

Your Committee finds that there is a need to give more flexibility to the hiring of an Executive Director because the person in this position must lead the effort to promote tourism growth at a time when travelers are understandably more nervous about visiting far away places. Yet, Hawaii's economy depends on air travelers selecting Hawaii as their vacation destination, and spending their discretionary income here instead of in other exotic places. We also need to encourage residents to travel between islands. In order to attract the most qualified person for the Executive Director position, the Board will need to have incentives to offer new applicants that are more attractive than what other travel destination tourism offices may be offering. Your Committee believes that this measure provides the necessary tools to give the Board of the Hawaii Tourism Authority adequate flexibility to hire a new Executive Director.

Your Committee has amended this bill by correcting the amended section number from "section 201B" to section 201B-2.

As affirmed by the record of votes of the members 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. 2556, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2556, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 15. Noes, none. Excused, none.

SCRep. 2728 (Majority) Ways and Means on S.B. No. 2709

The purpose of this measure is to assign the responsibility to market, operate, manage, and maintain the Hawaii convention center facility to the Hawaii Tourism Authority.

In addition, this measure establishes a Hawaii convention center enterprise special fund and a convention center facility reserve special fund. This measure also formally repeals the convention center authority law, which "automatically terminated" on June 30, 2000, by retroactively adding language that effectuates the repeal of that law.

Your Committee finds that, since the effectiveness of the convention center is to be primarily determined by its ability to generate tourism related revenues for the State, it should be given the necessary tools to effectively compete against other convention and hotel destinations.

Moreover, your Committee finds that the convention center should be allowed to operate as a business enterprise and to always maintain an appropriate capital reserve balance for cash flow and capital expenditures related to major repair, replacement, or construction of items at the convention center facility.

Your Committee finds that the convention center is of great importance to Hawaii's visitor industry, and that this measure will help to ensure greater accountability and efficiency for the convention center, and will clarify the responsibility for the convention center, an issue that has been clouded since the termination of the convention center authority law on June 30, 2000.

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

- (1) Replacing the sum appropriated with a blank amount in order to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (2) Making 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. 2709, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2709, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 1 (Slom). Excused, 3 (Buen, Kokubun, Tam).

SCRep. 2729 (Majority) Ways and Means on S.B. No. 2907

The purpose of this measure is to provide a tax credit for the private development of attractions and educational facilities at the Ko Olina Resort and Marina on the west coast of Oahu.

Your Committee finds that the Ko Olina Resort and Marina is a master-planned resort community, already approved and zoned for multiple hotels, timeshare, residential, commercial, and other resort development. In addition to a resort development, the Ko Olina Resort and Marina also plans to build "must see" attractions and educational facilities. These facilities would be built at no cost to the State and include a world-class ocean front aquarium, marine science and mammal research facilities, an international sports training complex, a travel industry management intern campus, and other facilities developed in cooperation with the University of Hawaii.

These attractions and educational facilities will benefit the State by regenerating Oahu's tourism industry and by revitalizing our stagnating economy with the creation of thousands of construction and new permanent jobs. To this end, the tax credit provided by this bill will enhance efforts to raise capital to benefit both the State and Ko Olina Resort and Marina.

Your Committee in providing the developers of the Ko Olina Resort and Marina with major economic incentives through this measure recognizes the developers' commitment to community sensitive development of the area and to the Island heritage and educational projects. Additionally, your Committee also acknowledges the developers' continued commitment to using their best efforts to assure public access, ample free parking, and use of the shoreline and lagoons.

Your Committee has amended the bill by:

- (1) Exempting the application of section 704 of the Internal Revenue code (with respect to a partner's distributive share) from any allocation of the tax credit provided under this bill; and
- (2) Making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2907, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2907, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, 1 (Ige). Excused, 3 (Buen, Sakamoto, Tam).

SCRep. 2730 Ways and Means on S.B. No. 2137

The purpose of this measure is to increase the amount of the tax credit for child passenger restraint systems from \$25 to \$50, and to expand the tax credit to apply to booster seats.

Your Committee finds that a recent study indicates that children who are not restrained in a motor vehicle are three times more likely to sustain a significant injury in an accident than children secured in a child passenger restraint system. Your Committee believes that the increase in the amount of tax credit for these safety devices will assist and encourage parents to purchase car seats or booster seats to prevent serious or fatal car crash injuries for Hawaii's children. Expanding the tax credit to specifically include booster seats is intended to encourage the use of booster seats for children ages four to eight for whom adult car seat belts are not appropriate.

Your Committee has amended this measure to change the amount of tax credit from \$25 to a blank amount to facilitate further discussion on 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 S.B. No. 2137, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2137, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Buen, Chun, English).

SCRep. 2731 Ways and Means on S.B. No. 2246

The purpose of this measure is to authorize the issuance of general obligation bonds for a grant-in-aid to Hawaii Island Veterans Memorial Inc. to plan, build, and operate a combined veterans center and veterans home in Hawaii county.

Your Committee finds that veterans on the neighbor islands do not enjoy the same level of medical treatment and support that is provided on Oahu. Accordingly, this measure will provide a permanent, safe, and centralized location for delivering needed services to the veteran community on the Big Island.

Your Committee has amended this measure by changing the appropriation figure to a blank amount. Your Committee has also amended this measure by clarifying that the appropriation of general obligation bonds is in the public interest and for the public health, safety, and general welfare of the State, in addition to the fact that the bonds are being issued to make a grant-in-aid.

As affirmed by the record of votes of the members 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. 2246, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2246, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Sakamoto, Tam).

SCRep. 2732 Ways and Means on S.B. No. 2382

The purpose of this measure is to appropriate funds to establish a National Korean War Museum.

Your Committee finds that the State of Hawaii had the highest percentage of casualties from the Korean War than any other state. Hawaii is therefore a fitting site for a museum to honor the commitment and dedication of our military personnel in that action. Your Committee also finds that such a museum will be of interest to many Korean war veterans throughout the rest of the country, and may encourage tourism as these veterans and their loved ones come to Hawaii to visit the museum.

Your Committee has amended the bill by making the amount of the appropriation 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. 2382, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2382, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2733 Ways and Means on S.B. No. 2526

The purpose of this measure is to require the Judiciary, in addition to state and county executive agencies, to eliminate parental preferences in contracts, programs, and services and to require annual reports to the Legislature on the effect of the implementation of the parental preference law.

Your Committee finds that teenage pregnancy, unemployment, substance abuse, mental illness, learning disabilities, and crime increase the costs of public assistance, health services, and other social services, and the criminal justice system. Concomitantly, your Committee finds that programs that reduce these costs are in the public interest and welfare.

Your Committee notes that research has shown that the financial and emotional support of both parents is critical to a child's social and emotional well-being. Furthermore, there is nearly universal agreement that fathers playing an active role in their children's lives results in positive outcomes. For example, children who experience healthy connections with their fathers have a reduced risk of early parenting, high school drop out, substance abuse, behavioral and emotional problems, and juvenile delinquency. Accordingly, your Committee finds that supporting and encouraging the involvement of both parents in child-rearing decisions and activities is in the public interest.

With that aim in mind, the Legislature enacted Act 301, Session Laws of Hawaii 2001, which was codified as section 577-7.5, Hawaii Revised Statutes, relating to eliminating parental preferences in government contracts, programs, and services. Your Committee acknowledges that section 577-7.5 is necessarily based on a somewhat subjective interpretation of the impact of a government contract, program, or service on child-rearing. However, your Committee emphasizes that the goal is to ensure inclusion of both parents in all government contracts, programs, and services designed to assist in the raising of children and to identify and eliminate provisions that unfairly preclude a parent from participating in child-rearing decisions and activities. Your Committee believes that the reporting requirement contained in this measure will further the effort to attain that goal.

Your Committee has amended this measure by:

- (1) Changing the text of section 577-7.5, Hawaii Revised Statutes, at line 10 of page 1, to correspond to the printed version of the Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2526, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2526, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2734 Ways and Means on S.B. No. 2550

The purpose of this measure is to establish that fees charged to reproduce government records open to the inspection of the public may not be more than 25 cents per standard letter or legal size page.

Your Committee finds that copying fees in state agencies currently range from 5 cents to \$1 per page. There is no uniformity. Citizens interested in obtaining copies of public documents may not be able to afford the fees currently charged by some agencies. Public records should be available to the public at affordable prices, and this measure will help keep access to public records affordable.

Your Committee has amended this bill to provide an exception for fees charged by the Director of Finance and Director of Commerce and Consumer Affairs pursuant to section 92-24, Hawaii Revised Statutes, in addition to the exception already provided for copies of agency rules. Agencies seeking to charge different fees for other government records must establish those fees through rulemaking. Your Committee will consider different fees for colored copies as the measure moves through 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 S.B. No. 2550, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2550, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, Tam).

SCRep. 2735 Ways and Means on S.B. No. 2601

The purpose of this measure is to define the term “electric personal assistive mobility device”, regulate those devices under the traffic code, and restrict their use to government or business use or for mobility-impaired operators.

Your Committee finds that much interest has arisen in the use of the Segway Human Transporter, a two-wheeled motorized device for business and commuter use. The Segway does not fall neatly into any one category of vehicle, and so it is unclear how it would best be regulated under existing law. Your Committee finds that the Segway and any similar type of vehicle should be classified in the traffic code so that its use can be regulated and reviewed.

Your Committee has amended this bill by reducing the cumbersome phrase “electric personal assistive mobility device” to “mobility device” and by changing the effective date to July 1, 2050.

As affirmed by the record of votes of the members 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. 2601, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2601, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Sakamoto, Tam).

SCRep. 2736 (Majority) Ways and Means on S.B. No. 3009

The purpose of this measure is to establish an Office of Grant Writing within the Department of Budget and Finance.

More specifically, the Office of Grant Writing would be responsible for writing applications for federal grant moneys on behalf of state agencies, in an effort to maximize the amount of federal grant moneys available to the State. The Office also would advise state agencies on administering those grants.

Your Committee finds that researching the availability of federal grants and making grant applications requires specialized knowledge and experience. Your Committee finds that government agencies and not-for-profit providers have been unable to take full advantage of available federal grant opportunities due to a lack of resources to invest in grant writing and research, particularly in the critical areas of health and human services. Your Committee believes that the State can ill afford to let federal funding opportunities slip away, especially in view of the State’s present economic situation, and therefore must take aggressive steps to secure federal grant moneys.

Your Committee has amended the measure by:

- (1) Clarifying that the Director of Finance shall determine the salary for the Administrator of the Office of Grant Writing;
- (2) Authorizing the Administrator to hire additional professional and administrative support staff; and
- (3) Providing that the Administrator and staff shall be exempt from civil service provisions, but entitled to public employee benefits.

As affirmed by the record of votes of the members 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. 3009, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3009, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 1 (Slom). Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2737 Ways and Means on S.B. No. 3048

The purpose of this measure is to authorize the issuance of revenue bonds to build a world class destination visitor attraction on Ford Island to tell the Navy-Marine Corps story in World War II.

Your Committee believes that the key to increasing the performance of the tourism industry is the creation of more attractions. Such an attraction is the development of Hawaii as an international center of learning for World War II history, which may be viewed as a new growth industry.

Your Committee has amended this measure by changing the bond authorization from revenue bonds to special facility revenue bonds and by changing the authorization amount to 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. 3048, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3048, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Sakamoto, Tam).

SCRep. 2738 Ways and Means on S.B. No. 3060

The purpose of this measure is to appropriate \$120,000 in fiscal year 2002-2003 to provide bicycle safety education classes to every fourth grade student in Hawaii.

Your Committee finds that bicycle injuries are a recognized injury for children, and proper education would prevent or mitigate those injuries. Your Committee finds that bicycle safety education classes would teach students how to safely handle a bicycle, avoid potential dangers on roadways, and learn self-esteem in the form of independence.

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

- (1) Replacing the sum appropriated with a blank amount to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

Your Committee believes that schools should be given the flexibility to provide bicycle safety education classes outside of regular school hours, such as after school or on weekends. The intent of your Committee is to allow schools to determine if the course should be taught outside of the regular school schedule.

As affirmed by the record of votes of the members 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. 3060, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3060, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2739 Ways and Means on S.B. No. 2330

The purpose of this measure is to exempt from wharfage fees interstate and intrastate shipping cargo moved in to or out of the port of Honolulu.

Your Committee finds that rules of the Department of Transportation (section 19-44-65, Hawaii Administrative Rules) exempt interstate cargo originating outside Hawaii from wharfage fees. Hawaii merchants need to be able to get their products and produce to market to compete with mainland companies who ship goods on through bills of lading to the neighbor islands without paying wharfage charges. This measure will provide a level playing field for local merchants and manufacturers.

Upon further consideration, your Committee has amended the bill by changing the effective date to July 1, 2050 to stimulate further discussion of this measure. In addition, technical nonsubstantive amendments have been made for 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. 2330, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2330, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2740 Ways and Means on S.B. No. 3028

The purpose of this measure is to regulate warrantors of vehicle protection products.

Companies sell vehicle protection products to participating motor vehicle dealers, who sell them to consumers. These products are warranted to provide the customer with a remedy in case of loss or damage to a vehicle from specific causes. Your Committee finds that the residents of this State deserve to have these warranties supported by a regulatory scheme that includes the assurance of a backup financial security requirement.

Your Committee has amended this bill by giving it a defective effective date to encourage further discussion 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. 3028, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3028, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2741 Ways and Means on S.B. No. 2681

The purpose of this measure is to ensure that public works projects will have plans or specifications prepared or supervised by a licensed design professional and the construction observed by a licensed design professional.

Your Committee finds that this measure retains the original intent of section 464-4, Hawaii Revised Statutes ("Public works"), which is to protect the public by requiring licensed professionals to provide the plans or specifications for public works involving alterations or new construction.

Your Committee further finds that this measure appropriately differentiates public works projects involving new or alteration construction from public works projects involving maintenance construction. For new or alteration construction, plans or specifications must be prepared by or under the supervision and stamped by an appropriately licensed design professional, and observation of the construction must be performed by a licensed design professional designated by the government agency that is undertaking the public works project.

However, for maintenance work, plans or specifications need not be prepared by or stamped by an appropriately licensed design professional, but the observation of that work must be performed by a licensed design professional designated by the government agency that is undertaking the public works project.

Your Committee agrees that these types of projects should be differentiated, thereby eliminating the need for plans or specifications for maintenance work, such as minor repairs or replacement work that does not affect or involve the structural integrity of a public works project. Your Committee further finds that this measure allows for discretion in determining whether plans should be required for maintenance work.

As affirmed by the record of votes of the members 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. 2681, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Inouye, Kim, Sakamoto, Tam).

SCRep. 2742 (Majority) Ways and Means on S.B. No. 2177

The purpose of this measure is to appropriate funds for the treatment of material dredged from the Ala Wai canal and other waterways.

Specifically, this measure:

- (1) Appropriates \$400,000 in general funds to conduct research and tests on material dredged from the Ala Wai canal and other waterways; and
- (2) Appropriates \$1,750,000 in general obligation bond funds, to be matched by federal funds, for the design and construction of a pilot bioremediation facility.

Your Committee finds that an important consideration for the planned Ala Wai canal dredging project is the treatment and disposal of the dredged material. Bioremediation—the application of biological processes to remediate contaminated soils, ground and surface waters, and air pollutants, has been shown to be an effective and low-cost option for the remediation of certain types of dredged material.

This measure funds bench-scale biotreatability, greenhouse, and small-plot field studies to determine the optimal treatment train and probable endpoints for remediating dredged material. Based on the results of this research and development work, this measure then funds the preliminary design of a pilot bioremediation testing/demonstration facility to be used in future remediation projects for evaluating performance and operational and cost factors for biological treatment of contaminated soil-like media, including dredged sediment.

Your Committee has amended this measure by:

- (1) Replacing the sum appropriated to conduct research and tests on dredged materials with an unspecified amount;
- (2) Replacing the sum appropriated for a pilot bioremediation facility with an unspecified amount; and
- (3) 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 S.B. No. 2177, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2177, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, 1 (English). Excused, 5 (Buen, Ige, Kim, Sakamoto, Tam).

SCRep. 2743 Ways and Means on S.B. No. 2266

The purpose of this measure is to allow the counties, as part of their recycling and bioconversion requirements, to consider establishing a curbside recycling program.

The bill suggests many components of such a system, including suggesting the types of recyclable materials to be collected, a drop-off or buy-back recycling facility, provisions for the actual recycling, and provisions for public education and compliance. The bill also allows the counties to establish a fee for curbside recycling.

Your Committee finds that litter comprised of recyclable materials is not only an eyesore, damaging Hawaii's natural beauty so cherished by residents and visitors alike, but is also a waste of valuable resources. By providing suggested curbside recycling guidelines for the counties' consideration, your Committee hopes to encourage recycling 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. 2266, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2744 Ways and Means on S.B. No. 2278

The purpose of this measure is to allow taxpayers to accelerate depreciation on investments in combined heat and power systems.

Your Committee finds that combined heat and power systems are generally much more fuel-efficient than the electric utility system in meeting energy needs. Combined heat and power systems not only produce electricity on site, avoiding transmission losses, but also harness thermal energy from their exhaust for a variety of functions, including water heating, processing heat, drying, space heating, and air conditioning.

By accelerating the depreciation of investments in combined heat and power systems, this bill provides a tax incentive for and supports the use of combined heat and power systems to ultimately support the State's energy objective of conserving energy.

As affirmed by the record of votes of the members 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, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2745 Ways and Means on S.B. No. 2802

The purpose of this measure is to include renewable energy producers as parties to whom the Board of Land and Natural Resources may lease public lands through direct negotiations.

Your Committee finds that the Board of Land and Natural Resources presently may lease public lands by direct negotiation to public utilities, including electric utility companies, but not to renewable energy producers who provide power to the electric utility companies. As a result, public lands can only be leased to these entities via public auction.

Your Committee finds that the uncertainty of securing a land lease during the project development phase discourages the development of renewable energy projects on public lands. Your Committee further finds that this measure, by removing this uncertainty, will encourage the development of renewable energy projects and reduce the State's dependence on fossil fuels, in accordance with the State's energy policy.

Your Committee notes that the federal government, as well as many mainland states and municipalities, allow for direct negotiation to renewable energy producers.

Your Committee has amended the measure by 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 S.B. No. 2802, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2802, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2746 Ways and Means on S.B. No. 2804

The purpose of this measure is to allow the Board of Land and Natural Resources to waive the requirement to obtain Board consent to subleases under public land leases.

Your Committee finds that existing restrictions on subletting all or portions of the demised premises without the approval of the Board is appropriate in most lease situations. However, where the intent is for the property to ultimately be leased to multiple subtenants, your Committee finds that it is appropriate for the lessor to permit the lessee to issue tenant subleases without the lessor's consent. The ability to issue subleases without the lessor's consent in these situations is critical to the lessee's ability to attract viable tenants for the property.

Your Committee agrees with the intent of this measure, and finds that it will provide the Board with the flexibility to determine appropriate situations in which subletting should be permitted under existing leases, as well as enhance the Department's ability to attract lessees to develop vacant state 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 S.B. No. 2804 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2747 Ways and Means on S.B. No. 2812

The purpose of this measure is to authorize the Board of Land and Natural Resources to lease, by direct negotiation and without recourse to public auction, state submerged lands for private nonresidential noncommercial piers.

Your Committee finds that Act 261, Session Laws of Hawaii 2000, authorized the Board to lease by direct negotiation and without regard to public auction, state submerged lands for private residential noncommercial piers to the owners of unauthorized piers on state waters, and Kaneohe Bay in particular.

Your Committee further finds that the problem of illegal piers in Kaneohe Bay has persisted for decades. In 1998, the Board approved the Kaneohe Bay Piers Amnesty Plan to provide owners of illegal piers with the required permits to achieve compliance with state land use laws.

The Board subsequently approved the Conservation District Use Application for the plan in July 2001, and the disposition of pier leases in August 2001. However, upon notifying the pier owners of these actions, the Department discovered there were a few piers belonging to the Kokokahi YWCA, Habilitat Inc., and the Kaneohe Yacht Club that did not clearly fall under the category of "residential", but did meet the "noncommercial" criterion in Act 261. Your Committee agrees with the intent of this measure, which amends Act 261 to resolve these remaining issues.

Your Committee has further amended this measure to make 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. 2812, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2812, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2748 Ways and Means on S.B. No. 2716

The purpose of this measure is to transfer \$20,350,000 in excess special and revolving funds into the general fund.

Specifically, this measure transfers the following sums from the following special and revolving funds to the general fund: agricultural loan revolving fund (\$2,800,000), state parking revolving fund (\$2,000,000), Hawaii capital loan revolving fund (\$2,300,000), foreign-trade zones special fund (\$250,000), housing finance revolving fund (\$4,000,000), Hawaii community development revolving fund (\$1,500,000), environmental response revolving fund (\$2,500,000), and special land and development fund (\$5,000,000).

In addition, this measure permits the transfers from these special and revolving funds to occur in fiscal year 2003-2004.

Your Committee finds that these special and revolving funds developed excess cash balances because they continued to collect revenue amounts that exceeded expenditures. The deposit of these moneys into the general fund will provide additional fiscal resources to meet the public's needs during these difficult times.

Your Committee has amended this measure by:

- (1) Changing the name of the "agriculture loan revolving fund" to the "agricultural loan revolving fund" to reflect the correct designation of this fund;
- (2) Requiring the transfer to occur in fiscal year 2002-2003 and not fiscal year 2003-2004; and
- (3) 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 S.B. No. 2716, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2716, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2749 Ways and Means on S.B. No. 2831

The purpose of this measure is to further stimulate economic activity in the residential construction industry by extending the tax credit for construction or remodeling costs incurred from July 1, 2002, to December 31, 2005.

The measure also shortens the retroactive ability to claim the tax credit from December 31, 2000, to October 1, 2001, to more precisely target the credit to periods after the September 11, 2001, terrorist attack and the impact it has had on Hawaii's economy.

Your Committee finds that Act 10, Third Special Session Laws of 2001 (Act 10), in part, enacted a new nonrefundable four percent residential construction and remodeling income tax credit (credit). The credit enacted by Act 10 is applicable to a taxpayer who incurs construction or remodeling costs up to \$250,000 per unit before July 1, 2002, for residential real property in taxable years beginning after December 31, 2000, but not to taxable years beginning after December 31, 2003.

Your Committee has amended the measure by:

- (1) Deleting the proposed language that would shorten the retroactive period for which the tax credit could be claimed;
- (2) Deleting the proposed extension date of December 31, 2005, thus leaving the specific extension date blank and open for further discussion;
- (3) Recasting the proposed amendment to the definition of "construction or remodeling cost" to better reflect the intent of the definition;
- (4) Changing the effective date of the measure from being effective upon approval to July 1, 2050, to promote further discussion on the measure; and
- (5) Making technical, nonsubstantive amendments to the measure 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. 2831, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2831, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun Oakland, Inouye, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 2750 (Majority) Education on S.B. No. 2013

The purpose of this measure is to give priority consideration for geographic exceptions for school attendance in a district outside of the student's residence for:

- (1) An adopted child;
- (2) A foster child;
- (3) A child whose grandparents reside in the desired geographic area and provide before or after-school care; and
- (4) Children of full-time staff for the Department of Education who work within the school complex within the desired geographic region.

Testimony supporting this measure was received from the Department of Human Services. Testimony opposing this measure was received from the Department of Education.

Your Committee finds that students should be required to attend the school of the district in which they reside. However, the Department of Education should allow for exceptions when the benefit to the student is apparent. Your Committee acknowledges that the department already has the authority to grant geographic exceptions by administrative rule and on a case-by-case basis. However, your Committee finds that certain children should be given special consideration when a geographic exception is requested. In particular, foster children who have established stable relationships with certain school personnel and advisors should be allowed to continue attending that school although the foster parents may live in another school district. Your Committee finds that this measure further ensures that students are allowed to maintain a stable school support system and learning environment.

Your Committee has amended this measure by:

- (1) Clarifying that the priority for geographic exceptions provided by this measure are in addition to the reasons for exceptions given priority as provided by Department of Education rules;
- (2) Clarifying that the priority for geographic exceptions provided by this measure applies to adopted children who would benefit from remaining in the school they were attending at the time of adoption;
- (3) Clarifying that children of at least one qualified grandparent may be granted priority for geographic exceptions;
- (4) Changing the effective date of this measure to July 1, 2020; and

- (5) Making technical, nonsubstantive changes, including deleting an unnecessary definition.

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. 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 Chair on behalf of the Committee.

Ayes, 5. Noes, 1 (Hogue). Excused, 4 (Chumbley, English, Matsunaga, Menor).

SCRep. 2751 (Joint) Education and Ways and Means on S.B. No. 2036

The purposes of this measure are to:

- (1) Require the Department of Education to provide an incentive bonus equal to 10% of any nonstate grant or subsidy that is awarded to a school or school teacher on a competitive basis, up to \$25,000 per elementary, middle, or high school and \$37,500 per multi-level school per fiscal year; and
- (2) Appropriate \$500,000 to the Department of Education.

Your Committees received testimony in support of the measure from the Department of Education.

Your Committees find that the incentive bonuses proposed by this measure would enhance the Department of Education's initiatives in improving teaching and learning in the elementary, middle, and high schools.

Your Committees have amended the measure by deleting the appropriation amounts and their corresponding percentages.

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. 2036, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2036, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 14. Noes, none. Excused, 5 (Chumbley, English, Kim, Matsunaga, Menor).

SCRep. 2752 (Joint) Education, Transportation, Military Affairs, and Government Operations, Judiciary and Ways and Means on S.B. No. 2102

The purpose of this measure is to propose amendments to the state constitution to:

- (1) Abolish the state board of education;
- (2) Establish a superintendent selection commission;
- (3) Require the governor, by and with the advice and consent of the senate, to appoint the state superintendent of education from a list of not less than four, and not more than six, nominees for the vacancy, presented to the governor by the superintendent selection commission;
- (4) Require the superintendent to have general supervision and management of the Department of Education and be accountable for all of the activities of the department;
- (5) Establish at least fifteen school complex areas, each of which is to be managed and supervised by a chief executive officer to be appointed by the superintendent with the approval of the governor, as provided by law; and
- (6) Require the fifteen chief executive officers to be responsible for implementing the objectives and policies of the superintendent and the department and for operating the public schools within the boundaries of their respective school complex areas.

On February 12, 2002, this measure was originally heard by your Committees on Education and Transportation, Military Affairs and Government Operations and Judiciary. At that hearing, your Committees received testimony commenting on this measure from the Department of Budget and Finance, Office of Information Practices, Hawaii State Teachers Association, and Hawaii Business Roundtable. Testimony opposing this measure was received from the Board of Education and Hawaii Government Employees Association-AFSCME, Local 152, AFL-CIO.

Thereafter, this measure was re-referred to jointly include the members of your Committee on Ways and Means. Having already been subjected to a public hearing, your Committees conducted decision-making on this measure as described herein.

Your Committees find that the governance structure of Hawaii's public education system is ripe for innovative restructuring. The cracks in its foundation have remained in a state of disrepair for too long manifesting systemic problems including difficulties in complying with federal requirements such as the Individuals with Disabilities Education Act and the Felix Consent Decree, continuous labor disputes with teacher unions, teacher shortages, backlogs in school repair and maintenance, audit reports continually identifying ineffectiveness and inefficiencies, and, most importantly, loss of public confidence in the entire education system.

The current governance structure of Hawaii's public education system consists of a statewide elected board of education. Your Committees find that other organizational structures need to be considered at this time to ensure the integrity and quality of the public education system. Particularly, an enumeration of boards of education throughout the State to represent and govern local or district areas may provide the benefit of a governing body that is more accessible, responsive, and accountable to the needs of the community within its jurisdiction. Your Committees find that decentralizing the administration of Hawaii's public education system in this manner would lead to improved accountability, efficiency, and effectiveness of Hawaii's public education system.

Your Committees have amended this measure by replacing its contents with provisions that propose amendments to the state constitution that change the governing structure of the public education system by:

- (1) Establishing district boards of education throughout the State comprised of elected members to monitor and oversee educational policy within their respective educational districts;
- (2) Providing that a nonvoting student member of the district and statewide boards of education shall be selected as provided by law; and
- (3) Replacing the current elected statewide board of education with a statewide board comprised of the member representatives of the district boards of education to formulate statewide educational policy, appoint the superintendent of education, and ensure fair and equitable funding to each educational district.

Your Committees note that Senate Bill No. 3018, S.D. 1, provides for the establishment of the seven educational districts to be governed by the district boards of education and, thereby, accompanies this measure.

Your Committees further recognize that the restructuring of Hawaii's public education system requires serious consideration and understand that this measure deserves further scrutiny as it proceeds through the legislative process. However, your Committees are optimistic that further deliberation over the ideas proposed by this measure will eventually lead to positive changes to Hawaii's public education system.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations and 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. 2102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2102, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 17. Noes, none. Excused, 7 (Chumbley, English, Fukunaga, Kim, Matsunaga, Matsuura, Menor).

SCRep. 2753 Judiciary on S.B. No. 2294

The purpose of this measure is to recodify the laws relating to financial services loan companies.

Testimony in support of this measure was received from the Commissioner of Financial Institutions (Commissioner), and the Hawaii Financial Services Loan Association (Association).

This measure repeals article 9 of the code of financial institutions relating to financial services loan companies (FSLCs) and replaces it with two new articles relating to depository FSLCs and nondepository FSLCs, respectively. The proposed new laws, among other things:

- (1) Provide depository FSLCs with greater flexibility in their operations, similar to that enjoyed by banks, savings banks, and savings and loan associations;
- (2) Establish a 24% usury ceiling on loans made by depository FSLCs, the same as that applicable to banks, savings banks, and savings and loan associations, and a 31.66% annual percentage rate ceiling on certain simple interest loans made by nondepository FSLCs;
- (3) Repeal the authority of FSLCs to make precomputed loans, but grandfather in existing precomputed loans;
- (4) Limit or prohibit certain fees and charges that may be assessed against consumers; and
- (5) Establish recordkeeping and reporting requirements for nondepository FSLCs.

Your Committee has amended this measure as follows:

- (1) On the recommendation of the Association, to renumber the articles from 9 to 9A for depository FSLCS and from 9A to 9B for nondepository FSLCS, for clarity; and
- (2) On the recommendation of the Commissioner, to place quotation marks on the words "finance charge" and "annual percentage rate" in the interest rate section of article 9A and 9B.

As affirmed by the record of votes of 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. 2294, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2294, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2754 Judiciary on S.B. No. 2733

The purpose of this measure is to clarify and make consistent the producer licensing laws and related insurance laws.

Testimony in support of this measure was received from the Insurance Commissioner (Commissioner), Hawaii Independent Insurance Agents Association, American Council of Life Insurance, National Association of Insurance and Financial Advisors. Testimony in opposition was received from an individual.

The Producer Licensing Act was enacted pursuant to Act 216, Session Laws of Hawaii (SLH) 2001, and goes into effect on July 1, 2002. This Act replaces the various regulatory schemes governing general agents, subagents, and solicitors with a single licensing scheme for insurance producers.

This measure reconciles inconsistencies in the insurance code and other insurance laws that occurred upon the adoption of the Act. This measure also reauthorizes the licensing of managing general agents as this authority was inadvertently repealed by Act 216, SLH 2001.

Your Committee has amended this measure on the recommendation of the Commissioner with regards to current law relating to insurance producer license examination, as follows:

- (1) In section 30 of the bill amending section 431:9A-106(b), HRS, clarifying in paragraph (2) that the licensed producer designated by a business entity must be a natural person and changing in paragraph (3) "business entity" to "licensed producer"; and
- (2) In section 31 of the bill amending section 431:9A-109(c), HRS, changing from 12 to 24 months the time in which to renew lapsed licenses.

As affirmed by the record of votes of 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. 2733, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2733, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2755 Judiciary on S.B. No. 2231

The purpose of this measure is to establish a process in which the State can provide both meaningful and legally adequate warnings to the public regarding the access and use of Kaho`olawe and its surrounding waters.

Testimony in support of the measure was received from the Kaho`olawe Island Researve Commission (Commission) and a private individual. Consumer Lawyers of Hawaii testified in opposition to portions of the bill.

This measure establishes a Task Force on Warning Signs and Devices and a process by which the State is protected from liability, so long as adequate warning is provided to the public through the design and placement of warning signs on Kaho`olawe.

Your Committee finds that Kaho`olawe and its surrounding waters continue to contain hazards from residual unexploded ordnance, and natural conditions similar to the other Hawaiian islands. Persons accessing Kaho`olawe and its surrounding waters are exposed to these hazardous conditions. Your Committee also finds that in advance of the 2003 transfer of Kaho`olawe from the federal government to the State, it is necessary to put measures in place that establish a balance between the public's access and use of Kaho`olawe and the government's duty to provide adequate warning.

This measure would provide a process by which a legally adequate warning system can be developed for Kaho`olawe and its surrounding waters, thereby increasing public safety and reducing the potential for unexploded ordnance related accidents.

Your Committee has amended this measure on the recommendation of the Commission by:

- (1) Substituting "dangers posed by unexploded ordnance" for "potentially dangerous conditions";
- (2) Deleting reference to the State's duty to warn of dangerous natural conditions and the conclusive presumption of signs and warning devices posted thereto;
- (3) Requiring that the Task Force submit a report of its recommendations to the Commission by March 1, 2003; and
- (4) Making the effective date of the conclusive presumption of the State's duty to warn of unexploded ordnance, upon the transfer of access control from the Navy 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. 2231, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2231, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2756 Judiciary on S.B. No. 2039

The purpose of this measure is to allow a sibling to file an action in family court requesting reasonable visitation, if the sibling is of full legal age and capacity, or if not, then by the sibling's spouse, parent, custodian, or guardian.

Testimony in support of this measure was received from the Department of Human Services, Volunteer Legal Services (VLS), Hawaii Foster Youth Coalition, Blueprint for Change, and Keiki Injury Prevention Coalition. Testimony in opposition was received from the Attorney General. Commentary was submitted by the Judiciary and Hawaii Family Forum.

Your Committee finds that it is important that siblings maintain continuing relationships with one another after they are removed from their parents' custody to allow them to better adjust to their new circumstances. Your Committee believes that it is in the best interest of the child to maintain that relationship, if appropriate and necessary, by court order awarding siblings reasonable visitation rights.

Your Committee views this measure as being in response to and in keeping with, the current trend of separation of siblings due to broken relationships and societal mobility. It is not the intent of your Committee to wreak havoc with existing cohesive family relationships nor to discourage adoption.

Your Committee has amended this measure by:

- (1) Clarifying the requirements for reasonable visitation rights to add siblings, including any individual who was a sibling prior to the termination of parental rights or prior to adoption, on the recommendation of the VLS;
- (2) Deleting the definition of "child", on the recommendation of the VLS, because it is a term of art and could cause complications in the implementation of this measure;
- (3) Deleting duplicative language referring to the deceased parents of the child; and
- (4) Clarifying that the visitation rights are in the best interest of the child who is the subject of the visitation petition.

As affirmed by the record of votes of 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. 2039, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2039, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2757 Judiciary on S.B. No. 2041

The purpose of this measure is to clarify the definition of "serious abuse" in the child protective review panel law.

Testimony in support of this measure was received from the Department of Human Services, Blueprint for Change, and Volunteer Legal Services.

This measure clarifies that a child is presumed to have suffered serious abuse, if a child subjected to prior abuse is missing.

Your Committee finds that if a previously abused child is now missing, the presumption is that the child has suffered serious abuse. In that case, the child protective review panel could proceed to review the case and make findings and recommendations to the Director of Human Services. Your Committee finds that without the benefit of this statutory presumption, an investigation by child abuse professionals may not occur.

As affirmed by the record of votes of 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. 2041, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2758 Judiciary on S.B. No. 2149

The purpose of this measure is to establish rebuttable presumptions for the court in determining release of information related to cases involving a missing child.

Your Committee finds that there are circumstances that outweigh concerns of confidentiality of information. In particular, access to records that will materially assist authorities in locating a child should be allowed over concerns as to the confidentiality of information

raised on behalf of other family members, and concerns of the potentially harmful effect that access may have to the missing child's family members.

Your Committee has amended this measure by defecting the effective date to promote further discussion and development of this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2149, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2149, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2759 Judiciary on S.B. No. 2684

The purpose of this measure is to create new criminal offenses relating to child pornography.

Testimony in support of this measure was received from the Attorney General, Honolulu Police Department, Honolulu Prosecuting Attorney, Volunteer Legal Services Hawaii, Hawaii Family Forum, and a private individual. The Public Defender submitted objections as it did before the Committee on Health and Human Services on this measure. Comments were presented by the Motion Picture Association.

This measure:

- (1) Addresses child pornography as it exists today with the usage of computers, by creating an offense of electronic enticement of a child in the first and second degrees;
- (2) Creates an offense of promoting child abuse in the third degree for possession of child pornographic material;
- (3) Creates an affirmative defense to promoting child abuse if the person depicted is more than 18 years old;
- (4) Clarifies existing law relating to promoting child abuse in the first and second degrees; and
- (5) Subjects to forfeiture, property used in promoting child abuse and electronic enticement of a child.

Your Committee finds that the use of the Internet to entice children into meetings has become widespread. Current laws do not specifically address using computers to communicate with minors for purposes of committing crime. This measure would close that loophole, and would allow sex offenders to be investigated and prosecuted before they commit a kidnapping or other crime. One method of investigation that has been successful in arresting sex offenders before a child is hurt has been sting operations in which the sex offender's intended victim is actually a police officer posing as a minor in chat rooms or E-mail communications. Once the sex offender agrees to meet the child and goes to the meeting place, the offender is arrested. However, the sex offender's defense to attempted sexual assault is often the defense of impossibility because the person posing as a child was not actually a child. Therefore, it is important to criminalize the sex offender's predatory computer behavior, so that the offender can be prosecuted for what the offender has actually done, as opposed to what the offender may have been trying to do.

Your Committee further finds that the State must prove beyond a reasonable doubt that a pornographic image is of a child who is less than sixteen years of age to prove the crime of child abuse under the current law. Unfortunately, it is often impossible to prove the age of a child in a pornographic image, even when the child appears to be a minor. Moreover, in this age of computer generated images, pornographers sometimes use the defense that the image could have been created using several different children, or using some children and some adults. Thus, when the State attempts to prove that there is a child under sixteen years of age in the image, the defense counters that the State cannot prove that the image even includes a person because the image could have been computer generated. The State's burden of proof under current law is to disprove the possibility that the image could have been created using more than one child. This is often impossible even when the image contains the clearly identifiable face of a child on a body performing a sexual act. The federal definition of pornography that this bill seeks to enact was designed to address these issues.

In addition, this measure carefully clarifies and defines terminology relating to child pornography to facilitate prosecution and to protect rights.

Your Committee has amended this measure by:

- (1) Clarifying that the activity and material prohibited is pornographic, and that the affirmative defense applies to actual or simulated sexual conduct; and
- (2) Raising the age definition of a minor from 16 to 18 under promoting child abuse in the second degree, to be congruent with child abuse in the first and third degrees.

As affirmed by the record of votes of 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. 2684, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2684, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Matsuura, Slom).

SCRep. 2760 Judiciary on S.B. No. 2686

The purpose of this measure is to require producers of pornography to verify that their performers are not minors, and to keep documentation of this verification.

Testimony in support of this measure was received from the Attorney General, Honolulu Police Department, Honolulu Prosecuting Attorney, Volunteer Legal Services Hawaii, Hawaii Family Forum, and a private citizen. Testimony in opposition was received from the Public Defender.

Testimony on this measure indicates that law enforcement has had difficulty in gaining the cooperation of minor victims and witnesses to prosecute producers and purveyors of pornography. The approach proposed by this measure obviates this problem by requiring persons using sexual performers to create, maintain, and affix information which can be checked by law enforcement to ascertain that minors were not used in the creation or production of the performance or material. This measure allows law enforcement to check for violations by using records required to be kept versus having to gain the cooperation of the minors to detect, investigate, and prosecute violations.

This measure is intended to detect, prosecute, and ultimately extinguish the practice of using minors to pose for pornography, by facilitating the investigation of such activities. This measure fills in the missing link in a chain of required proof to successfully prosecute a child pornography case.

Your Committee has amended this measure by:

- (1) Deleting reference to violation of the offense of sexual exploitation of a minor under the definition of "sexual performer", because that offense does not currently exist in law; and
- (2) Making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2686, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2686, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2761 Judiciary on S.B. No. 2779

The purpose of this measure is to enable the Department of Health to respond rapidly and efficiently to emerging health problems before they become catastrophic health emergencies.

Testimony in support of this measure was submitted by the Department of Health (DOH) and Health Care Association of Hawaii.

Your Committee finds that current law grants the DOH all the powers needed to deal with a health emergency which has been declared a disaster by the Governor. However, your Committee acknowledges that there are gaps in the DOH's authority to deal with serious and potential catastrophic situations before they reach that stage. This measure would:

- (1) Enable the DOH to form partnerships with the private sector to plan for and deliver services under circumstances where our existing resources are inadequate;
- (2) Update and reform our statute on quarantine to provide due process protections for individuals the Department might seek to isolate from the public;
- (3) Allow the DOH to sequester or isolate contaminated items or material to protect the public from toxic or infectious substances; and
- (4) Enable disease investigators to obtain critical information to determine the cause and limit the impact of disease outbreak.

Your Committee finds that in light of the September 11, 2001, attacks on the United States and the potential threat of bio-terrorism, this measure is needed to ensure the safety of our citizens.

As affirmed by the record of votes of 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. 2779, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Fukunaga).

SCRep. 2762 Judiciary on S.B. No. 2818

The purpose of this measure is to include employees of private companies working in correctional facilities in the scope of sexual offenses statutes.

Testimony in support of this measure was submitted by the Department of Public Safety (PSD), Hawaii State Commission of the Status of Women, Community Alliance on Prisons, ACLU Hawaii, and two private individuals.

Current law prohibits sexual assault against inmates in correctional facilities, but no reference is made to correctional facilities operated by private companies. This loophole could be construed to mean that only state employees working in state correctional facilities, and not employees of private companies that work in state correctional facilities, are subject to the sexual offenses statutes. This measure strengthens the legal protections of imprisoned persons from sexual penetration and sexual contact by any worker in a correctional facility, regardless of the employer.

Your Committee has amended this measure on the recommendation of the PSD to clarify that a commitment of persons is made to the PSD rather than to a private correctional facility, which is the correct procedure because an inmate is technically committed to the PSD even if confined in a private facility.

As affirmed by the record of votes of 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. 2818, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2818, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Nakata, Slom).

SCRep. 2763 Judiciary on S.B. No. 2321

The purpose of this measure is to require children from four to eight years of age to be restrained in a child safety seat or a booster seat while riding as a passenger in a motor vehicle.

Your Committee finds that child passenger safety should be a priority in this State, and thus children must be adequately protected when riding as passengers in motor vehicles. Although a measure similar to this bill was passed in the 2001 legislative session and subsequently vetoed by the Governor, your Committee believes that the requirements of this bill do not impose undue hardship upon the drivers of this State. Your Committee notes that this bill contains exemptions for children weighing over 80 pounds, for situations in which the number of persons in a vehicle exceeds the number of seat belt assemblies available in a vehicle, and for older vehicles equipped only with lap belts in the back seat. Your Committee further notes that compliant child safety seats cost between \$20 to \$30, and with the tax credit provided by the State for purchasers of such a seat, the economic impact on a family should be marginal.

As affirmed by the record of votes of 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. 2321 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2764 Judiciary on S.B. No. 2422

The purpose of this measure is to increase the time period between mandatory safety inspections for most vehicles that require such an inspection.

Your Committee received testimony in support of this measure from Hawaiian Electric Company, Hawaii Transportation Association, and Roberts Hawaii. Testimony in opposition to this measure was submitted by the Department of Transportation (DOT), the City and County of Honolulu Department of Customer Services, the Hawaii Automotive Repair and Gasoline Dealers Association, Legislative Information Services of Hawaii, and a Shell Service Station proprietor.

Your Committee finds that under existing law, the frequency of motor vehicle safety inspections is unnecessarily burdensome, particularly when applied to users who inspect their vehicles regularly in the course of business.

Therefore, your Committee supports this measure to increase the time between inspections for rental and U-drive cars under two years old, for taxicabs, for heavy trucks, and for buses run by businesses regulated by chapter 271, Hawaii Revised Statutes (HRS).

However, with regard to other vehicles, including passenger cars, your Committee believes that it is prudent to retain the annual inspection requirement, rather than requiring an inspection only every two years. Your Committee has amended this measure accordingly.

Your Committee also amended this measure to exempt passenger vehicles that are less than two years old from the inspection requirement. As amended by your Committee, most cars shall require no inspection for two years from the date on which the car was first sold.

Finally, your Committee included an amendment to section 286-209, HRS, for consistency and accuracy.

As affirmed by the record of votes of 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. 2422, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2422, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2765 Judiciary on S.B. No. 2487

The purpose of this measure is to provide for traffic penalties for drivers violating pedestrian laws, and to require drivers to stop for pedestrians.

Your Committee received testimony in support of the measure from the Department of Transportation and the Honolulu Police Department (HPD). The Public Defender provided comments.

This measure requires motorists to stop for a pedestrian crossing the street within a crosswalk or intersection, and provides for fines and imprisonment for violators of pedestrian traffic laws. Current law requires that motorists yield the right of way and to stop if necessary.

Your Committee finds that the increasing number of pedestrian injuries and fatalities in Hawaii is a serious concern. This measure clarifies and strengthens the pedestrian laws to alleviate this growing problem by requiring that motorists stop rather than yield for pedestrians.

Your Committee has amended this measure by:

- (1) Decreasing the penalties from 10 days to 1 day, from 20 days to 2 days, and from six months to 3 days, based upon the testimony of the HPD that the main reason to have imprisonment time is to authorize the police officer at the scene to make an arrest; and
- (2) Deleting reference to pedestrians having to physically indicate their intent to cross, because this is too subjective for interpretation by a driver.

As affirmed by the record of votes of 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, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2487, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2766 Judiciary on S.B. No. 2628

The purpose of this measure is to clarify the State's "Driving Under the Influence" (DUI) laws.

Testimony in support of the measure was received from the Judiciary, Department of Transportation, Honolulu Prosecuting Attorney (Prosecutor), Honolulu Police Department, and Mothers Against Drunk Driving. Testimony in opposition was received from a private citizen. Comments were submitted by the Chief Adjudicator of the Office of Administrative Driver's License Revocation.

This measure:

- (1) Allows the combination of prior drug enforcement contacts with alcohol enforcement contacts when deeming a person a "repeat intoxicated driver";
- (2) Requires that sworn statements of a law enforcement officer or other person be considered if the officer or person is absent from the administrative revocation hearing;
- (3) Requires personal service upon a law enforcement officer to appear at an administrative revocation hearing or other person be made not later than forty-eight hours prior to the administrative revocation hearing;
- (4) Establishes that the absence of a subpoenaed officer or person constitutes good cause for the continuance of an administrative revocation hearing;
- (5) Clarifies that a person or minor who refuses to be tested for the presence of intoxicants at a traffic stop will not be issued a conditional permit to operate a motor vehicle; and
- (6) Makes other amendments to facilitate the proper administration of the State's DUI law.

Your Committee finds that when housekeeping amendments were enacted in 2000, language which provided that arrestees who refused to take a blood or breath test were not eligible to receive a conditional permit was inadvertently deleted. This measure corrects that error as it was not the intent of the legislature to delete that provision.

Your Committee further finds that the original intent of the administrative revocation law was to create a fair, but primarily expeditious process to remove dangerous impaired drivers from the streets as soon as possible. Due to the evolution of the law through judicial review, the responsibility on law enforcement officials has expanded to the reading of an exhaustive litany of any and all possible consequences covering all possible scenarios related to the arrestee's situation, including his or her driving history which may or may not be accurate or known to the police at the time of arrest. The original intent and purpose of the law needs to be revisited and clarified by the requested amendments.

This measure would allow the consideration of sworn statements in the absence of the law enforcement officer's presence at the administrative revocation hearing. The absence of police officer witnesses may be due to any number of legitimate reasons which may not be known to the hearing officer at time of hearing. Currently, the absence of a subpoenaed and served police officer at the hearing would cause a reversal upon judicial review, merely on the basis of the officer's unexplained non-appearance at time of hearing. This measure remedies that deficiency in the proceedings.

Your Committee has amended this measure as follows:

- (1) On the recommendation of the Office of Administrative Driver's License Revocation, to include a form statement relating to implied consent to be read to the arrestee; and
- (2) Changing the effective date from October 1, 2002, to October 1, 2050, to facilitate further discussions.

As affirmed by the record of votes of 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. 2628, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2628, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Fukunaga, Matsuura).

SCRep. 2767 Judiciary on S.B. No. 2808

The purpose of this measure is to authorize the Commission on Water Resource Management to determine appurtenant water rights under the State Water Code.

Your Committee finds that this measure will clarify the Commission's role in determining appurtenant water rights and allow the Commission to carry out its responsibilities in allocating water in water management areas and determining instream flow standards.

Your Committee has amended this measure to address a concern raised regarding a previous amendment to delete a reference to Chapter 77, Hawaii Revised Statutes (HRS), by reinstating the language. Section 150 of Act 253, Session Laws of Hawaii 2000, has a provision regarding the repeal of Chapter 77, HRS.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2808, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2808, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2768 Tourism and Intergovernmental Affairs on S.B. No. 2007

The purpose of this measure is to authorize the counties to permit home occupations in the agricultural district without requiring a state special permit.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism Office of Planning, Land Use Commission, Department of Agriculture, County of Hawaii Planning Department, City and County of Honolulu Department of Planning and Permitting, Atherton & Associates, Bello Realty, Inc., DK Levin Company, Hono Hu`aka Tropical Plantation, Hookipa Haven Vacation Services, LLC, Kahua O'Mali'O Bamboo Farm, Tradewind Beach House, and seventeen individuals. The Hawaii Farm Bureau, Sierra Club Hawai'i Chapter, and Hawaii's Thousand Friends testified in opposition.

Your Committee finds that the agricultural industry has evolved considerably since Hawaii's land use law was first approved, in part to protect agricultural lands from development. Large plantations have been replaced by small agricultural lots and today's farmers are faced with the difficulty of making a small land holding economically feasible. This measure would provide additional opportunities for farm families to supplement their agricultural income through home occupations.

Your Committee has heard concerns raised that the bill's proposed changes could result in an unintended proliferation of bed and breakfast operations and other intensive commercial uses, particularly where prime agricultural lands are involved, and that the improvements associated with such uses may result in an increase in agricultural property values in the affected area.

Your Committee finds this to be a valid concern and has amended this measure to address these issues, by:

- (1) Clarifying that home occupations occupy limited total floor space, are not authorized in an allowed single-family dwelling, and do not allow employees;
- (2) Requiring the counties to develop standards and criteria in coordination with the Office of Planning, State Land Use Commission, and Department of Agriculture, with one criterion or standard being that the counties verify upon application for home occupation, that farm dwellings and other accessories are accessory agricultural uses under Section 205-4.5(a)(4), Hawaii Revised Statutes; and
- (3) Further amending the definition of "home occupation" to change "single-family dwelling within the dwelling" to "farm dwelling".

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2007, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2007, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2769 Tourism and Intergovernmental Affairs on S.B. No. 2909

The purpose of this measure is to establish county requirements for separate collection and recycling of food waste by specified restaurants, food courts, hotels, markets, food manufacturers or processors, catering establishments, hospitals, schools, and businesses.

Testimony in support of this measure was received from Eco-Feed, Inc., H. Pacific Environmental Technology, Hawaii's Thousand Friends, and one individual. The Department of Health testified in opposition. McDonald's Restaurants in Hawaii submitted comments.

Your Committee finds that Act 324, Session Laws of Hawaii 1991, codified as Chapter 342G, Hawaii Revised Statutes (HRS), established requirements for county integrated solid waste management planning, including a recycling and bioconversion component, and set solid waste diversion goals of twenty-five per cent by 1995 and fifty per cent by 2000. After ten years, recycling efforts still reduce only a fraction of the solid and liquid waste generated. Landfills on all islands are approaching or have already reached capacity, and both expansion of current landfills and relocation efforts are meeting widespread community opposition.

Despite a clear need for more recycling opportunities, your Committee has heard opposition to the measure – that it is an “unfunded mandate” and that currently, only the City and County of Honolulu has the recycling capacity to meet the requirements of this measure.

Your Committee believes that the success of the City and County of Honolulu's recycling programs, including food waste recycling, demonstrates the need for comparable programs on neighbor islands. Your Committee recognizes the fiscal concerns of the counties, but notes that one of the program elements of a county integrated solid waste management plan is a recycling and bioconversion component, which includes food wastes. The fact that for over ten years, it has been an element for consideration should have given all counties an opportunity to consider how such programs could be developed and implemented.

Your Committee understands that not all counties have the capacity to begin immediate implementation of a food waste recycling program. However, given the crisis situation at many landfills, such a program is critical to meeting statewide goals in reduction of the waste stream to the landfills.

Your Committee has heard concerns regarding implementation costs for public schools, but believes that these state facilities may be able to benefit from moneys collected under the State's solid waste management surcharge of 35 cents per ton. These moneys are deposited into the environmental management special fund under section 342G-63, HRS, and the Department of Health has some latitude in how these moneys may be expended, including the authority to develop a grant program.

Your Committee has also carefully considered the questions raised by a Deputy Attorney General that this measure may represent an unfunded mandate. Your Committee reviewed a number of options to address this concern, and will continue to evaluate funding strategies as this, and any comparable measures, move through the legislative process.

Your Committee has amended this measure to:

- (1) Expand the findings and purpose section and include it in the new part in statute;
- (2) Require all food establishments to recycle a minimum of fifty per cent of total food waste generated and delete the majority of the references to a specific number of meals served;
- (3) Exempt a food establishment that generates less than fifty gallons total food waste per week;
- (4) Authorize the counties to assess a civil penalty and allow for an appeal of the civil penalty under chapter 91, HRS;
- (5) Authorize each county to assess an annual food waste recycling surcharge as a means of addressing the issue of an unfunded mandate; and
- (6) Allow a county to request an exemption if the state Department of Health (DOH) determines that a county does not have the recycling capacity to meet the requirements of the chapter, and require DOH to review annually all county exemptions and rescind the exemption if DOH determines the county had achieved such a recycling capacity.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2909, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2909, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2770 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on S.B. No. 411

The purposes of this measure are to require the Department of Public Safety (PSD) to compile statistics on whether distracting activities contribute to vehicular accidents, to prohibit county governments from regulating drivers engaging in distracting activities, and to provide criminal penalties for engaging in a distracting activity while driving.

Your Committees received testimony in support of this measure from Sprint Communication Company, AT&T Wireless Services, VoiceStream Wireless, and Verizon Wireless. Testimony in opposition to this measure was submitted by the PSD. The City and County of Honolulu Police Department (HPD) testified orally in opposition to this measure.

Your Committees find that, now more than ever before, drivers are multitasking behind the wheel and engaging in a myriad of various activities while driving. This leads to a dangerous situation, because a distracted driver is less aware and less able to respond to events on the roadway.

It is all too common to see people driving on the highways while talking on the phone, eating, drinking, applying cosmetics, yelling at their children, or engaging in another activity that detracts from their attention to the roadway.

Therefore, your Committees support this measure, which will reduce the number of distracted drivers on the roadway.

Your Committees amended this measure based on some concerns raised by the testimony submitted. First, your Committees amended this measure to require the Department of Transportation, rather than PSD, to compile the data for submission to the Governor and Legislature. PSD testified that it lacks the resources to compile a report.

In addition, your Committees amended this measure based on the oral testimony of the HPD to delete the section that would have prohibited counties from enacting ordinances to regulate distracted drivers.

Finally, your Committees delayed the effective date of this measure until January 1, 2050, for purposes of discussion.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 411, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 411, S.D. 2.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 6 (English, Fukunaga, Inouye, Menor, Sakamoto, Taniguchi).

SCRep. 2771 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2310

The purpose of this measure is to authorize a county director of finance to assign a vehicle identification number (VIN) to a vehicle that otherwise lacks one.

Your Committees received testimony in support of this measure from the Department of Transportation, the Director and Treasurer of the Hawaii County Finance Department, the Hawaii County Council, the Hawaii County Mayor, and nine motorcycle enthusiasts.

Testimony in opposition to this measure was submitted by the Honolulu County Police Department, Wholesale Motors, Inc., Hawaii Motorcycle Dealers Association, Cycle City, Ltd., and Hawaii Automobile Dealers' Association. The Honolulu City and County Department of Customer Services submitted comments.

Your Committees find that the problem of registering aftermarket or custom frame motorcycles persists, primarily due to the fact that such custom machines lack a federal VIN. Your Committees find that in such cases, it makes sense to allow the county director of finance to assign a VIN to facilitate registration of the cycle.

Your Committees amended this measure to exempt motorcycles from the state reconstruction code (which applies only in the City and County Honolulu) so that the registration and inspection requirements are uniform for motorcycles in every county.

In addition, your Committees amended this measure to narrow the authority of county finance directors to assign VIN's. As amended, a county finance director may only assign a VIN to a motorcycle, and only if that motorcycle has both a bill of sale and certain identifying numbers assigned by the manufacturer.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are 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 placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Fukunaga, Inouye, Matsuura, Menor, Taniguchi).

SCRep. 2772 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.B. No. 2320

The purpose of this measure is to require heavy commercial vehicles to undergo a safety inspection once a year, rather than every six months.

Your Committees received testimony in support of this measure from the Department of Transportation, Hawaii Transportation Association, and Hawaiian Electric Company, Inc.

Your Committees find that the current time frames for vehicular safety inspections are unnecessarily burdensome. Although highway safety is an issue of paramount importance to the public, your Committees find that the time periods between safety inspections can be lengthened without compromising public safety.

Your Committees further find that operators of heavy commercial vehicles often perform safety inspections of those vehicles in the regular course of business, and that it is unnecessary to require a state-sponsored inspection more than once a year.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2320, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Matsuura, Menor, Sakamoto, Tam, Taniguchi, Hemmings).

SCRep. 2773 Commerce, Consumer Protection and Housing on S.B. No. 2290

The purpose of this measure is to exempt applicants for an independent bill reviewer's license holding certain credentials granted by the American Health Information Management Association (AHIMA) from all licensing requirements except the payment of a fee.

Testimony in support of this measure was received from the AHIMA, Health Information Management Association of Hawaii, and Automatic Data Processing Integrated Medical Solutions. Testimony of non-support was received from the Insurance Commissioner.

An independent bill reviewer acts for insurance companies as an independent contractor or as an employee of an independent contractor to review or audit medical service billings. A license is required for a person to be an independent bill reviewer.

This measure would allow applicants holding credentials granted by the AHIMA, for registered health information administrator, registered health information technician, clinical coding specialist, or clinical coding specialist-physician based to qualify for a license without taking the licensing examination. Currently, only applicants holding credentials of a certified professional coder granted by the American Academy of Professional Coders are allowed this alternative. Your Committee finds that the AHIMA is a national association representing over 40,000 nationally, and nearly 100 locally, specially educated health information management professionals who work throughout the healthcare industry. They manage, analyze, and utilize data, while maintaining patient confidentiality and information security. According to testimony of the AHIMA, its members are required to take an examination that is more difficult than that of the American Academy of Professional Coders.

Your Committee has amended this measure on the recommendation of the Insurance Commissioner to clarify the language describing the types of allowable credentials as granted by the AHIMA.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2290, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2290, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 2774 Commerce, Consumer Protection and Housing on S.B. No. 2341

The purpose of this measure is to allow condominium associations greater flexibility in complying with flood insurance requirements.

The Community Associations Institute and Sugar Beach Resort Board of Directors testified in support of this measure. The Department of Land and Natural Resources opposed the measure. The Department of Commerce and Consumer Affairs submitted comments.

Current law that establishes insurance requirements for condominium associations requires that condominiums located in an area designated as a flood hazard area by the federal Department of Housing and Urban Development be covered under a policy of flood insurance pursuant to the federal Flood Disaster Protection Act. The Act mandates flood insurance for all federally backed mortgages and mortgages and loans obtained through federally insured and regulated financial institutions. This measure deletes the reference to the federal law to allow for coverage under a policy of private flood insurance.

Your Committee finds that the National Flood Insurance Program (NFIP) allows condominium homeowners to obtain flood insurance from the NFIP or from private insurers. However, in order to qualify for coverage through the Federal Insurance Administration (FIA) for claims exceeding those covered by the private policy, the private flood insurance must have been obtained in compliance with NFIP purchase guidelines. Therefore, your Committee has amended this measure to require that a condominium

flood insurance policy meet the requirements of the NFIP and the FIA, and to clarify that flood insurance is required for properties located in a special flood hazard area as delineated by maps issued by the Federal Management Emergency Agency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2341, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2341, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 2775 Commerce, Consumer Protection and Housing on S.B. No. 2490

The purpose of this measure is to establish labeling requirements for roasted or instant coffees made from Hawaii-grown beans.

Your Committee received testimony in support of this measure from the Department of Agriculture, Kauai Coffee Company, Hawaii Coffee Company, Hawaii Coffee Association, Schooler Farms of Hawaii, Petersen Marketing, Dragons Lair Kona Coffee Farm, Kona Coffee Council, Maui Oma Coffee Roasting Co., Coffee Creations, Inc., Kimo Bean Coffee Company, Bad Ass Coffee Company, Hawaii Farm Bureau Federation, Hawaii Food Industry Association, and Greenwell Farms.

Your Committee finds that coffees with Hawaii geographic origins other than Kona are gaining recognition and require the same protection against false claims of origin that applies to coffees made from Kona-grown beans. Coffee blends containing Hawaii-grown coffees are also establishing a position in the marketplace and standardized labeling for blended coffees would help to improve consumer confidence in these products.

Currently, the law establishes minimum content and labeling requirements for roasted or instant coffee produced in whole or in part from Kona coffee beans. This measure replaces those requirements with labeling standards for roasted or instant coffee made from all Hawaii-grown coffees. These "truth-in-labeling" standards require disclosure of the geographic origin and percentage of the Hawaii-grown coffee contained in roasted or instant coffee and further require that this disclosure be made in minimum size type and conspicuously displayed on the product. The measure also clarifies prohibited labeling practices and requires roasters and manufacturers to maintain records on the volume and geographic origin of coffees purchased and sold for two years.

Your Committee has amended this measure by clarifying that only existing supplies of nonconforming labels may continue to be used by manufacturers and roasters during the one year period following the Act's effective date, and 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 Commerce, Consumer Protection and Housing 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 2776 (Joint) Economic Development and Technology and Commerce, Consumer Protection and Housing on S.B. No. 2289

The purpose of this measure is to give a board of directors of a condominium association the authority to install telecommunications equipment and to change current equipment due to changes in technologies or economic considerations.

Your Committees received testimony in favor of this measure from Verizon Hawaii, VoiceStream, and Community Associations Institute.

Your Committees find that companies are unable to install wireless antennae at condominiums because the law currently requires that seventy-five per cent of all owners must vote to install anything within the common areas of a condominium. Further, the constant and more recent upgrade of wireless technology was not contemplated nor anticipated by many condominium property regimes at the time of their creation.

Your Committees have amended this measure by adding a provision that protects existing contractual terms and obligations from the Boards' powers, and by defining "directly affect" in an effort to limit the antennae upgrades and installations to common areas of a condominium project.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2289, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2289, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 4 (Chumbley, Ihara, Matsunaga, Taniguchi).

SCRep. 2777 (Joint) Transportation, Military Affairs, and Government Operations and Ways and Means on S.B. No. 2971

The purpose of this measure is to establish a state administrator/coordinator to orchestrate efforts to control invasive species in Hawaii.

Your Committees received oral testimony commenting upon this measure from the Department of Transportation (DOT).

Your Committees find that Hawaii's agriculture industry is experiencing tremendous growth. However, alien invasive species are causing substantial economic damage to the agriculture industry and environmental damage to Hawaii's native species of plants and animals.

In the past, combating alien invasive species has consisted of a hodgepodge of uncoordinated efforts by different agencies. The results have been less than adequate to fully control alien invasive species in Hawaii. Your Committees find that this measure establishes a single entity that can coordinate interagency efforts to manage and control invasive species efficiently, effectively, and successfully.

Your Committees have amended this measure by deleting every provision for the earmarking of state funds for invasive species control. While your Committees recognize that funding for this cause is necessary, the DOT testified that it already dedicates some departmental funds for this purpose, and is part of a collaborative effort that may also ultimately recommend additional sources of funding. In addition, the DOT testified that it has concerns over earmarking airport funds for the purposes of this measure.

Your Committees also made several technical, nonsubstantive amendments to this measure for purposes of internal consistency, clarity, and accuracy.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2971, S.D. 1, as amended herein, and recommend that it pass third reading in the form attached hereto as S.B. No. 2971, S.D. 2.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 7 (Fukunaga, Hanabusa, Inouye, Kanno, Kim, Menor, Sakamoto).

SCRep. 2778 Commerce, Consumer Protection and Housing on S.B. No. 2005

The purpose of this measure is to authorize the county of Hawaii to conduct a three-year demonstration beverage container fee system.

Testimony in support of this measure was received from the Department of Health, County of Hawaii, and Sierra Club Hawai'i Chapter. The Grocery Manufacturers of America, Hawaii Food Industry Association, Anheuser Busch Companies, and one individual testified in opposition.

Your Committee finds that legislation to establish a statewide beverage container deposit system remains under discussion, with many outstanding issues to be resolved. This measure would allow the county of Hawaii to develop and demonstrate how such a program might work within a specific geographic location.

Your Committee believes this represents one option in Hawaii's efforts to increase recycling. Your Committee has amended this measure to delay its effective date in the interests of further discussion.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Third Reading in the form attached hereto as S.B. No. 2005, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, Tam).

SCRep. 2779 Commerce, Consumer Protection and Housing on S.B. No. 2334

The purpose of this measure is to increase statutorily authorized fees charged by towing companies for storage and to require towing companies to provide payment options, including cash, credit card, and automated teller machines for vehicle owners to make payments to the towing company.

Your Committee received testimony in support of the measure from the Hawaii State Towing Association. Your Committee received testimony in opposition to the measure from the Hawaii Insurers Council. The Office of Consumer Protection submitted testimony in opposition to fee increases but in support of payment options for vehicle owners.

Your Committee finds that towing companies assert that they incur additional costs from the towing and storage of vehicles that are not immediately removed from their premises. However, your Committee notes that towing fees, mileage charges, and surcharges were all increased pursuant to Act 7, Session Laws of Hawaii 2001. Upon further consideration, your Committee believes that it must balance increasing fees for towing companies with adversely impacting consumers, and finds that an increase in storage fees is unwarranted at this time.

Thus, your Committee has amended the measure by:

- (1) Deleting the proposed increase in storage fees; and

- (2) Requiring that the towing company maintain all equipment necessary to accommodate payments using any of the three payment options.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2334, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2334, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, English, Tam).

SCRep. 2780 Commerce, Consumer Protection and Housing on S.B. No. 2134

The purpose of this measure is to permanently exempt property carriers transporting seed corn to a processing facility from the law regulating motor carriers.

Testimony in support of this measure was received from the Department of Agriculture, Kauai County Farm Bureau, Hawaii Farm Bureau, and Hawaii Crop Improvement Association. The Public Utilities Commission submitted comments on the measure.

Act 120, Session Laws of Hawaii 1997, exempts persons transporting seed corn to processing facilities from the State's motor carrier law until June 30, 2002. Among other things, the law regulates rates and charges for transportation, and prohibits unjust discrimination, undue preference or advantage, and unfair or destructive competitive practices. This measure makes the exemption of seed crop transporters permanent by repealing the Act's sunset date.

The value of seed production in Hawaii, including seed corn, reached \$35.4 million in 2000, an increase of sixteen per cent in one year. From 1997 to 2000, out-of-state shipments of seed corn increased from 3,000,000 pounds to 4,400,000 pounds, representing a ten per cent annual growth rate. Currently, seed crops are second only to nursery crops in the State's diversified agriculture industry.

The costs of seed crop production are two to five times higher in Hawaii than on the mainland. However, the seed crop industry has been able to enjoy unprecedented growth in Hawaii due to favorable business conditions, including the current exemption from the motor carrier law. Your Committee finds that maintaining reasonable business costs is vital to the continued growth and expansion of the seed crop industry in the State and that continuing the exemption is a factor in controlling costs. Your Committee further finds that exempting seed corn transporters from the motor carrier law is consistent with the State's exemption of carriers transporting sugar cane, unprocessed pineapple, and other agricultural products.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2134 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2781 Commerce, Consumer Protection and Housing on S.B. No. 2768

The purpose of this measure is to require the design requirements for State and county construction projects to conform to the federal Fair Housing Amendments Act of 1988 and to clarify the application of the design requirements law as it pertains to projects involving federal funds.

The Disability and Communication Access Board (Board) testified in support of this measure.

Current law requires State and county projects to conform to the requirements of the Americans with Disabilities Act Accessibility Guidelines, as amended by the Board. Your Committee finds that new construction of multi-family dwelling units must also conform to design requirements established in rules adopted under the federal Fair Housing Amendments Act of 1988. Therefore, this measure establishes that requirement. In addition, this measure clarifies that the building design requirements law applies to projects for which the State and counties receive and administer federal funds, and not to all federal projects.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2768, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2782 Commerce, Consumer Protection and Housing on S.B. No. 2498

The purpose of this measure is to establish a three-tiered licensure system for social workers that recognizes social workers with bachelor's and master's degrees and clinical social workers.

The Clinical Social Work Society of Hawaii, Hawaii Youth Services Network, and six individuals testified in support of this measure. The National Association of Social Workers testified in support of the measure with proposed amendments. The Department of Commerce and Consumer Affairs (DCCA) opposed the measure.

Presently, the State's social worker licensing law only recognizes the Master's level social worker. This measure replaces the current licensing system with one that establishes three levels of licensing for social workers: the Licensed Bachelor Social Worker (LBSW), Licensed Social Worker (LSW), and Licensed Clinical Social Worker (LCSW). In addition, this measure clarifies the scope of social work practice and the licensure exemptions, and makes conforming amendments to the mental health and substance abuse treatment insurance law.

The three-tiered system of licensure proposed by this measure reflects the national model for social work licensure and brings Hawaii into line with the thirty-seven states that regulate Bachelor's level social workers and the forty-one states that regulate clinical social workers. With licensing requirements and scopes of practice specified for each level of licensure, this measure will better enable consumers to make informed choices when retaining the services of a social worker.

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

- (1) Clarify that a state with whom Hawaii wishes to enter into a reciprocal licensing agreement must have standards equal to or greater than this State's current licensing requirements;
- (2) Clarify that the Director of DCCA may authorize both the use of the social worker title and the practice of social work;
- (3) Delete language that would have allowed registered clinical social workers to obtain licensure as LCSWs without having to show satisfaction of the educational, experiential, and examination requirements for LCSWs;
- (4) Repeal the sunset of Act 229, Session Laws of Hawaii 2001, to avoid the repeal of current language in chapter 467E, Hawaii Revised Statutes, that is being amended in this measure;
- (5) Provide for the new licensing law to go into effect on July 1, 2004; and
- (6) Make technical, nonsubstantive changes for purposes of clarity and consistency and to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2498, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2498, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 2783 Commerce, Consumer Protection and Housing on S.B. No. 2890

The purpose of this measure is to allow time sharing units and plans on property where an existing hotel is a valid non-conforming use under county ordinance; provided that in counties over 500,000, the hotel shall have at least sixty units and forty per cent shall be in apartment use.

Testimony in support of this measure was received from American Resort Development Association of Hawaii. The City and County of Honolulu Department of Planning and Permitting testified in opposition. The Time Share Administrator submitted comments.

Your Committee finds that this measure is intended to clarify the application of the time share law for an existing hotel that is a valid non-conforming use. Your Committee has heard that in some cases, counties have interpreted existing law to require additional county action in order to permit time shares on such property.

Your Committee has amended this measure to:

- (1) Clarify that it applies only to counties with a population in excess of 500,000;
- (2) Specify that the percentages of time share and hotel use apply upon completion of sales; and
- (3) Expand the purpose section to reflect these changes.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2890, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2890, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2784 (Joint) Commerce, Consumer Protection and Housing and Ways and Means on S.B. No. 313

The purpose of this measure is to repeal the June 30, 2002, sunset date of Act 332, Session Laws of Hawaii 1993 (Act 332), which authorizes the establishment of the air carrier commission.

Your Committees received written testimony in support of this measure from Citizens for Competitive Air Travel and from a concerned citizen. Hawaii Laiekawai Association testified orally in support of this measure. The Department of Transportation submitted written comments on this measure, and the Department of Business, Economic Development and Tourism offered oral comments on this measure.

Your Committees find that there is tremendous concern in the community regarding the proposed Aloha Airlines/Hawaiian Airlines merger. Residents are particularly concerned that the frequency of interisland service will diminish and that fares will increase.

Although the Air Carrier Commission authorized by Act 332 was never established, your Committees believe that it is prudent to repeal the sunset date of that Act so that the Commission can be convened if federal enabling legislation is enacted. Therefore, your Committees support the intent of this measure.

Your Committees also recognize concerns raised about the appropriateness of the title of this measure, which began as a short form bill. Due to the urgency and importance of this issue to residents of the State, however, your Committees believe that the substance of this measure deserves further consideration.

Thus, your Committees have decided to pass this measure to the House of Representatives for consideration, and if the title is ultimately found to be inappropriate, your Committees recommend inserting the text of this measure into a measure with a more fitting title.

Your Committees have amended this measure to repeal the June 30, 1993, deadline for deposit of collateral into the Hawaii interisland loan guarantee trust fund. If an Air Carrier Commission is ever established, the loan guarantee program may be important to enable the work of the Commission.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and 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. 313, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 313, S.D. 2.

Signed by the Chairs on behalf of the Committees.

Ayes, 14. Noes, none. Excused, 5 (Buen, Chumbley, Sakamoto, Tam, Hemmings).

SCRep. 2785 Commerce, Consumer Protection and Housing on S.B. No. 2470

The purpose of this measure is to require an association of apartment owners that has received a request for information from an owner, to notify the owner in writing of its intent to impose fees for providing that information prior to assessment and to allow contested fees to be submitted to arbitration.

Testimony in support of this measure was received from the Real Estate Commission, Hawaii Independent Condominium & Cooperative Owners, and seven individuals. The Community Associations Institute submitted comments.

Your Committee finds that under current law, an apartment owner may be charged for information requested, with no prior notice of the charge. Your Committee has heard from owners who received bills for hundreds of dollars for requested information, in some cases for information that the owner believed was readily available and of a simple nature.

Your Committee is supportive of the intent of this measure to provide a measure of certainty regarding the costs of such information, but believes the proposed language can be simplified.

Your Committee has amended this measure to:

- (1) Clarify that prior notification does not apply to assessing the cost of providing information on delinquent assessments or in connection with procedures to enforce the law of the association's governing documents;
- (2) Delete the provisions regarding the contesting of imposition of a fee; and
- (3) Delete the definition of "fee".

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2470, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (English, Tam).

SCRep. 2786 Commerce, Consumer Protection and Housing on S.B. No. 2734

The purpose of this measure is to repeal unnecessary regulatory requirements for commercial employment agencies, clarify licensing requirements, and make the laws governing commercial employment agencies more consistent with other licensing laws.

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

This measure:

- (1) Eliminates the licensing requirement for commercial employment agency branch offices since the requirement does not enhance consumer protection;
- (2) Eliminates the bonding requirement for agencies whose fees are paid by employers, rather than job applicants, because of the lack of risk to consumers;
- (3) Requires initial and amended filings of placement fee schedules, rather than annual filings;
- (4) Eliminates the requirement that a new license be issued when an agency changes its address;
- (5) Codifies the administrative rule prohibition on employment agency operations in homes, apartments, and hotel rooms;
- (6) Clarifies that an employment agency may not send unsolicited resumes to prospective employers;
- (7) Codifies the requirement that license applicants possess a reputation for honesty, truthfulness, financial integrity and fair dealing, and not have felony convictions related to the operation of a commercial employment agency;
- (8) Clarifies the requirement that a commercial employment agency employ a principal agent, allows an agency to continue operations upon the death or dissociation of its principal agent, subject to employment of the person's successor, and clarifies the responsibilities of a principal agent; and
- (9) Makes other amendments to the commercial employment agencies laws to clarify licensing requirements and make them consistent with other regulatory schemes.

Your Committee finds that these amendments to the commercial employment agencies law will ease regulatory burdens on licensees without compromising consumer protection.

Your Committee made technical changes to this measure to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2734, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2734, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2787 Ways and Means on S.B. No. 2912

The purpose of this measure is to appropriate funds to the Department of Business, Economic Development, and Tourism for the promotion of aquaculture and commercial fisheries.

Your Committee finds that these funds will assist the Natural Energy Laboratory of Hawaii Authority and the Coastal Zone Management Institute at Keaukaha in their development of an implementation schedule and outreach for a new and innovative science center of learning.

Your Committee has amended this measure 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2912, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2912, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2788 Ways and Means on S.B. No. 2913

The purpose of this measure is to appropriate funds to enhance agricultural tourism activities.

Your Committee finds that agricultural tourism is rapidly becoming a major segment of the State's tourism industry. The value of agricultural tourism in Hawaii is estimated between \$26,000,000 and \$36,000,000 with the potential to grow to \$75,000,000 in two years. Agricultural tourism has been shown to be a viable source of income for farmers that sell agricultural products to tourists and ranchers that provide new experiences for tourists such as horseback riding.

This bill would provide the funds to not only market agricultural tourism, but also provide public education to understand land issues, business training for farmers and ranchers, as well as interpretive training for guides and community-based interpreters.

Your Committee has amended the bill by:

- (1) Changing the appropriation to an unspecified amount in order to promote further discussion on this matter;

- (2) Changing the expending agency for the appropriation to the Hawaii Tourism Agency; and
- (3) Making technical nonsubstantive corrections.

As affirmed by the record of votes of the members 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, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2913, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2789 Ways and Means on S.B. No. 2375

The purpose of this measure is to appropriate funds for the Housing and Community Development Corporation of Hawaii to hire security guards and purchase security cameras for Hale Po`ai, Halia Hale, and Puahala Homes--the State's senior and disabled residence complex on Oahu.

Your Committee finds that certain criminals like to prey on senior citizens and disabled individuals because they are often unable to defend themselves or thwart their attackers. Wherever senior citizens and disabled individuals congregate for fellowship, the criminal elements of society are surely to be lurking close behind in the shadows. The intent of this measure is to deter these criminals and drive them out of areas like Hale Po`ai, Halia Hale, and Puahala Homes.

As affirmed by the record of votes of the members 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. 2375, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (English, Hanabusa, Inouye, Sakamoto).

SCRep. 2790 Ways and Means on S.B. No. 2885

The purpose of this measure is to provide that a segregation of taxable income by a wireless telecommunications services provider is valid if not in conflict with rules adopted by the Department of Taxation.

Your Committee finds that because wireless telecommunications services providers "bundle" their services by offering interstate, intrastate, and international telecommunication services for one rate while subject to various taxes, they should consequently be able to segregate taxable income to provide for accurate taxation.

Your Committee made technical, nonsubstantive amendments for 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. 2885, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2885, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2791 Ways and Means on S.B. No. 2383

The purposes of this measure are to:

- (1) Provide a commercial construction and remodeling tax credit; and
- (2) Expand the definition of "qualified hotel facility" to include property on which commercial or recreational use is permitted and offsite improvements necessary to service destination resort areas.

Your Committee finds that this measure would enhance the appearance of resort properties and, therefore, stimulate increased economic activity.

Your Committee has changed the effective date of the bill to December 31, 2050, 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. 2383, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2383, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (English, Hanabusa, Ige, Inouye, Sakamoto).

SCRep. 2792 Ways and Means on S.B. No. 2097

The purpose of this measure is to require the Department of Education to: request prior approval from the Governor to expend excess federal Impact Aid funds within a specific budget program identification number; prohibit use of excess funds to create new programs; and report to the Legislature the details of the amount of the excess receipts, including expenditures made from such funds.

Your Committee finds that the U.S. Congress appropriates federal impact aid and other federal funds directly to the Hawaii Department of Education, as reimbursements for education-related services provided to children of federal employees. Your Committee further finds that due to the incongruence of the state and federal budget cycles, the Hawaii Department of Education often receives additional federal funds beyond what is included in the General Appropriations Act and after adjournment of the regular session of the Legislature. Your Committee notes that under section 29-25, Hawaii Revised Statutes (HRS), the Department of Education is allowed to retain and expend these additional federal funds pursuant to approval by the Governor and without specific appropriation by the Legislature.

Upon further consideration, your Committee believes that section 29-25, HRS, confers expenditure authority without sufficient budgetary controls, including legislative oversight of these federal funds. Your Committee agrees that it is appropriate for the Legislature to exercise its oversight authority over federal Impact Aid and U.S. Department of Defense funds through the appropriation process.

Thus, your Committee has deleted the contents of this measure and substituted therefor the following:

- (1) Amendment to section 40-89 to require the Comptroller to establish new accounts in each fiscal year for all federal Impact Aid and U.S. Department of Defense funds, and to further require that unencumbered cash balances shall be deposited into the current fiscal year accounts;
- (2) Amendment to section 302A-1401, HRS, to: prohibit the expenditure of federal Impact Aid or U.S. Department of Defense funds, without legislative appropriation, and to require the Board of Education to submit semiannual reports to the Legislature providing amounts and dates funds were received, itemization of amounts expended and purposes of expenditures, and balances remaining at the end of each state fiscal year; and
- (3) Repeal of section 29-25, HRS.

As affirmed by the record of votes of the members 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. 2097, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2097, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, English, Tam).

SCRep. 2793 Ways and Means on S.B. No. 2919

The purpose of this measure is to establish a new law for Hawaiian charter schools.

Specifically, this bill:

- (1) Establishes a noncontiguous Hawaiian charter school district, a Hawaiian (charter) school board, and a District Superintendent for the Hawaiian charter school district; and
- (2) Authorizes the establishment of up to twenty-five Hawaiian charter schools.

In addition, this measure appropriates an unspecified sum for fiscal year 2002-2003 for the purpose of funding the establishment of a noncontiguous Hawaiian school district and the hiring of necessary staff.

Your Committee finds that this measure replicates many features of the new century charter school law (chapter 302A, Hawaii Revised Statutes, part IV, subpart D). The most notable exceptions are that:

- (1) Hawaiian charter schools are not exempt from the Hawaii Public Procurement Code (chapter 103D, Hawaii Revised Statutes) like new century charter schools;
- (2) Applicants for Hawaiian charter school status must assert that:
 - (A) The majority of the student population are residents of Hawaii;
 - (B) The majority of the local school board of the school are residents of Hawaii; and
 - (C) The curriculum is based on Hawaiian or other culturally-driven approaches to education;
- (3) The Hawaiian charter school review panel consists of nine members whereas the new century charter school review panel consists of seven members; and
- (4) The financial requirements for state funds of Hawaiian charter schools are to be submitted through the Board of Education in a budget request separate from the Department of Education whereas the financial requirements of new century charter schools are included in the budget for the Department of Education.

Your Committee has amended this measure by:

- (1) Deleting all references to a Hawaiian school board and referring instead to the Board of Education;
- (2) Requiring funding for Hawaiian charter schools to be determined pursuant to the law that governs funding for new century charter schools (i.e., section 302A-1185(a) and (b), Hawaii Revised Statutes);
- (3) Making sections 26-35.5 (members of boards and commissions; immunity from or indemnification for civil liability; defense of members), 302A-1302 (school-based budget flexibility), and 302A-1505 (prioritization of repair and maintenance), Hawaii Revised Statutes, applicable to Hawaiian charter schools and the local school boards of Hawaiian charter schools to the same extent that they apply to new century charter schools and the local school boards of new century charter schools; 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. 2919, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2919, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Sakamoto).

SCRep. 2794 Ways and Means on S.B. No. 2055

The purpose of this measure is to clarify certain jurisdictional issues concerning the Hawaii Teacher Standards Board.

Specifically, this bill clarifies that:

- (1) The Hawaii Teacher Standards Board has jurisdiction over all matters concerning the issuance and revocation of teacher licenses; and
- (2) The Department of Education has jurisdiction over all matters concerning the issuance and revocation of certificates issued to individuals who are not required to obtain a teacher license.

In addition, this measure requires the Department of Education and the Department of Human Resources Development to facilitate the establishment, rather than transfer, of positions as required by the Hawaii Teacher Standards Board in order to allow the board to hire its own staff.

Your Committee has amended this measure by:

- (1) Replacing the sum appropriated for fiscal year 2002-2003 to conduct the new functions of the Hawaii Teacher Standards Board with an unspecified amount;
- (2) Deleting a provision allowing the Hawaii Teacher Standards Board to grant extensions of credentials on a case-by-case basis until June 30, 2002;
- (3) Deleting references to “credentials” and “credentialing” in section 4 (relating to section 302A-803, Hawaii Revised Statutes) in order to ensure consistency with section 13 of Act 312, Session Laws of Hawaii 2001;
- (4) Changing its effective date to July 1, 2002, in order to coordinate the application of this measure with the application of section 13 of Act 312, Session Laws of Hawaii 2001; and
- (5) Making a technical nonsubstantive change 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 S.B. No. 2055, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2055, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Chun, Ige, Kawamoto, Sakamoto, Tam).

SCRep. 2795 Ways and Means on S.B. No. 2750

The purpose of this measure is to clarify and expand the types of beneficiaries eligible under the Native Hawaiian Rehabilitation Fund.

Presently, the Native Hawaiian Rehabilitation Fund is used exclusively to rehabilitate “native Hawaiians” by way of educational, economic, political, social, and cultural processes.

This bill clarifies and expands the types of beneficiaries eligible under the Fund to include “native Hawaiian families, Hawaiian homestead communities, and other organizations controlled by native Hawaiians”.

Your Committee finds that this expanded eligibility will allow the Department of Hawaiian Home Lands to better utilize the Fund to assist a greater number of native Hawaiian beneficiaries.

Your Committee has amended the bill by making a technical change that has no substantive effect.

As affirmed by the record of votes of the members 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. 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 Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Tam).

SCRep. 2796 (Majority) Ways and Means on S.B. No. 2024

The purpose of this measure is to transfer the Dental Health Division within the Department of Health to the Department's Health Resources Administration.

In addition, this measure reduces the number of employees of the Dental Health Division to three individuals, redirects the Division's funds to be used for the purchase of services to monitor dental advocacy, and requires the Division to report back to the Legislature in 2003 and 2004 regarding ways to better serve the covered population statewide and related matters.

Your Committee finds that Hawaii is currently in the middle of a crisis involving very poor dental health status and compromised access to dental care, and believes that dental care in Hawaii must be made more accessible to all of its qualifying residents.

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

- (1) Deleting the first three sections of the bill, which reduced the staff of the Dental Health Division, transferred the Division to the Department's Health Resources Administration, and transferred appropriations, records, and other personal property;
- (2) Requiring the Dental Health Division to report back to the Legislature before the convening of the 2003 Regular Session, rather than both the 2003 and 2004 sessions;
- (3) Deleting the "Ramseyer" section (section 5 of the bill);
- (4) Renumbering the effective date section and changing the effective date to upon its approval; and
- (5) Making other technical nonsubstantive changes for the purposes of clarity and consistency.

Your Committee expressed concerns about the management and operation of the Dental Health Division and would like the Dental Health Division to carefully review its operations for serving the State, especially since dental health care is lacking on the neighbor islands. Perhaps a beguilingly simple idea, "pick important problems and fix them", often expressed by Malcom K. Sparrow from Harvard University's John F. Kennedy School of Government, should guide the Dental Health Division to resolve most of their problems.

In addition, your Committee will consider inserting a line item in the budget to provide additional assistance for neighbor island dental care.

As affirmed by the record of votes of the members 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. 2024, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2024, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, 3 (Kim, Hemmings, Slom). Excused, 2 (Ige, Sakamoto).

SCRep. 2797 Ways and Means on S.B. No. 3020

The purpose of this measure is to appropriate funds to provide programs and services for low-income individuals with developmental disabilities who are not medicaid recipients.

Your Committee finds that individuals with developmental disabilities are often helped by attending therapy sessions and obtaining health or medical services. When those who are developmentally disabled receive these kinds of services, they are more likely to remain in the mainstream of society and not be institutionalized, the latter being a more costly option. The individuals who would be affected by this measure include those developmentally disabled who need services but do not qualify for state programs and services because they receive a monthly income amount that disqualifies them from necessary medicaid services. Your Committee finds that providing these services to developmentally disabled non-medicaid recipients would be of long-term benefit to our State.

Your Committee has made technical nonsubstantive amendments to 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. 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 Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2798 Ways and Means on S.B. No. 2438

The purpose of this measure is to prohibit employer discrimination against actual or perceived victims of domestic abuse or sexual violence while recognizing legitimate employer interests related to the safety of all persons in the workplace.

More specifically this measure:

- (1) Enables a victim of domestic or sexual violence to take paid or unpaid leave, seek medical treatment, obtain abuse-related services, counseling, relocate, or take legal action;
- (2) Upholds the provisions of collective bargaining agreements or employment agreements that contain equal or better benefits or rights regarding protection from domestic or sexual abuse;
- (3) Prohibits an employer from discriminating against an employee who is a victim of domestic or sexual abuse;
- (4) Enables a victim of domestic or sexual abuse to obtain unemployment insurance benefits if the victim suffers a loss of employment status as a consequence of the abuse;
- (5) Provides training for unemployment insurance claims reviewers and hearings officers to understand and recognize symptoms and patterns of domestic or sexual abuse; and
- (6) Establishes a nonrefundable workplace safety tax credit of up to forty per cent of the costs associated with domestic and sexual violence safety and education training as an incentive for employers to help prevent domestic and sexual abuse.

Your Committee finds that violent crimes against victims, typically women, robs them not only of their health and physical well-being, but places them at risk of emotional trauma, financial risks, and other kinds of harm due to victimization. These women may be injured to the point of not being able to work; many live in fear of being found and physically assaulted again; others might be harassed at work even if they are able to work; some live in fear of harm coming to their children. Employers could find their workforce and innocent bystanders being placed at risk because of the violent behavior of a woman's partner. This may in turn affect the employer's medical, liability and workers' compensation insurance premiums, work productivity, and employee morale. The implications of domestic violence are therefore more widespread than for only the affected persons and their partners.

Your Committee finds that this measure will give victims of domestic and sexual violence time to seek professional medical, counseling, legal, and other help while providing protection against employment discrimination. This bill will allow victims to obtain unemployment insurance benefits to make up for a lost job and give employers a workplace safety tax credit as an incentive to assist those victims.

Your Committee has amended this bill by changing the nonrefundable workplace safety tax credit of up to forty per cent of costs to a blank percentage to allow for further discussion and by making technical nonsubstantive amendments on page 9.

As affirmed by the record of votes of the members 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. 2438, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2438, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Sakamoto).

SCRep. 2799 Ways and Means on S.B. No. 2139

The purpose of this measure is to appropriate funds to enhance early childhood education provided through the Preschools Open Doors Program.

Your Committee finds that numerous studies have emphasized the importance of early childhood education on the overall development of a child and as an indicator of a child's later success. Early childhood education, however, is not always available, especially during times of economic uncertainty.

This bill provides the necessary funds to increase the number of child care subsidies available through the Preschools Open Doors Program to thereby address the early childhood education needs of the community.

Your Committee has amended the bill by changing the appropriation to an unspecified amount in order to promote further discussion on this matter, and by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2139, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Buen, Kim, Sakamoto, Tam).

SCRep. 2800 Ways and Means on S.B. No. 2883

The purpose of this measure is to authorize the Insurance Commissioner to issue to rental car companies a limited license to sell insurance only in connection with and incidental to the rental of vehicles.

Your Committee finds that this measure is necessary to fill a gap in the licensure of insurance agents that will be created upon the expiration of a particular federal statute relating to limited licensing.

Your Committee has amended this measure by changing the effective date to July 1, 2050 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 Ways and Means 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 Third Reading in the form attached hereto as S.B. No. 2883, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (English, Hanabusa, Inouye, Sakamoto).

SCRep. 2801 Ways and Means on S.B. No. 3063

The purpose of this measure is to establish within the Department of Land and Natural Resources a program to benefit the environment.

In particular, this measure allows the Department to develop environmentally-themed products, such as collectible stamps, credit cards, and coins, to be commercially sold to the public. Each product developed under the program must have the approval of the Chairperson and the Governor, after consultation with appropriate environmental organizations.

In addition, except for direct costs to administer, produce, and market the products, this measure requires all revenues from the sale of these products to be paid into the natural area reserve fund. The bill also requires the Department to submit an annual report to the Legislature regarding the program's products, costs, and revenues.

Your Committee finds that this measure reaffirms the State's commitment to the protection of Hawaii's environment by creating long-term supplemental funding sources generated from the voluntary purchase and use of collectible stamps, credit cards, and other programs.

Your Committee further finds that the natural physical environment of Hawaii is of significant value to the residents of this State, and that creation of a permanent, independent source of funding to support the environment is worthy of state support. Your Committee finds that other states have utilized license plate sales, collectible stamps, and credit cards with great success as a way to raise money to protect the environment.

Upon further consideration, your Committee has amended this measure by allowing the Department to enter into contracts with manufacturers of existing and new environmentally-themed products as it deems appropriate.

As affirmed by the record of votes of the members 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3063, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Ige, Kim, Sakamoto, Tam).

SCRep. 2802 Ways and Means on S.B. No. 2908

The purpose of this measure is to authorize the issuance of \$25,000,000 in special purpose revenue bonds to assist Central Oahu Recycling and Disposal Facility, Inc. to acquire land, plan, design, and construct a private solid waste recycling and disposal facility on Oahu.

Your Committee finds that Oahu's landfill is expected to reach maximum capacity in the near future. The recycling and disposal facility established in this measure will reduce the stress on existing facilities by diverting materials for recycling that currently are disposed in the landfill. The project will create new construction and engineering jobs, as well as permanent employment when the facility opens. Your Committee believes that the proposed recycling and disposal facility will encourage residents to recycle and reduce the amount of solid waste generated on Oahu.

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

- (1) Replacing the amount of special purpose revenue bonds authorized with a blank amount; and
- (2) Adding language to conform to the provisions suggested by the Department of Budget and Finance for legislation authorizing the issuance of special purpose revenue bonds.

As affirmed by the record of votes of the members 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. 2908, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2908, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2803 (Majority) Ways and Means on S.B. No. 2832

The purpose of this measure is to convert the State Liquor Tax from a gallonage tax to an ad valorem tax.

Your Committee received testimony in support of this measure from the Department of Taxation, the Department of Health, and Mothers Against Drunk Driving. Testimony in opposition to this measure was submitted by the Hawaii Hotel Association, Anheuser Busch Companies, Legislative Information Services of Hawaii, the Distilled Spirits Council of the United States, the Wine Institute, Tedeschi Vineyards, Ltd., the Hawaii Restaurant Association, Johnson Bros. of Hawaii, Inc., the Volcano Winery, and the Hawaii Liquor Wholesalers Association. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that with the projected revenue shortfall and potential budget deficit, the State must look for ways to increase revenues. Therefore, your Committee supports increasing the Liquor Tax.

At the same time, your Committee finds that converting from a gallonage tax to an ad valorem tax will result in an unduly burdensome tax. Therefore, your Committee amended this measure to reinstate the gallonage tax, but to increase the tax rate for each category of liquor by 50%.

As affirmed by the record of votes of the members 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. 2832, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2832, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 3 (Kim, Hemmings, Slom). Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2804 Ways and Means on S.B. No. 3011

The purpose of this measure is to appropriate funds to the State Auditor to audit the Department of Education, Department of Health, and Department of Human Services.

Your Committee received testimony in support of the measure from the State Auditor. Your Committee received testimony in opposition to the measure from the Department of Accounting and General Services.

Your Committee finds that the respective departments already contract the annual single audits that are mandated by the federal Single Audit Act and that current audit contracts are three-year agreements covering fiscal years 2001, 2002, and 2003. The Department of Education, however, given the great complexities of compliance with the Felix Consent Decree and ongoing efforts to improve the quality of the instructional program, could benefit from auditing by the State Auditor, in part by ensuring that there is not even the appearance of a conflict of interest inherent in having one state agency responsible for overseeing the audit of another state agency.

Your Committee has amended this measure to limit proposed audits by the Auditor of selected state agencies to the Department of Education.

As affirmed by the record of votes of the members 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 Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Sakamoto).

SCRep. 2805 Ways and Means on S.B. No. 2021

The purpose of this measure is to increase enrollment of eligible children into the Children's Health Insurance Program.

To accomplish this, the bill requires the Department of Education to include, in its application for the school lunch program, an application for enrollment in the Children's Health Insurance Program. The bill further requires the Department of Education and the Department of Human Services to work together in developing the application and coordinating the dissemination of the health insurance program application information. The Department of Human Services is responsible for compiling and reviewing the applications and administering the Children's Health Insurance Program.

Your Committee finds that this bill will provide a cost-effective way to increase enrollment in the Children's Health Insurance Program.

Upon further consideration, your Committee has amended this measure by making 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. 2021, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2021, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Sakamoto, Tam).

SCRep. 2806 Ways and Means on S.B. No. 2500

The purpose of this measure is to appropriate funds to assist families with expenses incurred in adopting foster children with special needs and to establish pilot projects to maximize federal benefits for special needs children and Medicare recipients.

Specifically, this bill:

- (1) Requires the Department of Human Services to contract with the Legal Aid Society of Hawaii to provide legal services to families who adopt special needs children;
- (2) Appropriates funds for legal services contract and for federal adoption assistance program's matching state funds requirement;
- (3) Appropriates funds for a pilot project on the island of Hawaii to assist in application for Supplemental Security Income benefits for special needs children;
- (4) Requires the Department of Education to provide the Legal Aid Society of Hawaii access to certain information to assist in application for Supplemental Security Income benefits;
- (5) Appropriates funds for a grant-in-aid to the Legal Aid Society of Hawaii for a one-year pilot project to maximize Medicare benefits for Hawaii residents; and
- (6) Requires the Department of Human Services make information available to the Legal Aid Society of Hawaii to identify claims for dually eligible Medicare and Medicaid recipients.

Your Committee finds that the appropriation in this bill will help foster children with special needs find stable homes by providing adoptive families with financial and legal assistance in adoption matters. Legal assistance pilot projects to aid in applications for Supplemental Security Income benefits for special needs children and to maximize Medicare benefits for eligible Hawaii residents will help recipients obtain necessary benefits and services. In addition, maximizing federal funds will lower State costs, saving taxpayer moneys that can be used to provide services elsewhere.

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

- (1) Replacing amounts appropriated with a blank amount;
- (2) Clarifying that funds appropriated to apply for Supplemental Security Income benefits are for a grant-in-aid to Legal Aid Society of Hawaii;
- (3) Clarifying that the pilot project will maximize Medicare benefits by identifying claims for dually eligible Medicare and Medicare recipients; and
- (4) Making technical nonsubstantive amendments for 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. 2500, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2500, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2807 Ways and Means on S.B. No. 2210

The purpose of this measure is to appropriate funds to hire additional counselors and college counselors in all public schools.

Your Committee finds that the students in Hawaii's public schools should have greater access to school counselors in preparation for higher education and vocations. Counselors are able to assist college applicants, advise future graduates of their employment options, and provide other valuable information when students realize that they are about to enter a new life outside the school environment. Counselors can also provide other types of advisory service for students who experience trauma and emotional

problems. In order to give children the greatest opportunity for access to these counseling services, the number of counselors needs to be increased, and this measure is expected to do that.

As affirmed by the record of votes of the members 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 Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2808 Ways and Means on S.B. No. 2431

The purpose of this measure is to strengthen the State's campaign spending laws.

Specifically, the measure:

- (1) Limits aggregate campaign contributions from any person or entity to not more than \$25,000, in any calendar year; provided that a contribution made to a candidate during a non-election year is counted as though made to the candidate in an election year;
- (2) Prohibits banks, corporations, and labor organizations from making campaign contributions, except through a separate segregated fund established for political purposes;
- (3) Repeals the existing law relating to fundraising activities; and
- (4) Makes other amendments to facilitate the effective administration and enforcement of campaign spending laws.

Your Committee remains dedicated to accommodating the desire of the public for fairness in the campaign spending laws. Your Committee is also concerned about large entities that can afford to make large contributions that could be interpreted as influencing an elected official.

Your Committee has amended the measure by:

- (1) Inserting a prohibition on campaign contributions from contractors for a limited time before and after the contract;
- (2) Inserting a section that makes the intentional falsification of campaign spending reports a class C felony;
- (3) Deleting the proposed language that would include a candidate's contribution to the candidate's campaign in the \$50,000 aggregate contribution limit applicable to the candidate's immediate family;
- (4) Deleting the section that would allow candidates to file their reports by the current electronic filing system or by commercially available accounting software; and
- (5) Making the effective date July 1, 2050, to promote further discussion on the issue.

Your Committee believes that the measure corrects the imbalances and inequities in the current 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 S.B. No. 2431, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2431, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2809 Ways and Means on S.B. No. 2477

The purpose of this measure is to set forth the specifications for grants to be awarded by the Office of Hawaiian Affairs, and to appropriate interim funds for its operations and grants.

Your Committee finds that legal actions have stalled the payment of public land trust revenues to the Office of Hawaiian Affairs. However, your Committee recognizes the real needs of the Hawaiian community, and the assistance that the Office of Hawaiian Affairs has been able to provide to meet them. Your Committee believes that the grant structure provided in this measure is appropriate and will allow the Office of Hawaiian Affairs to continue to fulfill its mission to assist Hawaiians and native Hawaiians.

Your Committee has amended this measure by defining the term "grant", allowing a grant recipient to be an individual, requiring grants to be evaluated annually, requiring applicants to comply with applicable county laws, and by making the amount of the appropriation blank to encourage continuing discussion. Your Committee 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 S.B. No. 2477, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2477, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, English).

SCRep. 2810 Ways and Means on S.B. No. 2842

The purpose of this measure is to authorize the Director of Transportation to extend revocable permits for concessionaires at state airports for up to one year if the extension is necessary due to a natural disaster or an adverse economic condition.

Your Committee finds that since the September 11, 2001, terrorist attacks, the State has been in an economic downturn. Air travel has declined significantly, and consequently, airport concessionaires have been devastated. As a result, it has proven difficult to obtain responsive bidders for airport concessions.

Your Committee finds that it is appropriate and necessary under these circumstances to authorize extensions of revocable permits for concessions, so that the concessions can remain open to serve visitors and other passengers at the airport.

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

- (1) Deleting the contents of the bill;
- (2) Amending Act 15, Third Special Session Laws of Hawaii 2001, relating to the Governor's emergency powers, by extending the sunset date to an unspecified date to allow for further discussions on this subject. Act 15, among other things, allows the Governor to suspend, waive, or defer any contract obligations, including contracts relating to airport concessions, owed to the State up to April 30, 2002, on such terms and conditions as are necessary to minimize losses attributable to the economic emergency; and
- (3) Amending the effective date section to render it defective in order to facilitate further discussion on this measure.

Your Committee finds that while this measure is a good first step, additional discussion is necessary on these issues. Accordingly, your Committee is passing this measure out as a vehicle to continue discussions so that the parties can reach a consensus on all of the 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. 2842, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2842, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (English, Hanabusa, Sakamoto).

SCRep. 2811 Ways and Means on S.B. No. 3021

The purpose of this measure is to expand the tax credit for motion picture and film production to include up to twenty-two percent of the costs of wages and salaries, capped at \$25,000 per employee, and to include commercials in motion picture and film production.

Your Committee finds that this measure is intended to attract additional motion picture and film productions to Hawaii in the face of increasing global competition.

Your Committee has amended this measure to clarify that the tax credit for wages and salaries applies only to the first \$25,000 earned by an employee, and to change the tax credit to an unspecified amount for the purposes of 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. 3021, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3021, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Sakamoto, Tam).

SCRep. 2812 Ways and Means on S.B. No. 3061

The purpose of this measure is to implement various tax and other measures designed to stimulate Hawaii's economy.

In particular, this measure:

- (1) Authorizes the issuance of general obligation bonds for macadamia nut processing, manufacturing, and production facilities;
- (2) Appropriates funds for the formulation of a strategic plan to make Hawaii the "Geneva of the Pacific";
- (3) Appropriates funds for the marketing of Hawaii products and services;
- (4) Supports the activities of PACON International in the design and planning of an ocean park;

- (5) Creates a statewide unifying entity of seventeen members from the public and private sectors to create a strategic economic development plan and to appropriate money for its development;
- (6) Amends the hiring requirements for firms enrolled in the Hawaii enterprise zones partnership;
- (7) Clarifies the application of certain high technology tax incentives;
- (8) Exempts professional live musical performers from general excise taxation;
- (9) Appropriates funds for the community-based economic development program of the Department of Business, Economic Development, and Tourism;
- (10) Establishes a council to advise and assist the Legislature on the economy;
- (11) Adds a new law on misleading electronic mail;
- (12) Extends the general excise tax exemption of the enterprise zone to retailers in East Maui until June 30, 2007;
- (13) Repeals the June 30, 2002, sunset date for the Regulatory Flexibility Act and the small business defender, and makes other changes to more effectively assist small businesses;
- (14) Changes the frequency for adjustment of the loan interest rate for the Hawaii capital loan program from semiannual to the first of each month; and
- (15) Allows the Department of Business, Economic Development, and Tourism to provide low interest loans to inventors or authors for the development of their new manufactured products, marks, works, works of authorship, or inventions.

Your Committee finds that this measure offers a multi-pronged approach to addressing both the intermediate and long-term needs of Hawaii's economy. Your Committee further finds that this measure will also provide needed economic relief to East Maui, help Hawaii's performing arts community, provide incentives to technology companies, assist small businesses, and generally increase the State's economic diversification and stability.

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

- (1) Deleting the contents of part XII of the bill, which added a new chapter, the "Misleading Electronic Mail Act", to the Hawaii Revised Statutes. While your Committee agrees with the intent of protecting Hawaii's consumers from unsolicited and misleading electronic mail, your Committee finds that this chapter exceeds the scope of the bill's title, and should be deleted;
- (2) Adding in place of the Misleading Electronic Mail Act the substantive provisions of S.B. No. 2706, "Relating to the High Technology Development Corporation", which exempts lands held by the High Technology Development Corporation from chapter 171, Hawaii Revised Statutes, relating to the management and disposition of public lands.

Your Committee finds that chapter 171 provides, among other things, that public lands be managed, administered, and controlled by the Department of Land and Natural Resources, unless the lands are specifically exempted in section 171-2. This measure accordingly amends that section to make it consistent with section 206M-3(a), which gives the Corporation the power to acquire, lease, hold, and improve real, personal, or mixed property.

Your Committee further finds that since its inception in 1983, the Corporation has developed several high technology innovation centers and projects, including the Manoa Innovation Center and the Maui Research and Technology Center, which provide office and research space to private technology-based companies. Your Committee finds that exempting lands held by the Corporation from chapter 171 will further support the Corporation's purpose and mission without hindrance, as originally intended by the Legislature;

- (3) Amending section 1(11) of the bill to reflect the above changes made by your Committee;
- (4) Replacing the sums appropriated with blank amounts in order to facilitate further discussion on the funding necessary to carry out the purposes of this measure; and
- (5) Making 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. 3061, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3061, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kawamoto, Sakamoto).

SCRep. 2813 Judiciary on S.B. No. 2838

The purpose of this measure is to distinguish the examination, licensing, and operation requirements for moped users from motor scooter and motorcycle operators.

Your Committee finds that mopeds are unique types of vehicles that are used for slightly different purposes than motor scooters and motorcycles. Therefore, the examination for licensing moped operators should be specific to that type of vehicle.

Your Committee further finds that this measure will clarify that a person seeking a license to drive a moped must be tested on the moped. These amendments will help to ensure that all moped drivers are properly trained to operate the exact type of vehicle they will be using once licensed.

Your Committee has amended this measure by adding a traffic code offense to operate motorized devices on any street, highway, or roadway. Your Committee is aware that there may be title problems with this the amended measure, but the expectation is that the amendment can be placed in a more suitable title after the first crossover. Therefore, for the present, this measure keeps the issue and the discussion alive.

As affirmed by the record of votes of 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. 2838, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2838, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2814 Judiciary on S.B. No. 2613

The purpose of this measure is to prohibit feeding of sharks as part of a commercial activity.

Your Committee finds that in the last few years, there has been an increase in aggressive shark behavior towards swimmers and surfers in near shore waters in Hawaii. Commercial shark feeding operations may aggravate the problem.

It is your Committee's understanding that the Board of Land and Natural Resources may address this issue administratively, without the need for legislation.

Your Committee has amended this measure to change the effective date to July 1, 2050, to continue the discussion on this matter.

As affirmed by the record of votes of 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. 2613, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2613, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2815 Judiciary on S.B. No. 2528

The purpose of this measure is to authorize the court to consider an extended term of imprisonment for perpetrators of crimes against family or household members that result in serious or substantial bodily injury.

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney, Honolulu Police Department, and Hawaii State Coalition Against Domestic Violence (Coalition). Testimony in opposition was received from the Public Defender.

Your Committee finds that domestic abuse is one of the most reprehensible crimes perpetrated in our State today. To make matters worse, these types of crimes are often the most difficult to prosecute successfully, because the perpetrator generally uses the victim's easy availability, love for their abuser, and financial dependence as a means both to facilitate the abuse and to deter cooperation with prosecution efforts.

One of the precepts of punishment in the criminal law is deterrence. Providing stiffer terms of imprisonment would serve to deter would be offenders and repeat offenders. This measure is an effort to deter the most serious kinds of domestic abuse.

As affirmed by the record of votes of 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. 2528, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Hanabusa, Ihara, Slom).

SCRep. 2816 Judiciary on S.B. No. 2445

The purpose of this measure is to allow board meetings to be conducted by teleconferencing.

Testimony in support of this measure was received from the Department of Education, Board of Education, Office of Information Practices, a Maui County Council member, High Technology Development Corp., Hawaii Health Systems Corporation, Natural Energy Laboratory of Hawaii Authority, and a private citizen.

This measure recognizes that board meetings are often more conveniently held by teleconferencing than videoconferencing, because of the general unavailability of specialized video equipment.

As affirmed by the record of votes of 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. 2445, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2817 Commerce, Consumer Protection and Housing on S.B. No. 2087

The purpose of this measure is to redefine the scope of pharmaceutical practice to allow pharmacists to provide services in a broader range of settings.

Your Committee received testimony in support of this measure from the Board of Pharmacy, Department of Health, Healthcare Association of Hawaii, Hawaii Medical Service Association, Hawaii Pharmacists Association, Hawaii Primary Care Association, Times Pharmacy, Longs Drugs, Kaiser Permanente, American Pharmaceutical Association, and fifty individuals. The Board of Medical Examiners, Hawaii Medical Association, and an individual opposed the measure.

This measure recognizes the dynamic nature of the health care environment by authorizing pharmacists to practice outside of pharmacies and acute care hospitals in collaborative agreements with health care professionals, provided the pharmacist has been appropriately trained. This measure will enable pharmacists to provide drug education in more appropriate and confidential settings, reduce the risk of adverse drug reaction through early detection, help contain health care costs through improved medication use and monitoring, and promote positive medication outcomes. This measure does not provide pharmacists with prescriptive authority.

Your Committee has amended this measure to incorporate changes agreed to by the Hawaii Pharmacists Association and Hawaii Medical Association. As amended, this measure:

- (1) Clarifies that a pharmacist must have appropriate training recognized by the Board of Pharmacy in order to administer drugs;
- (2) Requires a pharmacist who administers immunizations by injection to have appropriate training recognized by the Board of Pharmacy, and limits the administration of injections to adults;
- (3) Provides that a pharmacist may only initiate or adjust a patient's drug regimen if authorized by written instructions from the patient's licensed medical doctor; and
- (4) Has a delayed effective date of July 1, 2050, to encourage further review and discussion of this issue.

Your Committee has also amended this by making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2087, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2087, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, English, Tam).

SCRep. 2818 (Joint) Commerce, Consumer Protection and Housing and Judiciary on S.B. No. 2180

The purpose of this measure is to prohibit the use of, or the requirement for genetic testing by employers and insurers for health care, life insurance, and long-term care insurance.

Testimony in support of the measure was received from the Department of Health, Insurance Commissioner, Hawaii Civil Rights Commission (HCRC), League of Women Voters of Hawaii, ILWU Local 142, and two individuals. Testimony in opposition was received from the Christian Science Committee on Publications for Hawaii and State Farm Insurance Companies. Comments were submitted by the American Council of Life Insurance.

Your Committee finds that this measure would protect employees and potential insureds from discriminatory practices based solely on an employee or insured's refusal to submit to a genetic test or use of the employee or insured's genetic information.

Your Committee has amended this measure on the recommendation of the HCRC to clarify the definition of "being regarded as having such an impairment" to include an employer initiated genetic test without the knowledge of the individual.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2180, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2180, S.D. 2.

Signed by the Chairs on behalf of the Committees.
Ayes, 13. Noes, none. Excused, 3 (Matsuura, Nakata, Tam).

SCRep. 2819 Commerce, Consumer Protection and Housing on S.B. No. 410

The purpose of this measure is to facilitate the interisland shipment of motor vehicles by repealing the requirement of a legal owner's written consent to the shipment.

Young Brothers, Ltd., testified in support of this measure. The Hawaii Bankers Association, Hawaii Credit Union League, and Honolulu Police Department opposed the measure.

Current law requires that a person shipping a vehicle between islands provide the shipper with current vehicle registration, identification, and proof of insurance. If the shipping customer is the registered, but not the legal owner of the vehicle, the customer must provide the shipper with the written consent of the legal owner, who is typically the financial institution that financed the sale of the vehicle. An authorized agent of a legal or registered owner must present, in addition to the above required documents, a notarized letter from the legal or registered owner. These requirements were established to prevent the unauthorized or fraudulent transporting of vehicles.

Your Committee finds that the written consent requirement imposes an undue burden on consumers and shippers who are sometimes unclear as to the distinction between a registered owner and a legal owner. If a vehicle's legal owner is a mainland financial institution, additional time is required to obtain the written authorization. Further, your Committee notes that a legal owner's written consent is not required for vehicles being transported between states on the mainland or from the mainland to Hawaii.

This measure replaces the document presentation requirements imposed on legal and registered owners and authorized agents with a requirement that shippers verify certain information related to the vehicle, including personal information of the customer, vehicle identification information, and compliance with registration and insurance requirements. The measure also makes a conforming amendment to include shipping agents and persons accompanying a vehicle in transit within the provision authorizing a fine for violation of the interisland shipping requirements.

Upon careful consideration, your Committee has amended this measure by replacing its contents with the contents of a similar measure, H.B. No. 813, H.D. 1. As amended this measure:

- (1) Deletes the amendment to section 286-57, Hawaii Revised Statutes;
- (2) Retains the document presentation requirements for the interisland shipment of vehicles, except as to the legal owner's written consent to the shipment; and
- (3) Requires shippers to record by physical inspection the vehicle's vehicle identification number (VIN), maintain a record of the shipment, including a description of the vehicle, for a minimum of three years, and make these records available to law enforcement.

Your Committee finds that this measure, as amended, facilitates the interisland shipping process while balancing the interests of shippers, consumers, and law enforcement. The VIN recordation and recordkeeping requirements, which currently apply to the shipment of used vehicles out of the State, provide safeguards against unauthorized or fraudulent shipping.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 410, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 410, S.D. 3.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Tam).

SCRep. 2820 Commerce, Consumer Protection and Housing on S.B. No. 2701

The purpose of this measure is to enable the Bureau of Conveyances to more readily distinguish between legitimate and frivolous financing statements.

Testimony in support of the measure was received from the Attorney General. The Department of Land and Natural Resources supported the intent of the measure but was concerned that the amendments made by the measure to Chapter 490, Article 9, Hawaii Revised Statutes, would take the language contained in that article out of compliance with the Uniform Commercial Codes enacted by other states. Echoing the same concerns as the Department of Land and Natural Resources, the Commission to Promote Uniform Legislation and the Hawaii Bankers Association opposed the passage of the measure.

Your Committee finds that there is a problem with the recording at the Land Court or the Bureau of Conveyances of invalid instruments that purport to affect the property interests of members of the general public, including but not limited to government officers and employees. These instruments have no basis in fact or law and have a seriously disruptive effect on property interests and titles. These instruments appear on title searches and other disclosures based on public records and are costly and time-consuming to expunge. These instruments may obstruct a property owner's ability to transfer title or obtain title insurance and financing. Your Committee also finds that the filing of frivolous financing statements, like the filing of frivolous liens, has a similar and equally disruptive effect on public officers and employees, as well as members of the general public. The effect of filing frivolous financing statements is very destructive, disruptive, and unsettling to the lives of the citizens of the State of Hawaii.

Your Committee further finds that the Bureau of Conveyances is charged with the responsibility of accepting financing statements for the State of Hawaii and the Land Court. Therefore, the Bureau of Conveyances should be responsible for preventing the filing of frivolous financing statements by assuring that the filing of the financing statements are authorized by the debtors. Consequently, it is

necessary and in the best interests of the State and private parties to legislatively provide adequate measures to relieve the problem of filing frivolous financing statements.

As of July 1, 2001, the reduced requirements relating to the contents of financing statements, under the revised Uniform Commercial Code Article 9 enacted by Act 241, Session Laws of Hawaii 2000, prevent an effective means of ascertaining whether debtors have in fact authorized financing statements to be filed by so-called secured parties. Specifically, the elimination of the requirement for the debtor's authorization has made it nearly impossible for the Bureau of Conveyances to recognize and prevent the filing of frivolous financing statements.

However, your Committee is also concerned over the impact that amending the State's Uniform Commercial Code will have with regard to conformity with the Uniform Commercial Codes of other states. Your Committee believes that the same intent could be accomplished by amending a different chapter, namely Chapter 507D, Hawaii Revised Statutes, relating to nonconsensual common law liens, without incurring any adverse unintended consequences.

Based on these findings, your Committee has amended the measure by deleting its contents and inserting therefor, amendments to Chapter 507D, Hawaii Revised Statutes, which embody the spirit and intent of the original measure while avoiding the Uniform Commercial Code conformity concerns.

The amended measure enables a debtor to request that the registrar of the Bureau of Conveyances demand from a secured party a copy of the security agreement that purportedly authorized the filing of the financing statement. If the secured party does not answer the demand by the registrar within thirty days, the financing statement is deemed unauthorized. The amended measure also authorizes the registrar to determine and assess a reasonable processing fee for this service.

Your Committee believes that the amended measure will alleviate the adverse effects of the frivolous filings on innocent public officers and employees and members of the general public.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2701, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2701, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, English, Tam).

SCRep. 2821 (Majority) Judiciary on S.B. No. 883

The purpose of this measure is to prohibit a court from accepting a plea of nolo contendere for the offense of sexual assault in the first degree.

Your Committee has amended this measure by deleting its contents and inserting a constitutional amendment to require that first time non-violent drug offenders be sentenced to undergo and complete a drug treatment program rather than incarceration.

Your Committee received testimony in support of the amended measure from the American Civil Liberties Union and Community Alliance on Prisons. Testimony in opposition was received from the Department of Public Safety.

Your Committee believes that the public should have a right to decide this matter because it is of such major importance with concomitant effects on the state budget and the economy.

Your Committee is aware that S.B. No. 1188, S.D. 2, H.D. 2, is currently in conference committee as a carryover measure from 2001. Your Committee will revisit that bill in conference during this 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 S.B. No. 883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 883, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 2 (Fukunaga, Ihara). Excused, 2 (Matsuura, Nakata).

SCRep. 2822 Judiciary on S.B. No. 2115

The purpose of this measure is to propose an amendment to article I, section 4, of the Hawaii State Constitution to expand the constitutional guarantee of free speech to quasi-public facilities.

Testimony in support of this measure was received from the ILWU.

This measure is intended to clarify the exercise of the right to free speech. The amendment proposes to allow every person to speak, write, or publish freely the person's sentiments on all subjects in any forum. The amendment conditions the exercise of the right on the person being responsible for the abuse of that right.

According to testimony of the ILWU, this measure which is almost identical to a provision in California's state constitution, is intended to extend free speech rights to quasi-public forums such as shopping centers, and to private property such as sidewalks, streets, parks, and retail business districts. Your Committee prefers that this measure pass to be voted on by the general public. It is

the hope of your Committee that the public will make an informed voting decision after sufficient public education and debate preceeding the election.

The language of the proposed constitutional amendment is almost identical to article 1, section 2 of the California Constitution which states:

“(a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.”

The California constitutional provision was held by the U.S. Supreme Court in PruneYard Shopping Center v. Robins, 447 U.S. 74 (1980), to permit individuals to exercise free speech and petition rights on the property of a privately owned shopping center to which the public was invited, without violation to the shopping center owner’s free speech rights under the First and Fourteenth Amendments to the United States Constitution. The rationale was based on the shopping center not being limited to the personal use of its owner, so views expressed by members of the public would not likely be identified with those of its owner. Furthermore, the shopping center owner was free to publicly disassociate with the views of the speakers or handbillers.

Locally, in Estes v. Kapiolani Women’s and Children’s Medical Center, 71 Haw 190 (1990), the Hawaii Supreme Court allowed plaintiff appellants to distribute leaflets and express certain views at one of the main entrances to Kapiolani Hospital. The Hospital asked them to leave, which they refused and police were called whereupon they left the premises. They filed for injunctive relief against the hospital. The court said:

“There are circumstances, however, in which private property rights must give way to free speech rights of citizens. ... [T]he United States Supreme Court held that under some circumstances, privately owned property can be treated, for First Amendment purposes, as though it were publicly held. ... There is no dispute, however, that the right of access onto private property is premised on the fact that these places, such as sidewalks, streets, parks, and retail business districts, ‘are so historically associated with the exercise of First Amendment rights that access to them for the purpose of exercising such rights cannot constitutionally be denied broadly and absolutely.’” (at page 195-196, citing three U.S. Supreme Court 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. 2115 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 2823 Judiciary on S.B. No. 2288

The purpose of this measure is to make permanent Chapter 663D, Hawaii Revised Statutes, relating to the drug dealer liability.

No testimony was received on this measure.

Act 203, Session Laws of Hawaii 1995, enacted chapter 663D, Hawaii Revised Statutes, the Drug Drug Dealer Liability Act, to provide for the recovery of civil damages against drug dealers and users, for economic, noneconomic, and exemplary damages, and attorney’s fees and court costs. The intent is to make it economically unfeasible for drug dealers to continue to ply their illicit trade by allowing huge civil damages.

Act 203 provides a means for parents and others to obtain monetary damages from drug dealers for the injuries caused by drugs to their families and communities. Act 203 is a model legislation that has been adopted in 14 states. It is essentially a products liability act for illegal drugs by operating to hold dealers civilly liable who intentionally distribute illegal drugs. None of the other states have sunset provisions.

Act 203 offers a new approach to fighting illegal drugs. Since it would be impossible to identify each person in a chain of illegal drug distribution, Act 203 establishes a form of “market liability” so that a plaintiff need only prove that a defendant was distributing the same type of illegal drugs in the community of the plaintiff, and was in the community at the same time that the user was using the illegal drug. Most importantly, the plaintiff need not prove that the drug received was specifically from the defendant.

Chapter 663D is scheduled to sunset on June 30, 2003. This measure would remove that sunset. Although no testimony was received on this measure, your Committee finds that every possible arsenal of weapons should be called upon to fight the war on drugs. At least for the foreseeable future, the new frontier in the drug war is crystal meth labs in Hawaii, especially on Oahu. Because crystal meth is cheap and easy to make and is highly addictive, this measure is ideally suited for that purpose.

As affirmed by the record of votes of 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. 2288 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Fukunaga, Hanabusa, Ihara).

SCRep. 2824 Judiciary on S.B. No. 2547

The purpose of this measure is to create new criminal offenses for cruelty to animals.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources (DLNR), Honolulu Prosecuting Attorney, Honolulu Police Department, Animal Rights Hawaii, Hawaiian Humane Society, Abandoned and Feral Cat Friends, Citizens for Humane Animal Policies, Ducks Unlimited Inc., Kauai Humane Society, and two private citizens. Testimony in opposition was received from the Pig Hunters of Hawaii, Big Island Gun Dogs, Hawaii Rifle Association, Hawaii Citizens' Rights PAC, Animal CARE Foundation, and two private citizens. The Public Defender submitted comments.

This measure is intended to modernize laws relating to cruelty to animals. This measure, among other things, creates a new offense of cruelty to animals by cockfighting, which is problematic in Hawaii. A new offense of cockfighting and related equipment would discourage the establishment of cockfighting arenas.

This measure also establishes specifications for the euthanasia of animals, and requires the owners of seized animals to post bond in amounts sufficient to cover the costs of the animal's care for one month during impoundment.

Your Committee is aware of the objections to the provision in the measure which provides for a violation of cruelty to animals for tethering an animal for more than ten consecutive hours. However, there was no consensus in the testimony on this matter. The Hawaiian Humane Society testified in support of this provision, stating that ten hours should be the maximum allowable time to tether the animal because a dog is most likely to bite beyond that time. Other testifiers objecting to this provision stated that any tethering is bad or that tethering should last no longer than a couple of hours. As an alternative to tethering, those testifying in objection recommended an enclosed pen area. However, your Committee believes that this is not always practicable given the small yard areas of most Hawaii homes.

Your Committee has amended this measure as follows:

- (1) By clarifying the nuisance laws to appropriately reflect the new offenses in this measure;
- (2) Clarifying the cruelty to animals law to delete the word "cruelly" as descriptive to "beats";
- (3) Making an exception to the cruelty to animals law for the DLNR in its program to eradicate the feral pig population; and
- (4) Making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2825 Judiciary on S.B. No. 2698

The purpose of this measure is to amend provisions of Hawaii's sex offender registration and notification laws to comply with the State Supreme Court's ruling in *State of Hawaii v. Eto Bani*, in which Hawaii's previous law was struck down.

Testimony in support of this measure was received from the Attorney General (AG), Department of Public Safety, Honolulu Prosecuting Attorney, Honolulu Police Department, Volunteer Legal Services of Hawaii, and Hawaii Family Forum.

The Public notification provisions of Hawaii's sex offender registration law, chapter 846E, Hawaii Revised Statutes, were invalidated by the Hawaii Supreme Court in November, 2001, on the grounds that they violated a person's right to due process under the state and federal Constitutions.

This measure seeks to remedy the statutory problems identified by the Hawaii Supreme Court by establishing a mechanism that would balance the State's substantial interest in requiring sex offender registration with the offender's interest in protecting against the erroneous deprivation of his or her liberty. This measure limits the public's access to registration information regarding convicted sex offenders to only those offenders deemed a high risk after a court hearing.

Your Committee notes the testimony of the Honolulu Prosecuting Attorney that sex offenders and offenders against children pose a risk to public safety due to the high rate of recidivism. Particularly with regards to children, public notification is a key component in enhancing public safety by providing parents of victims with information that could assist them in protecting their children.

According to testimony of the AG, Hawaii is no longer in compliance with applicable federal standards because of the *Bani* case, resulting in a loss of federal grants of about \$300,000 per year. This measure would make Hawaii eligible again for those grants by satisfying Hawaii constitutional protections and federal standards.

Your Committee has amended this measure by:

- (1) Upon the recommendation of the AG, clarifying the definition of "sexual offense" by specifying that it includes any conviction for similar offenses under previous Hawaii law, and by adding any felony sexual assault in which the victim is less than sixteen years old and the perpetrator is eighteen years or older;
- (2) Deleting the repeal of the street name of the offender in regards to public access information;

- (3) Requiring that the release of public information by public access include all covered offenders; and
- (4) Making technical changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2698, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2698, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Slom).

SCRep. 2826 Judiciary on S.B. No. 2898

The purpose of this measure is to protect caves as unique cultural and natural resources of the State of Hawaii.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR), Department of Transportation, Office of Information Practices, Hawaii Leeward Planning Conference, American Public Works Association – Hawaii Chapter, a Maui Councilmember, and two individuals.

Your Committee finds that this measure is the first step in protecting an often hidden, fragile natural and cultural resource. While there is general support for the importance of such a step, implementation and enforcement will require considerable effort on the part of many parties.

Your Committee has amended this measure as follows:

- (1) Clarified the applicability of the section relating to disturbance of native organisms to apply to all “caves encountered” within the course of a construction context not only those inadvertently encountered;
- (2) Changing the criminal penalties to \$250 for the first offense and \$500 for the second offense, and clarifying the effect of multiple violations and the effect of civil legal actions by the State;
- (3) Changing the effective date to July 1, 2050; and
- (4) Making technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2898, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2898, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Matsuura, Nakata).

SCRep. 2827 (Majority) Judiciary on S.B. No. 2973

The purpose of this measure is to repeal the prohibition on picketing in front of a private residence or dwelling.

Chapter 379A, Hawaii Revised Statutes, relates to picketing of residence or dwelling place. The chapter has one section prohibiting picketing and one penalty section. Your Committee finds that this chapter is probably unconstitutional, in view of an abundance of United States Supreme Court case law upholding the right to picket. For example, in United Mine Workers of America, District 12 v. State of Illinois 389 U.S. 217 (1967), the U.S. Supreme Court held that it is well established that under the First Amendment of the United States Constitution, a state cannot prohibit actions, such as peaceful assembly, which seek redress for wrongs, especially when labor organizations such as the Laborer’s Union is engaging in an assembly of people (citing other U.S. Supreme Court cases similarly holding). Your Committee has been informed that a similar statute in Chicago was struck down by the U.S. Supreme Court on the same grounds, and also in a federal circuit court of appeals case in another state.

Your Committee finds that repealing the prohibition against picketing someone’s home will increase opportunities for free expression and enable peaceful protesters to visibly demonstrate their support for a cause.

As affirmed by the record of votes of 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 and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Chun, Hanabusa, Matsuura, Nakata).

SCRep. 2828 Ways and Means on S.B. No. 2969

The purpose of this measure is to improve accountability, performance, efficiency, and effectiveness of the Department of Education and its services for children with a disability.

Your Committee finds that it has been a continual challenge for the Departments of Education and Health to serve Hawaii's children with a disability in compliance with federal and state laws and to generally provide them with services that meet their special education needs. Recent investigations into the departments' efforts have revealed systemic problems that hinder the delivery of appropriate, efficient, and effective special education-related services. Your Committee finds that this measure provides a comprehensive approach to ensuring Hawaii's children who have a disability receive a quality and appropriate education.

Part I provides that the intent of this measure is to implement structural and procedural changes within the Department of Education to improve efficiency and to ensure that Hawaii's children with a disability receive a quality education.

Part II establishes an Office of Educational Accountability and Performance within the Board of Education to monitor and evaluate the performance of the State's public education system.

Part III appropriates funds for the employment of three internal auditors and two support staff for the Department of Education whose function is to ensure fiscal accountability, improve the internal financial controls, and improve responsiveness to fiscal problems within the Department of Education.

Part IV allows the Department of Education to appoint and retain its own attorneys.

Part V requires:

- (1) The Department of Education to maintain longitudinal data on students, and store and warehouse the data in a manner that allows for efficient, comprehensive, and complex analysis;
- (2) The Departments of Education, Health, and Human Services to establish an integrated information management system that shall provide for the interdepartmental sharing and exchange of student records;
- (3) The Department of Education to map a listing of all department resources and services and to publish the map in an accessible format and on the Internet; and
- (4) The Department of Education to ensure that the department receives and collects all federal funds and reimbursements, including Medicaid reimbursements.

Part VI appropriates funds for school design, improvements, and equipment to accommodate school-based health services for students including the medically fragile.

Part VII requires the Department of Education to obtain prior approval from the Governor to increase the federal fund expenditure ceiling to expend federal funds received in excess of the amounts appropriated by the Legislature and to report to the Legislature immediately regarding the increase. In addition, this Part provides that the Governor may not approve increases to federal fund expenditure ceilings in amounts greater than the excess federal funds received by the Department of Education.

Part VIII provides that claims against educational officers, teachers, and classified personnel for services provided to children with a disability and members of the plaintiff class under the Felix consent decree shall only be brought against the departments of education and health.

Part IX requires that when a proposal or contract for the procurement of services specifies academic degree requirements, the proposal or contract shall specify that the academic degree shall be issued by a college or university accredited by an accrediting agency recognized by the United States Secretary of Education.

Part X clarifies that the children's mental health services branch of the Department of Health shall not restrict services to students belonging to a specific class, such as the Felix class, and emphasizes that the department has a duty to service the mental health of all students regardless of whether or not they are members of the Felix class.

Part XI provides that this measure shall take effect upon its approval; provided that parts II, III, VI, and VIII shall take effect on July 1, 2002.

Your Committee has amended this measure by amending:

- (1) Part VII by replacing its content with provisions that establish legislative control over federal impact aid and U.S. Department of Defense funds and force the Department of Education to more accurately plan and budget use of such funds by:
 - (a) Repealing section 29-25, Hawaii Revised Statutes;
 - (b) Amending section 302A-1401, Hawaii Revised Statutes, to specify that impact aid funds shall be expended only by legislative appropriation;
 - (c) Amending section 40-89, Hawaii Revised Statutes, to establish new accounts every year for federal impact aid and U.S. Department of Defense funds and require that the unencumbered cash balances in all prior federal impact aid and U.S. Department of Defense fund accounts be deposited in the accounts established for the current year; and
 - (d) Requiring the Board of Education to submit semiannual reports to the Legislature on the receipt and expenditure of federal impact aid and U.S. Department of Defense funds;

- (2) Part VIII by clarifying that the indemnification provisions shall not apply to wilful or wanton acts or omissions, or acts or omissions of gross negligence, committed by educational officers, teachers, and classified personnel; and
- (3) Part XI by making Part VII effective on July 1, 2002.

Your Committee further amended this measure by making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2969, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2969, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Buen, English).

SCRep. 2829 Commerce, Consumer Protection and Housing on S.B. No. 2471

The purpose of this measure is to extend the deadline for obtaining the required percentage of votes from condominium apartment owners to amend condominium property regime bylaws from 120 days to 365 days.

Testimony in support of the measure was received from the Hawaii Independent Condominium and Cooperative Owners and two private citizens. The Community Association Institute, Hawaii Chapter opposed on the basis that the measure included decisions made by a condominium's board of directors under the deadline extension.

The measure applies the 365-day deadline to proposed bylaws submitted by either a board of directors of a condominium property regime or a volunteer apartment owners' committee.

Your Committee is concerned over the establishment of a deadline for bylaw amendments proposed by a board of directors of a condominium property regime. Your Committee believes that the reasons for the time limit for an amendment proposed by a volunteer apartment owners' committee are not present in the case of a board-proposed amendment.

In light of this belief, your Committee has amended the measure by:

- (1) Removing board of directors of a condominium property regime-proposed bylaws from the deadline extension; 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 Commerce, Consumer Protection and Housing 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Tam).

SCRep. 2830 Commerce, Consumer Protection and Housing on S.B. No. 2505

The purpose of this measure is to authorize the Office of Environmental Quality Control, when a conflict of interest may exist because the proposing agency and the agency making the determination are one and the same, to review the agency's determination, consult the agency, and make a final determination.

Testimony in support of this measure was received from the Office of Environmental Quality Control. The City and County of Honolulu Department of Design and Construction and Department of Planning and Permitting, and Land Use Research Foundation of Hawaii testified in opposition.

Your Committee has heard the county concerns that this measure could potentially delay a project, but finds that there are sufficient safeguards to ensure that is not the case.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2505, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, English, Tam).

SCRep. 2831 Economic Development and Technology on S.B. No. 1280

The purpose of this measure is to require temporary moorage not to exceed three hours to be designated at each small boat harbor for use by commercial fishing operators for loading and unloading.

Your Committee received testimony in favor of this measure from an individual. Your Committee received testimony opposing this measure from the Board of Land and Natural Resources, Paradise Cruise, Ltd., Trilogy Excursions, Savealawai Coalition, Aqua Lung,

and various other individuals. The testimony received requests your Committee to conduct an investigation on small boat harbors management.

Your Committee finds that the core problem is the overall management of small boat harbors that previous State audits have attested to.

Therefore, your Committee has amended this measure by replacing the amendment to chapter 200, Hawaii Revised Statutes, with provisions requiring the Senate Committee on Economic Development and Technology to investigate the Department of Land and Natural Resources, Division of Boating and Ocean Recreation regarding small boat harbors management, and to report its findings to the legislature.

Your Committee reiterates that under chapter 91, Hawaii Revised Statutes, the Board of Land and Natural Resources is required to conduct statewide hearings on any fee increases or other policy changes that could detrimentally affect the public. Such hearings must have official agendas and minutes for public record-keeping purposes.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1280, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1280, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ihara, Matsunaga, Taniguchi).

SCRep. 2832 (Joint/Majority) Economic Development and Technology and Commerce, Consumer Protection and Housing on S.B. No. 2243

The purpose of this measure is to encourage greater use of renewable energy by having the Department of Business, Economic Development, and Tourism develop and administer state green power marketing programs with the support of the Public Utilities Commission.

Your Committees received testimony in favor of this measure from the Department of Business, Economic Development, and Tourism, Hawaiian Electric Company, Kauai Electric, Apollo Energy Corporation, Hawaii Renewable Energy Alliance, PowerLight Hawaii, Inter-Island Solar Supply, the Sierra Club, Life of the Land, and seven individuals. Your Committees received testimony opposing this measure from the Public Utilities Commission and the Department of Commerce and Consumer Affairs.

Your Committees find it vital that the State reduce its dependence on imported fossil fuels. Any prolonged or unanticipated disruption in oil imports, or in our ability to convert oil to electricity, gasoline, natural gas, and propane would be catastrophic. The diversification of our energy supply is not an option; it is an imperative.

Members and testifiers agree that the concept of green energy is laudable but there are major flaws in the measure that make implementation difficult, if not impossible. Your Committees believe the following concerns need to be addressed:

- (1) The Department of Business, Economic Development, and Tourism does not have the funds to implement the program in this measure. Additionally, this measure should have been referred to the Senate Committee on Ways and Means because any implementation of green energy policy will undoubtedly require funding;
- (2) The current draft appears to be a form of "green tags," in which the environmental attributes of renewable energy are marketed separately from the electricity. Although in other areas "green tag" programs are a means of providing renewable energy projects with a source of additional revenue, it is not usually state government entities that undertake such an effort;
- (3) Voluntary green pricing as an incentive for actual development of renewable energy may have more tangible results;
- (4) The current draft would interfere with existing contracts. For example, it would be unfair for a utility to not receive any environmental credit for resources it already contracted for;
- (5) It is unclear as to how developers would be encouraged to construct new renewable generators, as they still need to enter into contracts with the utilities;
- (6) It is important to investigate the complexity and cost of collecting the voluntary payments from customers. Until these details are determined, it is difficult to evaluate the impact on electric companies' systems and processes, the costs they may incur, and ultimately the impact on ratepayers;
- (7) All parties, including the Department of Business, Economic Development, and Tourism, Hawaiian Electric Company, energy producers, and energy advocates must work together to craft appropriate, feasible legislation. The Chair of your Committee on Economic Development and Technology shall introduce a resolution to bring all parties together and provide a framework for developing appropriate legislation;
- (8) The Public Utilities Commission could not comply with the current draft because the Commission primarily serves as a trier-of-fact, and does not have marketing staff and customers, nor does it currently collect from ratepayers;

- (9) As the parties come together, they must be cognizant of each other's role, particularly for the government agencies. The Department of Business, Economic Development, and Tourism, and the Public Utilities Commission, must sort out their respective responsibilities and capacities so as not to unnecessarily duplicate or reinvent their roles;
- (10) The projection of the State's energy policy should include all types of energy; and
- (11) Legislation shall be deemed appropriate when current and future energy players agree on how alternative energy can be economically beneficial to Hawaii's consumers.

Rather than deferring or holding this measure, your Committees have amended it by making the effective date July 1, 2050, to promote further discussion and development of this concept between the energy players and the State of Hawaii in order for them to resolve the eleven concerns stated above.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2243, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2243, S.D. 2.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, 1 (Chumbley). Excused, 1 (Taniguchi).

SCRep. 2833 Health and Human Services on Gov. Msg. No. 174

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII ADVISORY COMMISSION ON DRUG ABUSE AND CONTROLLED SUBSTANCES

LANI BOWMAN, KEVIN M.F. HO, PHARM.D., T. VIVIAN ISHIMARU-TSENG, M.D., BARBARA-ANN KELLER, MITCHELL KEPA, CHAD Y. KOYANAGI, M.D., for terms to expire June 30, 2005; and

JUDITH Y. AKAMINE, for a term to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Lani Bowman, Kevin M.F. Ho, Pharm.D., T. Vivian Ishimaru-Tseng, M.D., Barbara-Ann Keller, Mitchell Kepa, Chad Y. Koyanagi, M.D., and Judith Y. Akamine have the necessary character, experience, and qualifications to serve on the Hawai'i Advisory Commission on Drug Abuse and Controlled Substances.

Your Committee received testimony in support of the seven nominees from the Department of Health.

Lani Bowman is self-employed as a consultant and facilitator who has worked on numerous community-based initiatives on the Big Island. Ms. Bowman is the Violence Prevention Coordinator at Kohala Elementary School, developing community ownership and participation in the school's violence prevention program. She has also served as a Community Facilitator for the Big Island District Health Office, which involved documenting, evaluating, and providing networking tools to assist coalitions addressing community health issues. Ms. Bowman's community activities are numerous and diverse; she was a delegate to the Native Hawaiian convention, and serves as a board member for: the Big Island Rural Health Association; Community Empowerment Organization sponsored by the County of Hawaii Prosecutor's Office; and the Youth Services Council of the Hawaii County Office of Housing and Community Development.

Kevin M.F. Ho holds a Doctor of Pharmacy (Pharm.D.) degree and is employed as the Staff Pharmacist for Long's Drugstores. As a pharmacist, Dr. Ho is trained as a patient-centered, outcomes oriented practitioner who works in concert with the patient and the patient's other healthcare providers to promote health, to prevent disease, and to assess, monitor, initiate and modify medication use to assure that drug therapy regimens are safe and effective. He is knowledgeable about the possible side effects i.e., foods, drinks or activities that should be avoided while on a particular medication, and works with physicians and nurses in determining medication effectiveness, patient tolerance to medications, and other related factors that affect the success of a patient treatment program.

T. Vivian Ishimaru-Tseng, is a board certified addiction psychiatrist. She completed her psychiatric residency at Northwestern University and her doctorate in medicine at St. Louis University Medical School. Dr. Ishimaru-Tseng is on staff at the Queen's Medical Center and serves as medical director with Drug Addiction Services of Hawaii, Inc. (DASH). She has also served as an Assistant Professor with the Department of Psychiatry at the John A. Burns School of Medicine, and Associate Residency Director of the Hawaii Residency Program at the John A. Burns School of Medicine. In addition to her numerous professional accomplishments, Dr. Ishimaru-Tseng has been a member of the Hawaii Medical Association's Physician Wellness and Peer Review Committees, the Queen's Medical Center Outpatient Services Women's Mental Health Program, Department of Defense Teen Involvement Program, and the University of California at Berkeley School of Public Health Peer Sexuality Outreach Program.

Barbara-Ann Keller is the Clinical Supervisor for the Family Court of the First Circuit, Juvenile Drug Court program. The program is an eight-month, post adjudication, treatment-based drug court program for substance abusing, non-violent juveniles under the age of eighteen and their families. The philosophy of the program is to provide comprehensive judicial and substance abuse treatment services to juveniles and their families in an environment that promotes accountability, respect, opportunity and personal wellness. The mission of the program is to reduce harm to communities by responding to the treatment needs of alcohol and drug exposed adolescents and their families through gender-specific, culturally competent, family-based and juvenile justice appropriate interventions. Ms. Keller is a Certified Substance Abuse Counselor (CSAC).

Mitchell Kepa is an Educational Specialist with the Maui Community College, Educational Opportunity Center, which provides access to post-secondary education for all Maui County residents, with an emphasis on assisting persons from low-income families and those whose parents did not graduate from college. In addition to providing students with career assessment and educational information, college catalog information for Hawaii and mainland schools, financial aid counseling and information on grants, loans and scholarships, Mr. Kepa conducts workshops and gives presentations for high schools and community agencies and hosts tours of the Maui Community College campus.

Chad Y. Koyanagi is a psychiatrist on staff at Queen's Medical Center. Dr. Koyanagi's extensive clinical work includes assisting federal magistrate judge Kevin Chang in oversight of the Hawaii State Hospital, assisting severely mentally ill and dually diagnosed patients at the Kalihi-Palama Health Center's Health Care for the Homeless Project, providing medical backup and in-house coverage at Hina Mauka, and teaching at the University of Hawaii, John A. Burns School of Medicine, Department of Psychiatry. Dr. Koyanagi, who is a McKinley High School graduate, completed his undergraduate education at Harvard College (in biology) and medical school at the University of Hawaii, John A. Burns School of Medicine.

Judith V. Akamine is a public health nurse on the Big Island. She is a member of the Hawaii Island Rural Health Association and serves on the Board of Directors of the Hawaii Alliance for Community Health. In her professional capacity as a registered nurse, and in her work as a volunteer, Ms. Akamine is keenly aware of the impact of substance abuse on the individual, families, and communities. Her familiarity with the Big Island and public health concerns within the community provide insights to formulating substance abuse prevention and treatment strategies that are appropriate to the island's unique characteristics.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Buen, Fukunaga, Hogue).

SCRep. 2834 Health and Human Services on Gov. Msg. No. 175

Recommending that the Senate advise and consent to the nominations of the following:

DRUG PRODUCT SELECTION BOARD

LORIANN M. KANNO, PHARM.D., GEORGE W. READ, PH.D., for terms to expire June 30, 2005; and

MARCELLA SETO CHOCK, PHARM.D., MARY JO KEEFE, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Loriann M. Kanno, Pharm.D., George W. Read, Ph.D., Marcella Seto Chock, Pharm.D., and Mary Jo Keefe, have the necessary character, experience, and qualifications to serve on the Drug Product Selection Board.

Your Committee received testimony in support of the four nominees from the Department of Health.

Dr. Kanno, while currently representing the Department of Health as a Pharmacist for the Immunization Program, has recent experience in the private sector as a Pharmaceutical Sales Representative, an Assistant Director of Pharmacy, and an Outpatient Staff Pharmacist. Dr. Kanno maintains licensure status as a pharmacist in both Hawaii and California. She is also a member of the Hawaii Pharmacists Association, the American Society of Health-System Pharmacists, and the Lambda Kappa Sigma Professional Pharmacy Fraternity.

Dr. Read has over thirty years of experience in the field of pharmacology, most notably as a professor at the University of Hawaii. He also holds a master's degree in physiology. He has contributed greatly to state initiatives on drug abuse through participation in the Hawaii Drug Policy Forum, the State Task Force on Drug Abuse, and the Hawaii Advisory Commission of Drug Abuse. He has published over fifty scientific articles. Dr. Read is also a member of the American Society for Pharmacology and Experimental Therapeutics.

Dr. Chock has been active in the health care industry and academia for more than a decade and is a current member of the Drug Product Selection Board. Dr. Chock has had faculty appointments at the Schools of Pharmacy of the University of California, Oregon State University, and Creighton University. As a clinical specialist, she has expert knowledge of disease state case management for asthma, diabetes, hypertension, and geriatrics. She is a drug consultant and publication reviewer for patient education materials and has presented several lectures both locally and nationally. Dr. Chock is affiliated with the American Society of Health-System Pharmacists, the American College of Clinical Pharmacy, the Hawaii Pharmacists Association, and the Hawaii Society for Healthcare Education and Training.

Ms. Keefe currently practices as a community pharmacist on Maui where she has been for nearly ten years. Prior to Maui, Ms. Keefe practiced retail pharmacy on the mainland for several years. She maintains licensed pharmacist status in both Hawaii and Michigan. She is also a member of the Hawaii Pharmacists Association, the Maui County Pharmacists Association, the American Association of Diabetes Educators, and the Hawaii Diabetes Association.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, Fukunaga, Hogue).

SCRep. 2835 (Majority) Tourism and Intergovernmental Affairs on S.C.R. No. 2

The purpose of this measure is to request Afghan government officials to appoint and include a significant number of Afghani women to positions in the provisional government of Afghanistan.

Testimony in support of this measure was received from the Hawaii State Commission on the Status of Women, Hawai'i Women's Political Caucus, and one individual.

In supporting this measure, your Committee is in agreement with the preamble to the United National Convention on the Elimination of All Forms of Discrimination Against Women, which states, "Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields."

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 2 and recommends that it be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2836 (Majority) Tourism and Intergovernmental Affairs on S.R. No. 1

The purpose of this measure is to request Afghan government officials to appoint and include a significant number of Afghani women to positions in the provisional government of Afghanistan.

Testimony in support of this measure was received from the Hawaii State Commission on the Status of Women, Hawai'i Women's Political Caucus, and one individual.

In supporting this measure, your Committee is in agreement with the preamble to the United National Convention on the Elimination of All Forms of Discrimination Against Women, which states, "Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields."

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 1 and recommends that it be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 3 (Inouye, Kawamoto, Matsuura).

SCRep. 2837 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on S.C.R. No. 8

The purpose of this measure is to request each county to develop a plan for the regular maintenance of the waterways located in the county, including provisions for the conversion of any debris or dredged material into useable products.

Testimony in support of this measure was received from the Department of Health and Life of the Land.

Your Committees find that the Department is currently undertaking a statewide assessment of streams and waterways, and that a related assessment by the U.S. Environmental Protection Agency found over 150 streams in the State that do not meet water quality standards or do not support designated uses.

Your Committees find that this measure will help to address the problem of impaired or threatened streams in the State. Your Committees have amended this measure to request the counties to coordinate with the federal government, particularly the military, and to add the county council chairs and representatives of the U.S. Department of Defense in Hawaii to the entities receiving copies of this Concurrent Resolution.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 8, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 8, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 7 (Chun, Ihara, Kawamoto, Kokubun, Nakata, Sakamoto, Slom).

SCRep. 2838 Judiciary on Jud. Com. No. 1

Recommending that the Senate consent to the nomination of the following:

CHRISTOPHER P. McKENZIE, to the District Court of the First Circuit for a term to expire six years;

Your Committee received testimony in support of the nominee from the Hawaii State Bar Association (HSBA), Administrative Judge of the District Court of the First Circuit, Court Reporting Staff of the District Court, Court Administrator of the First Judicial Circuit, Ewa and Waianae District Court Administrator, Honolulu Prosecuting Attorney, District 1 – PCD M.E.B.A., Frame Formby & O’Kane, Trecker & Fritz, Inlandboatmen’s Union of the Pacific, International Association of Bridge, Structure, Ornamental and Reinforcing Iron Workers, Local 625 Hawaii, and six individuals.

The nominee has served as district court judge in the first circuit on a per diem basis since July 5, 1995. During this time, he has served on every district court division in the First Circuit and has heard and decided every type of case. He is a member of the bars of Hawaii, the Ninth Circuit Court of Appeals, and the United States Supreme Court.

The HSBA subjected the nominee to rigorous review and evaluation before rating the nominee as “highly qualified” for the position. That rating is the highest endorsement given by the HSBA for judicial appointment recommendations. The review includes a thorough evaluation of the nominee based on a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for Judicial Office. The criteria for evaluation include: integrity, legal knowledge and ability, professional expertise, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 2839 Health and Human Services on H.B. No. 1766

The purposes of this measure are to:

- (1) Repeal the prohibition on issuing special purpose revenue bonds (SPRBs) for not-for-profit health care facilities after June 30, 2003; and
- (2) Authorize the issuance of SPRBs to assist Hawaii Pacific Health, and its affiliates, with financing, and reimbursing costs related to the acquisition or construction of health care facilities, including renovations of existing health care facilities, purchasing land and improvements, acquiring and installing information technology, and other related projects.

Testimony supporting this measure was received from Hawaii Pacific Health, the Chamber of Commerce of Hawaii, and Healthcare Association of Hawaii.

Your Committee finds that Hawaii remains one of the healthiest states in the nation in part due to the State’s proactive promotion of healthcare awareness and the implementation of programs that encourage growth for Hawaii’s healthcare industry. Your Committee finds that the SPRBs authorized by this measure make available the capital necessary to further develop, promote, and grow Hawaii’s healthcare industry for the benefit of the public health.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1766, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2840 Health and Human Services on H.B. No. 2459

The purpose of this measure is to make an emergency appropriation in the current fiscal year to pay for the State’s share of costs related to public employees’ social security and Medicare expenses.

Your Committee received testimony in support of this measure from the Department of Budget and Finance (BUF).

Your Committee finds that Act 259, Session Laws of Hawaii 2001, authorized the transfer of up to \$15,000,000 to the Department of Business, Economic Development and Tourism for operations and events costs of the Hawaii Convention Center, and that such transfer was necessary to support continuing operations of the Convention Center.

Your Committee further finds that a portion of the funds transferred to operate the Convention Center included \$10,125,000 in funds budgeted for payment of social security and Medicare expenses for public employees. Your Committee acknowledges that the State is required by law to fund these public employee costs, and therefore supports this emergency measure.

Your Committee has amended this measure by:

- (1) Adding the appropriate fiscal year of appropriation as required by the state constitution; and
- (2) Adding the Department of Budget and Finance as the appropriate spending agency.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2459, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2841 Health and Human Services on H.B. No. 2495

The purpose of this measure is to make an emergency appropriation to provide foster board and board related costs, permanency assistance, and difficulty-of-care payments for foster and adoptive parents, permanent custodians, and guardians of children with special needs in the following amounts:

- | | |
|--------------------------|-------------|
| (1) General Funds: | \$2,268,663 |
| (2) Other Federal Funds: | \$1,538,194 |

Testimony supporting this measure was received from the Department of Human Services and Blueprint for Change.

Your Committee finds that the State has an obligation to provide foster care to abused and neglected children and to find permanent homes for those children who are unable to return to their original homes. Based on the figures submitted by the Department of Human Services, the department will be unable to cover the costs of these services with the amount appropriated in the General Appropriations Act of 2002. Therefore, your Committee finds that the emergency appropriation provided in this measure is appropriate and necessary to meet the needs of Hawaii's children.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2495, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2842 (Majority) Health and Human Services on H.B. No. 2506

The purpose of this measure is to provide a more streamlined, efficient, and convenient process for registering and recording births and deaths occurring in the State.

Testimony in support of this measure was submitted by the Office of the Lieutenant Governor and the Department of Health. The Office of Information Practices submitted testimony supporting the Senate companion version of this measure.

Your Committee finds that this measure will allow the Department of Health to more efficiently process vital events by eliminating the formal filing of paper certificates in registration districts (counties) prior to their eventual transmittal to a central site for review and storage. Most importantly, the public will be able to obtain certified copies and verifications of vital records in a shorter period of time after registration has been completed.

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

- (1) Substituting the companion measure, S.B. 2764, S.D. 2, which includes a provision requiring the Department of Health to ensure adequate safeguards for its electronic records and adding the amendments made to section 338-18, Hawaii Revised Statutes, from H.B. 2506, H.D. 1;
- (2) Inserting the contents of S.B. 2761, S.D. 2, previously heard and passed by your Committee, which imposes fee increases related to death registrations and burial permits; and
- (3) Making technical, nonsubstantive changes for consistency and style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2506, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2506, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 2 (English, Hogue). Excused, 1 (Nakata).

SCRep. 2843 Health and Human Services on H.B. No. 2512

The purpose of this measure is to establish the Public Health Nursing Services Special Fund to support case management services for medically fragile children under the age of twenty-one with complex medical conditions.

Testimony in support of this measure was submitted by the Department of Health, the Department of Human Services, Hawaii Government Employees Association, and several registered nurses working with medically fragile children.

Your Committee finds that there is a critical need for comprehensive case management services for medically fragile children and their families, due to the present lack of coordinated service delivery and the complex nature of these children's conditions and treatment. Your Committee agrees that the establishment of the Public Health Nursing special fund will allow for a dedicated source of funds to support case management services for these complex cases, and thereby ensure that the families, medical providers, and others are working together in a collaborative and coordinated manner.

Your Committee has amended this measure by:

- (1) Removing from the definition of "case management services" the reference to the early and periodic screening, diagnosis, and treatment program;
- (2) Changing the effective date to July 1, 2002; 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 and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2512, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2512, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2844 Health and Human Services on H.B. No. 2518

The purpose of this measure is to authorize the Department of Health (DOH) to assist with the implementation of a statewide poison information program, including outsourcing of poison center services.

Your Committee received testimony in support of this measure from DOH, Keiki Injury Prevention Coalition, Kauai Good Beginnings Council, Kapiolani Medical Center, Hawaii Primary Care Association, American Academy of Pediatrics, and two individuals.

Your Committee finds that over the past two years DOH has secured federal funding to enable the Hawaii Poison Center to resume 24-hour operation, which previously had been discontinued due to lack of funding.

This measure provides statutory authority for DOH to continue to assist the Hawaii Poison Center through channeling of federal funds and distribution of poison information services statewide.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2518, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2845 Health and Human Services on H.B. No. 2523

The purpose of this measure is to improve the State Comprehensive Emergency Medical Services System by authorizing the Department of Health (DOH) to establish and maintain a trauma registry.

Testimony in support of the measure was received from the DOH.

Your Committee finds that the measure:

- (1) Establishes a trauma registry for the collection of information concerning the treatment of critical trauma patients at state-designated trauma centers to be implemented and maintained by the DOH;
- (2) Allows the recording of information concerning treatment received before and after a trauma patient's admission to a hospital or medical center; and
- (3) Requires all state-designated trauma centers to submit to DOH periodic reports of each patient treated for trauma in the state system.

Your Committee finds that a trauma registry is a crucial component of an emergency medical services system. A trauma registry provides the necessary information for the trauma program to conduct quality assurance, engage in injury surveillance, perform research, and develop injury prevention and control strategies.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2523, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2846 Health and Human Services on H.B. No. 2571

The purpose of this measure is to provide the same general excise tax benefits to persons with impaired sight, hearing, or who are totally disabled regardless of the entity in which they choose to do business.

Your Committee received testimony in support of this measure from the Department of Taxation.

Your Committee finds that certain general excise tax benefits are available to deaf, blind, and totally disabled persons. Your Committee notes, however, that these provisions may not be applicable depending upon the entity in which impaired persons choose to do business. Currently, section 237-17, Hawaii Revised Statutes, provides a one-half per cent general excise tax rate for individuals who are blind, deaf, or totally disabled, or corporations all of whose outstanding shares are owned by individuals who are blind, deaf, or totally disabled. Similarly, section 237-24(13), Hawaii Revised Statutes, exempts from the general excise tax \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging in business. Your Committee agrees that the law should treat these individuals equally by recognizing the various other entities that may be formed to do business, such as partnerships of all types and limited liability companies.

Your Committee has amended this measure by:

- (1) Conforming the new language within section 237-24, Hawaii Revised Statutes, (HRS) to reflect the new language in section 237-17, HRS; and
- (2) Clarifying the effective date.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2571, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2571, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2847 Health and Human Services on H.B. No. 2738

The purposes of this measure are:

- (1) To establish a Commission on Language Access within the Office of the Lieutenant Governor; and
- (2) Appropriate funds for part-time staff and to support the activities of the Commission.

Your Committee received testimony in support of the measure from the Lieutenant Governor, Hawaii Civil Rights Commission, Na Loio - Immigrant Rights and Public Interest Legal Center, and three private individuals.

Your Committee finds that Executive Order 13166, signed by President Clinton, requires meaningful access to federally assisted programs and activities for persons with limited English proficiency. Recipients of federal funds must take reasonable steps to ensure meaningful access and the establishment of the Commission will help to fulfill Hawaii's obligation toward that end.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2738, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2848 (Majority) Health and Human Services on H.B. No. 1867

The purpose of this bill is to provide health care for the uninsured, particularly those suffering economic hardships resulting from the tragic events of September 11, 2001. Specifically, this measure appropriates funds as follows:

- (1) Unspecified general funds to be matched by federal funds on a 2:1 basis, to enable the Children's Health Insurance Program to expand eligibility to 300 percent of the poverty level guideline for Hawaii;
- (2) Unspecified general funds to be matched by federal funds on a 9:1 basis, to delink Medicaid and the Temporary Assistance for Needy Families Program (TANF); and

- (3) Unspecified general funds for community health centers in the State to provide health care services to the uninsured.

Testimony in support of this measure was submitted by the Healthcare Association of Hawaii, Hawai'i Primary Care Association, and the Kokua Council. The Department of Human Services submitted testimony in support of the intent of the bill.

Your Committee finds that the recent economic hardship experienced by many families in Hawaii, has primarily impacted our most vulnerable citizens, our children. Your Committee further agrees that in order to ensure that our children have access to essential health care services, the State safety net needs to be expanded with the concomitant understanding that the State should pursue federal reimbursement as appropriate.

Your Committee has amended this bill by:

- (1) Deleting inaccurate language in Section 4 of the measure related to loss of health benefits under Temporary Assistance to Needy Families;
- (2) Clarifying that the appropriation for community health centers should be expended by the Department of Health, which is the state agency to which community health centers are attached; and
- (3) Making technical nonsubstantive changes for the purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1867, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1867, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 1 (Hogue). Excused, 1 (Nakata).

SCRep. 2849 Labor on H.B. No. 2228

The purpose of this measure is to ensure that a vested firefighter who is deemed medically disqualified due to a work-related injury does not lose the benefit of an accelerated pension accrual rate.

The City and County of Honolulu's Department of Human Resources and Police Department and the Hawaii State Firefighters Association testified in support of the measure.

Specifically, the measure enables a firefighter who:

- (1) Has at least ten years of credited service as a firefighter;
- (2) Has been subsequently medically disqualified from service as a firefighter; and
- (3) Subsequently serves in a class A or B contributory membership capacity other than as a firefighter;

to retain the two and one-half per cent annual pension accrual rate for those years of service as a firefighter.

Your Committee finds that under existing law, firefighters are provided with a higher annual pension accrual rate than normal class A, contributory members of the Employees' Retirement System. This accelerated pension accrual rate is provided due in part to the risks taken by firefighters.

However, if a firefighter suffers a service-related disability and can no longer fulfill his or her duties, the firefighter is medically disqualified from service as a firefighter. As a consequence to this disqualification, if the medically disqualified firefighter takes a subsequent public sector position, that firefighter loses the right to have the years of service as a firefighter computed at the accelerated pension accrual rate.

Your Committee believes that firefighters who become medically disqualified due to a service-related disability should not have their retirement benefits penalized for assuming the risks of their jobs as firefighters.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2228, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2850 Labor on H.B. No. 2282

The purpose of this measure is to clarify the applicability of the State's Revised Uniform Arbitration Act, codified last year as Chapter 658A, Hawaii Revised Statutes (HRS).

Testimony in support of the measure was received from the Hawaii Commission to Promote Uniform State Laws.

Your Committee finds that the measure addresses an omission in the Revised Uniform Arbitration Act which governs arbitration agreements made prior to the effective date of Chapter 658A, HRS, if agreed to by the parties to the agreement or to the arbitration proceeding. However, the Revised Uniform Arbitration Act is silent as to which law governs if the parties do not agree. This measure will enable the use of the provisions in the previous arbitration law, which has since been repealed, when warranted.

Your Committee believes that this technical amendment to Chapter 658A, HRS, will enhance predictability in arbitration agreements and improve the arbitration process.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2282, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2851 Labor on H.B. No. 2501

The purpose of this measure is to allow the State to meet its fiscal obligation to provide for the health and welfare of state employees.

Testimony in support of the measure was received from the Department of Human Resources Development (department).

Specifically, the measure amends Act 259, Session Laws of Hawaii 2001, by transferring \$1 million into the department's workforce attraction, selection, classification and effectiveness fiscal year 2001-2002 appropriation (HRD 102) (section 82 of Act 259), from the department's fiscal year 2001-2002 appropriation for unemployment compensation claims of former state employees (section 83 of Act 259).

Your Committee finds that a critical funding emergency exists. The State Workers' Compensation Fund will be exhausted by approximately March 31, 2002, and the department will not be able to meet its fiscal obligation to provide for the health and welfare of state employees.

The department testified that the transfer of funds from the unemployment compensation claims allocation should not adversely impact the State's ability to pay unemployment compensation claims to its former employees.

Your Committee has amended the measure by making technical, nonsubstantive amendments for the purposes of clarity and style and to correctly reflect existing session law.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2501, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2501, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2852 Labor on H.B. No. 2526

The purpose of this measure is to change the annual injury report filing deadline employers must adhere to for workers' compensation cases.

Testimony in favor of the measure was received from the Department of Labor and Industrial Relations and the University of Hawaii.

Specifically, the measure changes the filing deadline from December to January 31 of each succeeding year.

Your Committee finds that under existing law, employers are required to annually file a report with the Department of Labor and Industrial Relations on workers' compensation-related claims paid by the employer over the preceding year. This report is due on December 31 of each year.

Your Committee also finds that the Auditor, as one of the recommendations contained in a management audit report on the Department of Labor and Industrial Relations' Disability Compensation Division, recommended that this deadline be moved back to provide sufficient time to employers to file complete reports.

Your Committee agrees with the Auditor's recommendation and believes that more time should be provided to employers to compile such information. This action will lessen the need for the Department of Labor and Industrial Relations to grant filing extensions, particularly in cases where an injury occurred late in the calendar year.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2526, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2853 Labor on H.B. No. 2530

The purpose of this measure is to allow parties involved in an unemployment appeal to file directly with the Employment Security Appeals Referee's Office (ESARO).

Testimony in support of the measure was received from the Department of Labor and Industrial Relations.

Your Committee finds that under existing law, a claimant or other party entitled to appeal a determination or redetermination of an unemployment claim may only file an appeal of the determination or redetermination at the office of the Department of Labor and Industrial Relations in which the claimant resides or was last employed. The measure would provide a claimant or other affected party with the additional option of filing the appeal directly to ESARO. Since ESARO is charged with the responsibility of hearing the appeals, the direct filing of appeals should be allowed.

Your Committee believes that the measure will enhance ESARO's efficiency in scheduling appeals hearings, resulting in speedier adjudication of unemployment claims appeals.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2530, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2854 Labor on H.B. No. 2531

The purpose of this measure is to clarify Act 6, Third Special Session Laws of Hawaii 2001, regarding reimbursement of payments for health insurance to provide that the expenditure of money appropriated shall be limited to the time period between September 11, 2001, through June 30, 2002, or until the money runs out.

Testimony in support of the measure was received from the Department of Labor and Industrial Relations and the Department of Commerce and Consumer Affairs Insurance Division.

Your Committee finds that the terrorist attacks of September 11, 2001, sent devastating shockwaves through Hawaii's economy. The downturn in the tourism industry caused a ripple effect in all sectors of the State's economy, subjecting many workers to furloughs, layoffs, and reduced work hours. Although many of these workers qualify for relief through unemployment insurance benefits, in some cases, they are not able to continue their health insurance coverage due to their financial situation.

To this end, your Committee finds that Act 6, Third Special Session Laws of Hawaii, 2001, was enacted to provide temporary health insurance for unemployed persons who lost their health insurance on or after September 11, 2001, or who cannot afford to pay for continued coverage. The clarifications to Act 6 that are contained in this measure will enable the State to effectively administer the temporary health insurance program and consequently ensure the continued provision of health insurance coverage to dislocated workers of the State until the appropriation is completely used.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2531, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2855 Water, Land, Energy, and Environment on H.B. No. 2128

The purposes of this measure are to extend the lapse date of the authorization for \$20,000,000 in special purpose revenue bonds for Hui `Enekinia Hawai`i from June 30, 2003, to June 30, 2007, to add refunding language, and to delete water production facilities from the scope of the project.

Testimony in support of this measure was received from Hui `Enekinia Hawai`i.

Your Committee finds that this project would provide opportunities for the conversion of waste products, as well as contribute to meeting the energy needs of the Island of Hawaii.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2128, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2856 Water, Land, Energy, and Environment on H.B. No. 2266

The purposes of this measure are to define accreted lands, include accreted lands in the definition of public lands, and require that accreted lands shall be state lands except that a private property owner may file an accretion claim to regain title to the owner's eroded land that has been restored by accretion.

Testimony in support of this measure was received from Hawaii's Thousand Friends, Life of the Land, and three individuals. The Department of Land and Natural Resources testified in opposition.

Your Committee finds that the issue of ownership of accreted beach lands is a particularly critical one, as it directly affects the public's use of these lands.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2266, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2857 Water, Land, Energy, and Environment on H.B. No. 2536

The purpose of this measure is to remove the sunset provision of the Act in order to make permanent the deletion of statutory language regulating the taking of marine life, including minimum sizes for sale, catch limits, and closed seasons.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee has heard that the Department would regulate these provisions through rulemaking. As part of this process, the Department has held ten statewide public meetings, and has received favorable comments for the majority of its proposals.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2536, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2858 Water, Land, Energy, and Environment on H.B. No. 2537

The purposes of this measure are to expand the Department of Land and Natural Resource's authority to possess or use chemicals, electrofishing devices, explosives, and other fishing gears that would normally be unlawful, when no other reasonable alternative exists, to expand the Department's authority to permit non-consumptive activities that are otherwise prohibited by law, and to clarify that permits issued for chemicals and electrofishing devices include possession or use of such devices.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee has heard that recent developments in fishing gear technology, watchable wildlife programs, and alien species infestations have highlighted the Department's limited authority to deal with these issues. This measure would expand and clarify their authority to better manage the State's aquatic resources.

Your Committee previously approved S.B. No. 2795, S.D. 1, and has amended this measure to incorporate the same changes. As amended, the measure deletes proposed language that would have given the Department the authority to use explosives or to issue permits for the use of explosives, and requires the Department to consider using chemicals or electrofishing devices only when no other reasonable alternative is appropriate, and in accordance with established procedures and with proper training.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2537, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2537, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2859 Water, Land, Energy, and Environment on H.B. No. 2538

The purpose of this measure is to permanently exempt the sport fish special fund from the central service and administrative fees.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee has heard that these exemptions are required by the U.S. Fish and Wildlife Service under federal law, and that failure to provide the exemptions could result in the loss of over \$2,000,000 in federal funds.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2538, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2860 Water, Land, Energy, and Environment on H.B. No. 2550

The purpose of this measure is to authorize the Commission on Water Resource Management to determine appurtenant water rights under the water code.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds the Commission has been advised that, under current law, it does not have this authority and therefore the courts are the proper forum to determine appurtenant water rights.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2550, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2861 Water, Land, Energy, and Environment on H.B. No. 2553

The purpose of this measure is to increase the amount of funding received by the Bureau of Conveyances from fees in order to continue modernization efforts and ensure adequate staffing.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that this measure will not raise fees for the public, but will instead allow the Bureau to retain a higher portion of the current fees to fund its programs.

Your Committee has amended this measure to correctly reflect the language in the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2553, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, English, Kokubun, Hemmings).

SCRep. 2862 Water, Land, Energy, and Environment on H.B. No. 2731

The purpose of this measure is to authorize issuance of \$25,000,000 in special purpose revenue bonds to assist Central Oahu Recycling and Disposal Facility, Inc., in acquiring land for, and planning, designing, and constructing a private solid waste recycling and disposal facility on the island of Oahu.

Testimony in support of this measure was received from Central Oahu Recycling and Disposal Facility, Inc., Eco-Feed, Inc., The Norfolk Group, Inc., and one individual. The Department of Health and the Honolulu Board of Water Supply testified in opposition.

Your Committee has heard that currently only about thirty per cent of Oahu's solid waste is being recycled, short of the fifty per cent goal the State had hoped to reach by 2000. The facility proposed in this bill would greatly expand recycling by commercial entities, as the Central Oahu Recycling and Disposal Facility, Inc., is designed to recycle eighty per cent of the solid waste it would receive.

Your Committee has also heard concerns raised by both the State and the City and County of Honolulu regarding the siting of this facility over the Pearl Harbor aquifer. Your Committee agrees this will be a critical factor in both the design and the permitting of the facility, and Central Oahu Recycling and Disposal Facility, Inc., has indicated they will be working with state and county government to resolve this and any related issues.

Your Committee considered a concern raised by the Department of the Attorney General as to whether the project meets the requirements for a "processing enterprise" and a related amendment proposed by the State's general advice counsel for public finance matters. However, your Committee notes that the proposed amendment has already been incorporated in the current House draft of the bill.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2731, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Ihara, Kokubun, Matsunaga, Nakata).

SCRep. 2863 (Joint) Health and Human Services and Education on S.C.R. No. 18

The purpose of this measure is to endorse the "School and Community Profiles" created through collaboration between the Hawaii Performance Partnership Board (HPPB) and various federal, state, county and community partners.

Testimony in support of this measure was submitted by the Office of the Governor, the University of Hawai'i Center on the Family, the Department of Human Services, the Department of Business, Economic Development, and Tourism, the Hawai'i Association for the Education of Young Children, the Hawaii Performance Partnerships Board, Ho'owaiwai Na Kamali'i, Blueprint for Change, Hawaii Medical Service Association, Hawaii Kids Count, Alu Like, Inc., and the Good Beginnings Alliance.

Your Committees find that the Hawaii Performance Partnerships Board (HPPB) was created in 1999 through Act 160, Session Laws of Hawaii 1999, to develop and propose key community indicators of well-being for Hawaii residents and to promote the use of such indicators in the evaluation of state programs and services. Your Committees further find that Act 274, Session Laws of Hawaii 2001, required that the HPPB, with the assistance of the University of Hawai'i Center on the Family, develop key indicators and data sets related to the health, education, and socioeconomic well-being of Hawai'i's children and families. Your Committees further find that within the State, there are a myriad state and community agencies offering services to children and families, and therefore it is critical that these programs all be held to the same standard so that comparative evaluation of their outcomes can be undertaken. Your Committees further agree that encouraging state and community agencies to incorporate these outcome indicators within their planning and budget functions will support data-driven decisions that will ultimately improve the efficiency and effectiveness of services.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 18 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 5 (Fukunaga, Kawamoto, Kokubun, Menor, Tam).

SCRep. 2864 Health and Human Services on H.B. No. 1864

The purpose of this measure is to provide visitation rights to siblings of minor children in a custody dispute.

Your Committee received testimony favoring this measure from the Family Court of the First Circuit, Attorney General, Department of Human Services, Hawaii Foster Youth Coalition, Keiki Injury Prevention Coalition, and Volunteer Legal Services Hawaii.

Your Committee finds that siblings should be considered to be persons interested in the welfare of the child for the purposes of section 571-46, Hawaii Revised Statutes. According to expert opinion, siblings who are able to maintain continuing relationships with one another after they are removed from their parents' custody are better able to adjust to life circumstances.

Your Committee has made nonsubstantive, technical amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1864, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1864, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2865 Health and Human Services on H.B. No. 2223

The purpose of this measure is to extend the Program for All Inclusive Care for the Elderly (PACE) demonstration project at Maluhia to June 30, 2005.

Your Committee finds that as the PACE demonstration project at Maluhia awaits federal approval to become a permanent provider from the Center of Medicare and Medicaid Services, it provides invaluable comprehensive, community-based programs that prevent institutionalization and contains long-term care costs for the chronically ill and disabled elderly.

Your Committee has amended this measure by making nonsubstantive, technical changes.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2223, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2223, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2866 Health and Human Services on H.B. No. 2258

The purposes of this measure are to remove the sunset date of Chapter 451J, Hawaii Revised Statutes, pertaining to regulation of marriage and family therapists, and to allow the Director of Commerce and Consumer Affairs to enter into reciprocity agreements with

other states to issue marriage and family therapist licenses to those licensed in another state, so long as the licensing requirements of that state are at least as stringent as Hawaii's.

Your Committee received testimony favoring this measure from the Department of Commerce and Consumer Affairs, Hawaii Association for Marriage and Family Therapy, Chaminade University, two individuals of Argosy University, Law Offices of Philip S. Nerney, Kelly & Associates, Compassionate Counseling, Bobby Benson Center, Hawaii International Child, Properties of the Pacific, Damien Memorial High School, National Association of Social Workers, and twenty-six individuals. Comments on this measure were received from Christian Science Committee on Publication for Hawaii.

Your Committee finds that the health of Hawaii's citizens is too important to risk losing this highly qualified group of mental health providers. This professional group has been shown to reduce mental health costs by encouraging rate competition between other providers while providing consumers with a viable, professional alternative. By recognizing the licensure of marriage and family therapists, this measure encourages fair competition among mental health providers, and challenges the long-standing monopoly psychiatry and clinical psychology have held on the mental health market.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2258, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2867 Health and Human Services on H.B. No. 2426

The purpose of this measure is to create new criminal offenses relating to child pornography.

Testimony in support of this measure was received from the Attorney General, Honolulu Police Department, Honolulu Prosecuting Attorney, Volunteer Legal Services Hawaii, and an individual. The Public Defender submitted objections.

This measure:

- (1) Addresses child pornography as it exists today with the usage of computers, by creating an offense of electronic enticement of a child in the first and second degrees;
- (2) Creates an offense of promoting child abuse in the third degree for possession of child pornographic material;
- (3) Creates an affirmative defense to promoting child abuse if the person depicted is more than 16 years old;
- (4) Clarifies existing law relating to promoting child abuse in the first and second degrees; and
- (5) Subjects to forfeiture, property used in promoting child abuse and electronic enticement of a child.

Your Committee finds that the use of the Internet to entice children into meetings has become widespread. Current laws do not specifically address using computers to communicate with minors for purposes of committing crime. This measure would close that loophole, and would allow sex offenders to be investigated and prosecuted before they commit a kidnapping or other crime. One method of investigation that has been successful in arresting sex offenders before a child is hurt has been sting operations in which the sex offender's intended victim is actually a police officer posing as a minor in chat rooms or E-mail communications. Once the sex offender agrees to meet the child and goes to the meeting place, the offender is arrested. However, the sex offender's defense to attempted sexual assault is often the defense of impossibility because the person posing as a child was not actually a child. Therefore, it is important to criminalize the sex offender's predatory computer behavior, so that the offender can be prosecuted for what the offender has actually done, as opposed to what the offender may have been trying to do.

Your Committee further finds that the State must prove beyond a reasonable doubt that a pornographic image is of a child who is less than sixteen years of age to prove the crime of child abuse under the current law. Unfortunately, it is often impossible to prove the age of a child in a pornographic image, even when the child appears to be a minor. Moreover, in this age of computer generated images, pornographers sometimes use the defense that the image could have been created using several different children, or using some children and some adults. Thus, when the State attempts to prove that there is a child under sixteen years of age in the image, the defense counters that the State cannot prove that the image even includes a person because the image could have been computer generated. The State's burden of proof under current law is to disprove the possibility that the image could have been created using more than one child. This is often impossible even when the image contains the clearly identifiable face of a child on a body performing a sexual act. The federal definition of pornography that this bill seeks to enact was designed to address these issues.

In addition, this measure carefully clarifies and defines terminology relating to child pornography to facilitate prosecution and to protect rights.

Your Committee has amended this measure, on the recommendation of the Attorney General, by deleting its contents and inserting S.B. No. 2684, S.D. 1, which:

- (1) Raises the age from sixteen to eighteen wherever it appears;
- (2) Adds "pornographic" to describe "visual representation" in the definition of "child pornography";

- (3) Deletes “pornographic” in the definition of “sexual conduct”;
- (4) Adds “simulated” to describe “sexual conduct” in the affirmative defense to child abuse, new section 707- (1)(a);
- (5) Changes the effective date to upon approval; and
- (6) Makes technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2426, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2426, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2868 Health and Human Services on H.B. No. 2428

The purpose of this measure is to require producers of pornography to verify that their performers are not minors, and to keep documentation of this verification.

Testimony in support of this measure was received from the Attorney General, Honolulu Police Department, Honolulu Prosecuting Attorney, and Volunteer Legal Services Hawaii.

Testimony on this measure indicates that law enforcement has had difficulty in gaining the cooperation of minor victims and witnesses to prosecute producers and purveyors of pornography. The approach proposed by this measure obviates this problem by requiring persons using sexual performers to create, maintain, and affix information which can be checked by law enforcement to ascertain that minors were not used in the creation or production of the performance or material. This measure allows law enforcement to check for violations by using records required to be kept versus having to gain the cooperation of the minors to detect, investigate, and prosecute violations.

This measure is intended to detect, prosecute, and ultimately extinguish the practice of using minors to pose for pornography, by facilitating the investigation of such activities. This measure fills in the missing link in a chain of required proof to successfully prosecute a child pornography case.

Your Committee has amended this measure, on the recommendation of the Attorney General, by deleting its contents and inserting S.B. No. 2686, S.D. 2, which:

- (1) Deletes reference to “live audience” in new section 712-A(1)(c) of the House version;
- (2) Deletes requirement in new section 712-A(1)(c) that the records be produced for a law enforcement officer within twenty-four hours;
- (3) Deletes new section 712-A(1)(d) of the House version, referencing maintaining records on site;
- (4) Deletes new section 712-A(2) of the House version, referencing use of the information or evidence obtained;
- (5) Adds birth certificate to the list of documents for which certified copies are required in definition of “age verification records of sexual performers”;
- (6) Deletes the definition of “live audience”;
- (7) Adds definitions for “sexual conduct” and “sexual exploitation of a minor”; and
- (8) Makes technical changes for style and clarity.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2428, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2428, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2869 Health and Human Services on H.B. No. 2432

The purpose of this measure is to remove the authority of the Office of Child Support Hearings (OCSH) to issue administrative orders for the direct payment of child support.

Your Committee received testimony in support of this measure from the Attorney General.

Your Committee finds that this measure is essential to ensure that OCSH continues to receive its share of federal funding. The receipt of these federal funds is conditioned upon the OCSH performing only those functions that are federally approved under Title IV-D of the Social Security Act.

Because the issuance of administrative orders for the direct payment of child support is not a federally approved function, this measure clarifies that OCSH does not have the authority to issue orders for direct payments, and hence protects its federal moneys.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2432, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2870 Health and Human Services on H.B. No. 2433

The purpose of this measure is to enable the Child Support Enforcement Agency (CSEA) to notify employers of the amount of child support automatically withheld from an employee's paycheck by way of notice, as opposed to requiring a certified court order being served on the affected employer.

Further, it allows the CSEA to levy fines against individuals and entities not responding to its requests for information, and clarifies that spousal support can only be enforced when child support is being enforced and that all child support records are confidential.

Your Committee received testimony in favor of this measure from the Attorney General.

Your Committee finds that this measure complies with federal statutory requirements and streamlines the child support enforcement process.

Your Committee has made nonsubstantive, technical amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2433, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2433, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2871 Health and Human Services on H.B. No. 2467

The purpose of this measure is to conform naturopathy licensing requirements to current practices and to changes in the accreditation of naturopathy schools.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs.

Prior to August, 2000, applicants for the naturopathy licensing examination were required to submit their applications to the Board of Examiners in Naturopathy, rather than to the testing agency. Subsequently, procedures were changed to allow submission of the application directly to the testing agency. This measure amends the law to conform to this practice and makes other amendments to clarify the examination requirement.

In addition, this measure amends the licensing law to conform to current accreditation practices for naturopathy schools. Presently the law requires that license applicants have graduated from a school accredited by a regional or national professional accrediting body recognized by the United States Department of Education (USDOE), a professional accrediting body being one that specializes in naturopathy. The only such accrediting body lost its recognition a year ago, therefore making it impossible for applicants to meet the educational requirement. By deleting the statutory reference to a "professional" accrediting body, this measure allows for the recognition of degrees earned from schools accredited by other USDOE-recognized regional or national accrediting bodies.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2467, and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2872 Health and Human Services on H.B. No. 2496

The purposes of this measure are to amend chapter 346, Hawaii Revised Statutes, to clarify that a person who provides care for two or fewer unrelated children is exempt from child care licensing and registration statutes, and to allow the Department of Human Services (DHS) to investigate possible violations of child care law.

Your Committee received testimony in support of this measure from DHS.

Your Committee finds that the amendments contained in this measure will reinstate prior law, inadvertently repealed two years ago, to the effect that a person who cares for two or fewer unrelated children is exempt from child care licensing and registration laws.

In addition, this measure gives DHS the tools necessary to effectively investigate complaints of illegal child care practices. Under existing law, DHS lacks the authority to investigate complaints taking place outside of a licensed child care facility.

Your Committee finds that complaints of violations of the State's child care laws deserve all the resources the State can muster, and therefore fully supports this important measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2496, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2873 Health and Human Services on H.B. No. 2507

The purpose of this measure is to repeal the requirement of registering divorces and annulments with the Department of Health.

Your Committee received testimony favoring this measure from the Department of Health.

Your Committee finds that the burden on the Department to register divorces and annulments is excessive and renders the Department less efficient in its overall duties. Additionally, the process duplicates documents kept by the Judiciary.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2507, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2874 Health and Human Services on H.B. No. 2514

The purpose of this measure is to allow the Director of Health to deny the renewal of a tattoo artist license.

Your Committee received testimony favoring this measure from the Department of Health.

Your Committee finds that while the Director of Health may suspend, revoke, or deny a license of a tattoo artist, currently it is not explicitly clear whether the Department has the authority to deny a renewal of a license if the applicant does not meet the requirements of Chapter 17, Hawaii Administrative Rules. This measure provides clarity by allowing the Director to deny the renewal of a license when warranted.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2514, and recommends that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2875 Health and Human Services on H.B. No. 2618

The purpose of this measure is to allow dental patients the option of having their insurance reimbursement sent directly to a dentist of their choice, regardless of whether the dentist is a preferred provider.

Testimony in support of this measure was submitted by the Hawaii Dental Association, The Hawaii Dental Hygienists' Association, Hawaii Medical Association, and eight dentists and one dental hygienist. Hawaii Society of Anesthesia submitted testimony in support with a request to include all medical practitioners. Testimony in opposition to this measure was submitted by the Chamber of Commerce of Hawaii, Iron Workers Stabilization Fund, Hawaii Medical Service Association, and Hawaii Association of Health Plans. The Hawaii Dental Service and Hawaii Government Employees Association submitted comments on the measure.

Your Committee finds that the relationship between health insurance plans (plans) and health care providers (providers) primarily serves consumers by managing health care costs through contractual agreements between the plans and the providers that set fees and reimbursement options. Further, due to the limited number of plans in Hawaii, consumers generally have a broad choice of providers who voluntarily participate in plans and who receive direct reimbursement from the plans as a "participating" provider, usually at rates more favorable than for "nonparticipating" providers. However, your Committee further finds that in Hawaii and especially on the neighbor islands, dental care providers participate at a much lower rate than other providers and thus consumer choices amongst participating providers are more limited. Your Committee agrees that this measure is necessary to ensure that the broadest range of dental care providers is available to Hawaii consumers, while noting that this measure provides the option to the consumer of assigning reimbursement directly to the provider but does not mandate such direct reimbursement.

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

- (1) Changing the effective date to January 1, 2003; 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 Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2618, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2618, H.D. 1, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2876 (Majority) Labor on H.B. No. 1843

The purpose of this measure is to reinstate binding arbitration for bargaining unit 9 (registered professional nurses).

The Hawaii Government Employees Association testified in support of the measure. The Office of Collective Bargaining testified in opposition.

Your Committee finds that under binding arbitration, when labor and management are unable to come to an agreement, arbitrators consider the issues at impasse and impose a binding contract on both parties. In exchange, employees give up their right to strike.

Your Committee also finds that registered professional nurses, like firefighters and police officers, provide a necessary and critical service to the people of Hawaii. However, unlike firefighters and police officers whose collective bargaining contracts are subject to binding arbitration, registered professional nurses are allowed to strike after negotiations prove fruitless.

Your Committee believes that the collective bargaining contracts of registered professional nurses should be subject to binding arbitration in order to safeguard the health and welfare of the people of this State.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1843, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2877 Labor on H.B. No. 2460

The purpose of this measure is to reduce the annual contributions of public employers to the Employees' Retirement System (ERS) by amortizing liability over a period of twenty-nine years, beginning July 1, 2000.

The Department of Budget and Finance submitted testimony in support of the measure. The ERS and a private citizen opposed passage of the measure.

Your Committee finds that the tragic terrorist attacks in New York City and Washington D.C. have resulted in grim economic effects in the country and in Hawaii. On November 14, 2001, the Council on Revenues amended its previous projections by reducing the fiscal year 2001-2002 projection from 4.1 per cent to -.7 per cent and the fiscal year 2002-2003 projection from 5.2 per cent to 5.1 per cent. These reductions and out-year projections result in a general fund reduction of approximately \$1,186.8 million over the planning period.

The contrary situation of reduced revenues and increased funding requirements require an in-depth review of both resources and costs. The magnitude of the State's economic downturn requires that all areas, including non-discretionary expenditures, be reviewed.

Your Committee finds that this measure will reduce the State and counties' annual payments by amortizing the liability over a longer time frame.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2460, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2878 Labor on H.B. No. 2500

The purpose of this measure is to make housekeeping amendments to Act 253, Session Laws of Hawaii 2000 (Act 253), otherwise known as the Civil Service Modernization Act.

Testimony in support of the measure was received from the Office of Collective Bargaining.

Your Committee finds that the amendments contained in this measure are necessary to further effectuate the Legislature's intent when it embarked on its quest to modernize Hawaii's civil service system.

The measure accomplishes this by correcting statutory references or language changes that were inadvertently left out and subsequently identified by the Department of Human Resources Development and the Legislative Reference Bureau as extraneous, unnecessary, or in need of clarification.

Your Committee has amended the measure by:

- (1) Adding a section to the measure that deletes section 89-12(c), Hawaii Revised Statutes (HRS), to reflect the repeal of the "essential worker" statutes in Act 253; and
- (2) Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2500, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2500, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2879 (Joint) Labor and Water, Land, Energy, and Environment on H.B. No. 2599

The purpose of this measure is to appropriate funds to continue the efforts of the emergency environmental workforce to improve the State's economy by employing citizens to protect the environment.

Testimony in support of the measure was received from the Board of Land and Natural Resources, the County of Hawaii, the Research Corporation of the University of Hawaii, the Maui Invasive Species Committee, the project coordinator for the emergency workforce, the Coordinating Group on Alien Pest Species, Sierra Club Hawaii Chapter, Hawaii's Thousand Friends, and six private citizens.

Your Committees find that the terrorist attacks of September 11, 2001, have resulted in a significant economic downturn in the State. In an effort to assist those people who were displaced as a result of the September 11, 2001, terrorist attacks, the Legislature enacted Act 4, 2001 Third Special Session, which established an emergency environmental workforce for short-term employment for individuals who lost their jobs.

Your Committees have amended the measure by:

- (1) Deleting the appropriated amount of \$1 and leaving the amount to be appropriated blank for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committees believe this program is an ingenious way of keeping Hawaii's displaced workforce working. The persons employed by the program are providing a much needed service to the community which would otherwise go unfurnished.

As affirmed by the records of votes of the members of your Committees on Labor and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2599, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2599, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 5 (Kanno, Kawamoto, Matsunaga, Matsuura, Sakamoto).

SCRep. 2880 Education on H.B. No. 2352

The purpose of this measure is to add the definition of "school readiness" to Act 77, Session Laws of Hawaii 1997.

Your Committee received testimony in favor of the measure from the Department of Human Services and Maui County Good Beginnings Community Council.

Your Committee finds that the companion bill to this measure, S.B. 2283, S.D. 1, is proceeding in the House of Representatives. Therefore, your Committee has voted to reconsider action taken previously on H.B. No. 2352, H.D. 1, with the intention of replacing its contents with those of H.B. No. 2853, H.D.1, which calls upon the Department of Education to conduct a comprehensive occupational validation study of its educational officers, to address the concerns of the State Auditor.

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. 2352, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2352, H.D. 1, S.D. 1, and be recommitted to the Committee on Education.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Menor, Tam).

SCRep. 2881 Health and Human Services on H.B. No. 2521

The purpose of this measure is to enable the Department of Health to respond rapidly and efficiently to emerging health problems before they develop into catastrophic health emergencies.

Testimony in support of this measure was received from the Department of Health (DOH) and Healthcare Association of Hawaii. Testimony in opposition was received from the Consumer Lawyers of Hawaii.

Your Committee finds that current law grants the DOH the necessary powers to deal with a health emergency that results in a declaration of disaster by the Governor. However, your Committee acknowledges that there are gaps in the Department's authority to deal with serious and potential catastrophic situations before they reach the disaster level. This measure would:

- (1) Enable the DOH to form partnerships with health care facilities and providers to plan for and deliver services under circumstances where the Department's existing resources are inadequate;
- (2) Update and reform the quarantine laws to provide due process to potentially contagious individuals the Department might seek to isolate from the public;
- (3) Allow the DOH to sequester or isolate contaminated items or materials to protect the public from toxic or infectious substances; and
- (4) Enable disease investigators to obtain critical information to determine the cause and limit the impact of disease outbreak.

Your Committee finds that in light of the September 11, 2001, attacks on the United States and the potential threat of bioterrorism, this measure is needed to ensure the safety of our citizens and the State.

Your Committee has amended this measure, as requested by the DOH, to substantially restore language deleted or amended by the House Committee on Judiciary and Hawaiian Affairs when it made technical changes to the measure. Your Committee finds that these technical changes either effected substantive changes or created uncertainty in the language. Therefore, your Committee has:

- (1) Amended language to clarify that the wilful misconduct exception to immunity from liability applies to health care facilities and providers, not to the State or political subdivisions;
- (2) Amended language to clarify the State's intent to implement a quarantine that respects individual dignity to the greatest possible extent, but is consistent with disease control objectives;
- (3) Amended language to clarify under what conditions quarantine is considered to be the least restrictive means of protecting the public's health, safety and welfare; and
- (4) Deleted language setting forth the State's policy on the use of quarantine, to avoid redundancy and confusion with another similar provision in the measure.

In addition, your Committee has made technical, nonsubstantive amendments to the measure to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2521, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2521, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Nakata).

SCRep. 2882 (Joint) Education and Transportation, Military Affairs, and Government Operations on H.B. No. 1974

The purpose of this measure is to provide funds for a position in the Department of Accounting and General Services to coordinate public and private efforts to repair and maintain public schools.

Your Committees received testimony in support of the measure from the Department of Accounting and General Services, the Department of Education, Hawaii Government Employees Association, Hawaii's 3R's, General Contractors Association, Hawaii Chamber of Commerce, and Hawaii State Teachers Association. Your Committees received testimony in opposition to the measure from a private individual.

Your Committees find that Hawaii 3R's has been an innovative and effective means of beginning to tackle the State's extensive repair and maintenance backlog, and forging lasting community partnerships. Although the program should be allowed to continue its good work, Act 309, Session Laws of Hawaii 2001 only funded the coordinator position for the first fiscal year.

Your Committees have amended the measure to increase funding for the measure from \$1 to \$51,312 to appropriately value additional duties that have been assigned to the position that provide synergy with the repair and maintenance program. A technical, nonsubstantive amendment was also made.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1974, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1974, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Buen, Fukunaga, Ige, Kanno, Matsunaga, Tam).

SCRep. 2883 Education on H.B. No. 1942

The purpose of this measure is to establish a temporary commission to arrange for the commemoration of the centennial anniversary of the arrival of the first Filipinos to Hawaii. The commission would be composed of fifteen members appointed by the Governor and be allowed to seek grants from public and private sources to finance the celebration activities.

Your Committee received testimony in favor of this measure from Ilocos Surian Association of Hawaii, Big Island Filipino Community Council, Congress of Visayan Organizations, and an individual.

Your Committee finds that the Filipino community has enriched Hawaii with its culture and contributed to the economic, social, and political life of the State.

Your Committee has amended this measure by deleting the excessively broad civil liability immunity provisions for commission members.

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. 1942, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1942, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chun Oakland, English, Kawamoto, Tam).

SCRep. 2884 Education on H.B. No. 1959

The purposes of this measure are to:

- (1) Repeal the HOPE endowment special fund; and
- (2) Transfer the remaining balance to the University of Hawaii tuition and fees special fund to be used for programs to support underrepresented students and promote diversity.

Your Committee received oral testimony in support of the measure from the University of Hawaii.

Your Committee finds that reallocating the remaining balance of the HOPE endowment special fund would facilitate the continuation of a diverse student body in the University of Hawaii. Such a multiplicity of viewpoints and backgrounds will enhance the quality of student learning and social development, and is consistent with the original purpose of the HOPE endowment special fund.

Your Committee has amended the measure by replacing its contents with the contents of S.B. No. 2067, S.D. 2, which are substantially similar, except for technical nonsubstantive differences and effective dates of "upon its approval" in the House version and July 1, 2002 in the Senate version. Your Committee also made technical nonsubstantive amendments to reflect preferred 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 H.B. No. 1959, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1959, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2885 Education on H.B. No. 2164

The purpose of this measure is to amend the Hawaii Educator Loan Program law by:

- (1) Reducing the repayment schedule from ten years to six years;
- (2) Exempting the rules from the public notice and public hearing requirements of chapter 91, Hawaii Revised Statutes;
- (3) Establishing an appropriation ceiling for the loan program;
- (4) Authorizing up to five per cent of outstanding loans for administrative costs; and

- (5) Requesting supplemental funds for the program.

Your Committee received testimony in support of this measure from the Lieutenant Governor, University of Hawaii, Superintendent of Education, Hawaii State Teachers Association, the Hawaii Business Roundtable, and an individual.

Your Committee finds that the current teacher shortage and high attrition rate must be addressed. Research indicates that new teachers usually leave the profession between the first three to five years of teaching. However, retention increases significantly if a teacher stays in the system past five years. Rather than requiring ten years of service, this measure reflects a more realistic time frame of six years, after which the likelihood of staying in the profession increases.

Further, exempting the new rules from the public notice and public hearing requirements of chapter 91, Hawaii Revised Statutes, will expedite the time it takes for these loans to be made available to the students. Supplemental funds are necessary to expand the program to include more students, committing more graduates to the Department of Education as teachers.

Your Committee has amended this measure by making technical amendments to add an appropriation from the Educator Loan Program Special Fund to the University of Hawaii to allow the University to expend funds to implement the Hawaii Educator Loan Program, and to include a reference to the Hawaii Revised Statutes.

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. 2164, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2164, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2886 Education on H.B. No. 2558

The purpose of this measure is to resolve the shortage of teachers in the State's public school system by:

- (1) Creating the Hawaii Educator Incentive Program (HEIP) and Special Fund to be administered by a federal credit union that has been contracted to provide financial assistance to teachers who graduate from a state-approved teacher education program and agree to serve in the Department of Education (DOE); and
- (2) Establishing eligibility requirements, maximum reimbursement amounts, repayment schedules, and loan forgiveness payment guidelines to implement HEIP;

The Lieutenant Governor, DOE, University of Hawaii, Hawaii State Teacher's Association, Hawaii Association of Independent Schools, and Hawaii Business Roundtable submitted testimony in support of this measure.

Your Committee recognizes that there is an extreme teacher shortage in Hawaii and steps should be taken to encourage students to become teachers and to remain in Hawaii to have a positive impact on our youth. Approximately 1,000-2,000 new teachers are needed in Hawaii every year, while the UH produces only 450 graduates each year.

Your Committee also recognizes that not all graduates of the UH's College of Education decide to teach in the DOE. Therefore, the DOE recruits teachers from other state-approved teacher education colleges such as Brigham Young University, Chaminade, and Hawaii Pacific University. These institutions assist the State by offsetting the shortage of teachers. Establishing HEIP will increase our pool of teachers in Hawaii and promote retention of our teachers, thereby helping to alleviate the teacher shortage.

Your Committee finds that certain concerns may arise as to the constitutionality of the use of state general funds to support and benefit private educational institutions pursuant to the holding in Spears v. Honda, 51 Haw. 1, 449 P.2d 130 (1968) and Article X, section 1 of the Hawaii State Constitution. However, your Committee finds that HEIP does not provide funds to private educational institutions, even indirectly, nor does it provide preferential treatment to private school students over public school students.

HEIP only provides financial assistance to teacher education students once they have completed school and have been hired by DOE. Therefore, moneys will not be provided indirectly to private institutions since students who receive funds through HEIP will have already paid off their tuition.

Your Committee amended this measure to:

- (1) Replace the term "loan forgiveness," "loan," "award," and similar terms with "tuition reimbursement" to reflect the actual nature of the program;
- (2) Provide that payments shall commence after the recipient begins work with the DOE, rather than upon graduation;
- (3) Designate the DOE rather than UH as the administrator of the program; and
- (4) Make a technical amendment.

Your Committee believes that this measure, as amended, will help to ease the financial burden of student loans for future teachers.

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. 2558, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2558, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, English, Kawamoto, Tam).

SCRep. 2887 Education on H.B. No. 2798

The purpose of this measure is to appropriate funds for University of Hawaii scholarships for students who qualify for tuition waivers, so that they may take advantage of the HOPE scholarship federal tax credit. Each scholarship shall not exceed \$2,000 per student.

Your Committee finds that University of Hawaii students are unable to take advantage of the HOPE federal tax credit as tuition waiver recipients do not have qualified educational expenses upon which to claim the credit. This measure provides scholarships that will result in educational expenses for which students may claim the credit. In this manner, scholarship students may take advantage of the HOPE tax credit.

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. 2798, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2888 Education on Gov. Msg. No. 236

Recommending that the Senate advise and consent to the nomination of the following:

STATE POST-SECONDARY EDUCATION COMMISSION

LOIS C. MIYASHIRO, for a term to expire June 30, 2005,

Upon review of the testimony and statements submitted by the nominee, your Committee finds that she has the necessary character, experience, and qualifications to serve on the State Post-Secondary Education Commission ("Commission").

Your Committee received testimony in support of Ms. Miyashiro's nomination from the State Representative from the 34th District and from a private citizen.

Your Committee finds that the nominee is being reappointed for another term on the Commission. Ms. Miyashiro has been involved with public education both as a community member and as a parent for many years, and has been active at the school level, the district level, and the state level.

Most notably, Ms. Miyashiro was a member of the District School Advisory Council (SAC) for the Central Oahu District for eight years, serving as chairperson for five years. Those who have dealt with Ms. Miyashiro praise her knowledge, dedication, and experience.

Based upon this review, your Committee finds that the nominee has been appointed based upon her credentials, integrity, and a desire to improve Hawaii through her service on the Commission.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2889 Labor on S.C.R. No. 29

The purpose of this measure is to request that the Insurance Commissioner convene a task force to review and examine the effectiveness of the Prepaid Health Care Act (PHCA).

Testimony in support of the measure was received from the Department of Labor and Industrial Relations, the Chamber of Commerce of Hawaii, the Hawaii Business League, the National Federation of Independent Business, Kaiser Permanente, the Hawaii Medical Association, the Hawaii Uninsured Project, and the Healthcare Association of Hawaii.

The measure also requests that the PHCA Task Force examine the feasibility of:

- (1) Amending the PHCA and the possible effects the amendments could have on Hawaii's ERISA exemption;

- (2) Identifying or developing a process to ensure that any amendment to the PHCA does not jeopardize Hawaii's ERISA exemption (e.g., having a federal agency review any proposed amendment and certifying that it will not result in Hawaii losing its ERISA exemption); or
- (3) Repealing the Act and alternatives for its replacement.

Your Committee finds that the PHCA was enacted by the Legislature in 1974, in an effort to ensure that the working people of Hawaii had access to adequate health care (Act 210, Session Laws of Hawaii 1974). The PHCA mandates employers to provide adequate prepaid health care coverage to employees working at least twenty hours per week.

Since its enactment, the PHCA has accomplished a great deal in terms of providing adequate health care coverage for the working people of Hawaii, defining a basic health care coverage benefits package long before the idea became a standard, and enfranchising thousands of people.

Notwithstanding its accomplishments, the history of the PHCA has not always been filled with universal enthusiastic support. Only three months after the enactment of the PHCA, mandatory employee health care coverage in Hawaii soon found itself on a collision course with federal law as the U.S. Congress enacted the Employee Retirement Income Security Act of 1974 (ERISA). In 1977, Standard Oil Company of California, a self-insured employer with workers in Hawaii, filed suit in federal court, essentially questioning whether self-insured employers were subject to state regulation of employee benefits. The court found in favor of Standard Oil and held that ERISA preempted the PHCA.

Hawaii sought and successfully obtained a waiver exempting the PHCA from ERISA preemption when President Ronald Reagan signed a bill into law that approved the exemption in 1983. Although the waiver exempted the PHCA from ERISA, it also specifically prohibited any changes to the Act after September 2, 1974, other than those changes that might improve "effective administration". This exemption essentially froze the PHCA in the form it was passed in 1974.

The frozen status of the PHCA has generated controversy to the extent that some argue that the federal exemption does not allow the PHCA to evolve with the times.

Your Committee believes that this important issue that has such a broad impact on the State should be revisited through the convening of a task force of concerned parties.

Your Committee has amended the measure by:

- (1) Expanding the maximum membership of the PHCA task force from twelve to sixteen;
- (2) Adding the Hawaii Uninsured Project, the Healthcare Association of Hawaii, and Hawaii's congressional delegation to the list of mandatory task force members;
- (3) Requesting that the PHCA Task Force also conduct a comprehensive study on:
 - (A) The cost and impact of various scenarios and amendments to the PHCA; and
 - (B) Historical and trend analysis of insurance coverage, wages, employer/employee contributions, cost of health insurance, cost of health care and other local and national factors related to the efficacy and impact of the PHCA; and
- (4) Making technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 29, as amended herein, and recommends that it be referred to the Committee on Commerce, Consumer Protection and Housing, in the form attached hereto as S.C.R. No. 29, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Kawamoto, Matsuura, Sakamoto).

SCRep. 2890 Education on H.B. No. 2014

The purpose of this measure is to allow a nonprofit organization to manage and operate a new century conversion charter school as a division of the nonprofit organization, in which the charter school's local school board would consist of the board of directors of the nonprofit organization.

Your Committee received testimony in support of the measure from the Department of Education, Office of Hawaiian Affairs, two Maui City Council members, Kamehameha Schools, Hawaii Association of Independent Schools, Chamber of Commerce of Hawaii, Hawaii Association of Realtors, Hawaii Business Roundtable, University of Hawaii Curriculum Research and Development Group, and a private individual. Your Committee received testimony in opposition to the measure from the Hawaii Government Employees Association, Hawaii State Teachers Association, and a private individual. Your Committee received comments from the Hawaii Educational Policy Center.

Your Committee has amended the measure by replacing its contents with the contents of S. B. No. 2662, S.D. 2, which is substantially similar except in that it caps charter school conversions at 25. Your Committee further amended the measure by providing an effective date of July 1, 2050, to ensure continued discussion on this important issue.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2014, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2014, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2891 (Joint) Education and Judiciary on H.B. No. 2033

The purpose of this measure is to propose amendments to the State constitution to:

- (1) Abolish the State Board of Education and replace it with local district school boards of education, as provided by law;
- (2) Establish the superintendent selection commission;
- (3) Require the Governor to appoint a State Superintendent of Education;
- (4) Require the superintendent to establish statewide educational policy; and
- (5) Require the internal organization of the statewide system of public education to be as provided by law.

Your Committees received testimony in opposition to the bill from the Department of Budget and Finance, Hawaii State Teachers Association, League of Woman Voters, Hawaii Government Employees Association, and a private individual. Your Committees received comments from the Hawaii Business Roundtable and Office of Information Practices.

Your Committees find that restructuring the governance of Hawaii's schools is essential to any significant improvement in them. However, this measure subverts the autonomy of local school boards by allowing the Governor to select the Superintendent of Education and giving that position the authority to make educational policy that would then be implemented by the local school boards.

Your Committees have amended the measure by replacing its contents with the contents of S.B. No. 2102, S.D. 1, which replaces the current elected statewide Board of Education with a statewide board comprised of the member representatives of elected district boards of education. The statewide board will formulate statewide educational policy and appoint the Superintendent of Education.

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. 2033, H.D. 3, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2033, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Matsunaga, Menor, Nakata, Hogue).

SCRep. 2892 (Majority) Education on H.B. No. 2166

The purpose of this measure is to assist not-for-profit private elementary schools, secondary schools, colleges, and universities that serve the general public by authorizing the State to issue special purpose revenue bonds (SPRBs) for their benefit.

Your Committee received testimony in support of the measure from the Hawaii Association of Independent Schools and Hawaii Catholic Conference. Your Committee received testimony in opposition to the measure from the Attorney General and Hawaii State Teachers Association.

Your Committee finds that SPRBs may be one way for the State to facilitate the public purposes served by private schools in educating 30,000 children in Hawaii and easing the burden on the resources of public schools. With this funding, your Committees intend that private schools maintain and repair aging infrastructure that directly supports the instructional program, through a mandate that would be stipulated in administrative rules of the State and Hawaii Association of Independent Schools, and verified by an inspection regime. It should also be noted that no private school in Hawaii is "pervasively sectarian," a test that a District Court in Michigan found to be a sufficient means of addressing any constitutional concerns about the separation of church and state.

Your Committee has amended the measure by proposing constitutional amendments that would allow:

- (1) Adding a constitutional amendment allowing the issuance of SPRBs for these entities;
- (2) The pooling of projects and project parties into a single SPRBs financing; and
- (3) Use of the proceeds from the bonds to assist not-for-profit private elementary schools, secondary schools, colleges, and universities that serve the general public.

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. 2166, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2166, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, 1 (English). Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2893 Education on H.B. No. 2353

The purpose of this measure is to require the Department of Education to establish procedures and guidelines for and expand its statewide assessment program.

Your Committee received testimony in support of the measure from the Department of Education.

Your Committee finds that the measure would require the annual assessment of students in the same grades as that required by the Federal No Child Left Behind Act of 2001 (grades 3 through 8 and one grade in high school) in reading and math using the most appropriate nationally normed test. The department noted that such testing would cost approximately \$156,000 per year per grade tested (at \$12 per student).

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. 2353, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Menor, Tam).

SCRep. 2894 Education on H.B. No. 2480

The purpose of this measure is to establish a school bus fare special fund for the deposit of school bus fares collected by schools from students, parents, and guardians. Annual collections are to be used to fund the cost of providing contracted school bus services.

Your Committee received oral testimony in favor of this measure from the Department of Education.

Your Committee finds that contracted school bus drivers will no longer collect bus fares. Rather, schools will collect bus fares and will need to deposit them into a special fund made available to disburse to contractors as part of their compensation for services provided.

Your Committee has amended this measure by generally citing school bus services provided under chapter 27, Hawaii Administrative Rules, rather than "home to school" services. Similarly, expenditures are to be made for bus services as provided under chapter 27, Hawaii Administrative Rules, to limit the types of services that will be funded. Your Committee has made nonsubstantive, technical changes as well.

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. 2480, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2480, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2895 Education on H.B. No. 2751

The purpose of this measure is to appropriate funds for additional auditors, support staff, and initial one-time equipment start-up costs at the Department of Education.

Your Committee received testimony in support of the measure from the Board of Education and Department of Education.

Your Committee finds that the Department of Education currently has only one auditor, without any support staff. This is a significant shortcoming for such a complex agency with a general fund budget in excess of \$1.4 billion. Lack of internal auditing resources precludes the kind of timely and in-depth fiscal analysis that could enhance the department's ability to improve administrative efficiency, identify potential cost savings, and generally be more accountable for its use of taxpayer dollars.

Your Committee has amended the measure by:

- (1) Correcting a typographical error that identified the annual budget of the Department of Human Services as \$1.2 million, instead of \$1.2 billion;
- (2) Lowering the number of auditors from four to three;
- (3) Adding language requiring the department to seek a federal government opinion as to the legality of its actions on those occasions when it refuses to comply with requests by the Auditor for access to departmental records; and
- (4) Increasing hiring flexibility by deleting specific references to the position levels of the proposed additional positions.

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. 2751, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2751, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2896 Education on H.B. No. 2787

The purpose of this measure is to repeal the Department of Education Storeroom Revolving Fund.

Written testimony in support of this measure was received from the Hawaii State Teachers Association. Oral supportive testimony was received from the Department of Education (DOE).

Currently, the DOE maintains a centralized storeroom from which supplies and equipment are furnished to the State's public schools. Funding for the storeroom is provided through the DOE storeroom revolving fund.

Your Committee finds that the storeroom operations are plagued by numerous problems, including slow distribution practices, vague inventory controls, and a surplus of obsolete supplies, and, therefore, should be terminated. Accordingly, this measure repeals the revolving fund and requires the transfer of unexpended moneys in the fund to the general fund.

Your Committee notes that while this measure does not take effect until December 31, 2002, to allow for the winding down of storeroom operations, it had extensive discussions about changing the effective date of this measure to June 30, 2002, in order to provide an impetus for the termination of the existing lease and ensure no further purchases are made from the revolving fund. Your Committee requests that the Committee on Ways and Means explore mechanisms for the receipt of inventory liquidation proceeds and consider whether the fund should be terminated at the earlier date of June 30, 2002.

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. 2787, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chun Oakland, English, Tam).

SCRep. 2897 (Joint) Education and Judiciary on H.B. No. 2848

The purpose of this measure is to propose constitutional amendments to authorize the State to issue special purpose revenue bonds to assist not-for-profit private elementary schools, secondary schools, colleges, and universities.

Your Committees received testimony in support of the measure from the Hawaii Association of Independent Schools, as well as oral support from the Hawaii Business Roundtable. Your Committees received testimony in opposition to the measure from the Attorney General and Hawaii State Teachers Association.

Your Committees find that special purpose revenue bonds may be one way for the State to facilitate the public purposes served by private schools in educating 30,000 children in Hawaii and easing the burden on the resources of public schools. With this funding, your Committees intend that private schools maintain and repair aging infrastructure that directly supports the instructional program, through a mandate that would be stipulated in administrative rules of the State and Hawaii Association of Independent Schools, and verified by an inspection regime. It should also be noted that no private school in Hawaii is "pervasively sectarian," a test that a District Court in Michigan found to be a sufficient means of addressing any constitutional concerns about the separation of church and state.

Your Committee has amended this measure by changing the effective date to July 1, 2050.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2848, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2848, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Matsunaga, Menor, Nakata, Hogue).

SCRep. 2898 (Joint/Majority) Education and Judiciary on H.B. No. 2231

The purpose of this measure is to clarify the confidential nature of the Auditor's records in the education area by allowing the Auditor access to any student records that may be necessary in connection with any audit as an authorized representative of the Department of Education and Department of Health.

Your Committees received testimony favoring this measure from the State Auditor.

Your Committees find that the Auditor's restricted access to records in the education area has obstructed the constitutional duties of the Auditor in examining educational services.

Your Committees make note of the Auditor's following responses to prior testimony of other agencies:

- (1) This measure does not attempt, nor was it intended to make the Auditor a contractor and answer to the Departments of Education and Health. It is only intended to clarify that the Auditor, in performing its audit functions, has access to the records and information reasonably required to conduct an audit of those entities;
- (2) The Family Educational Rights and Privacy Act (FERPA) provisions pertinent to audits and to this measure are contained in 20 U.S.C. Sec. 1232g(b)(3) and (5), not in 20 U.S.C. Sec. 1232g(b)(1)(C);
- (3) This measure does not pose a separation of powers issue because the Auditor would not be performing any executive branch functions; rather, this measure would better enable the Auditor to carry out its constitutional and statutory mandates to audit all departments, offices, and agencies of the State;
- (4) The Attorney General has argued that the Department of Education's administrative rules in Chapter 8-34, Hawaii Revised Statutes, are a "codification" of FERPA. However, the rules terminology differs from FERPA terminology, making it debatable whether the rules are a "codification" of FERPA. This measure would clarify the FERPA term "State educational authorities" to include the Auditor; and
- (5) The Health Insurance Portability and Accountability Act (HIPAA) and the Individuals with Disabilities Education Act (IDEA) are argued to preclude passage of this measure. HIPAA's regulations expressly state that HIPAA does not apply to information contained in records covered by FERPA, and HIPAA regulations expressly allow disclosure of confidential information for audit purposes. IDEA requires that certain information be kept confidential by FERPA standards. This measure complies with FERPA confidentiality standards and therefore does not conflict with IDEA.

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. 2231, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, 2 (Chumbley, English). Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Matsunaga, Menor, Nakata, Hogue).

SCRep. 2899 Transportation, Military Affairs, and Government Operations on H.B. No. 1723

The purpose of this measure is to exempt a person involved in an accident during the normal course of the person's employment from the security and suspension requirements of chapter 287, Hawaii Revised Statutes.

Testimony in support of this measure was received from the City and County of Honolulu Department of Customer Services.

Your Committee finds that current law allows an exemption if the vehicle being operated is owned by the employer, but not in the case of an employee driving a vehicle for work purposes that is not owned by the employer, such as an auto mechanic test driving a car being repaired. This measure will correct this inequity.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1723, and recommends that it pass Second Reading and be referred to the Committees on Commerce, Consumer Protection and Housing and Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2900 Transportation, Military Affairs, and Government Operations on H.B. No. 1724

The purpose of this measure is to allow the issuance of more than one military special license plate for noncommercial passenger motor vehicles, motorcycles, or motor scooters owned by a qualified veteran applicant.

Testimony supporting this measure was received from the City and County of Honolulu Department of Customer Services and the Office of Veterans Services.

Your Committee finds that the intent of military specialty license plates is to recognize the veteran driver of the motor vehicle. However, many veterans own more than one vehicle and may also qualify for several different categories of military specialty plates. This measure provides Hawaii's valued veterans the opportunity to obtain more than one military specialty license plate and receive the recognition they deserve.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1724, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2901 Transportation, Military Affairs, and Government Operations on H.B. No. 1725

The purpose of this measure is to allow a person unable to appear in person before the examiner of drivers to apply for renewal of their driver's license by mail.

Your Committee received testimony in favor of this measure from the Department of Transportation and the City & County of Honolulu Department of Customer Services.

Your Committee finds presently that driver's license renewal by mail is restricted to residents who are temporarily out of State. Since there are no residency restrictions for the initial issuance of a driver's license and since applicants for renewal by mail are required to have a physical examination as a prerequisite for renewal, driver's license renewal by mail should be offered to all licensed drivers.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1725, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2902 Transportation, Military Affairs, and Government Operations on H.B. No. 1727

The purpose of this measure is to allow an applicant to renew a driver's license instruction permit thirty days before its expiration date and ninety days after its expiration date. Attempts to renew after the ninety days shall be treated as an application for a new driver's license instruction permit.

Testimony supporting this measure was received from the Department of Transportation and the City and County of Honolulu Department of Customer Services.

Your Committee finds that current law does not specify a renewal period for driver's license instruction permits. The accommodation provided by this measure will increase the efficiency of the driver's license permitting process while not compromising traffic safety.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1727, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2903 Transportation, Military Affairs, and Government Operations on H.B. No. 1746

The purpose of this measure is to require notices for tow away zones to be clearly visible to the driver of a vehicle approaching any marked or unmarked parking space, or within any marked or unmarked parking space, where the vehicle is subject to being towed.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs and Legislative Information Services of Hawaii. Your Committee received testimony in opposition to the measure from Na Leo Pohai.

Your Committee finds that this measure addresses anecdotal concerns about "tow traps" in which property owners and/or tow operators fail to post conspicuous signs and then tow the vehicles of unwary vehicle owners. For individual parking spaces, the language in this measure is reasonable. If an entire parking lot has limitations, however, then each parking space should not be required to have a sign posted advising that parking is illegal, as this would greatly increase visual blight.

Your Committee has amended the measure:

- (1) To balance these concerns by requiring clear signage for individual parking spaces while allowing signage at each entrance of parking lots to suffice where an entire parking lot consists of restricted parking;
- (2) Requiring the name, address, and telephone number of the facility to which illegally parked cars will be towed and held to be on the sign; and
- (3) Requiring that the sign states that vehicles will be towed at the expense of the owner of the vehicle.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1746, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1746, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2904 (Joint) Transportation, Military Affairs, and Government Operations and Agriculture on H.B. No. 1941

The purpose of this measure is to make permanent the public utility commission rate exemption for the transportation of seed corn to a processing facility.

Testimony supporting this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Kauai County Farm Bureau, Hawaii Crop Improvement Association, Hawaii Agriculture Research Center, and Pioneer HI-Bred International, Inc. Comments were received from the Public Utilities Commission.

Your Committees find that the seed crop industry in Hawaii, ninety-three percent of which is seed corn, is a burgeoning industry that has accomplished visible and significant progress since 1997. The seed crop industry utilizes over 8,000 acres of land previously in sugar production and is a prime example of the transition to diversified agriculture in Hawaii. This measure further ensures that the seed corn industry in Hawaii will be allowed to flourish in a supportive atmosphere.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1941, and recommend that it pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Kanno, Tam).

SCRep. 2905 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on H.B. No. 2006

The purposes of this measure are to clarify disposal options for used tires and notice requirements to consumers of new tires, to require annual, rather than quarterly, tire inventory payments by rental car companies, and to provide a broader array of options for the Department of Health (DOH) to enforce the State's special wastes disposal laws.

Your Committees received testimony in support of this measure from the DOH, the Rubber Manufacturers Association, Catrala-Hawaii, and the Hawaii Automobile Dealer's Association.

Your Committees find that this measure will provide the DOH with greater flexibility in determining how to pursue violations of Hawaii's special wastes disposal laws; specifically, DOH can pursue administrative action in most cases, whereas existing law usually requires a civil court action.

Your Committees find that this measure will also provide further incentive to tire consumers to properly dispose of used tires, by authorizing tire retailers to list the disposal fee as a separate charge.

Therefore, your Committees support this measure in an effort to promote responsible used tire disposal.

Your Committees amended this measure by increasing the number of used tires that may be accumulated at the point of collection by a tire wholesaler from 100 to 250.

Finally, your Committees also amended this measure to move the sunset date of the motor vehicle tire surcharge under section 342I-27, Hawaii Revised Statutes, from 2006 to 2003.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2006, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2006, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, English, Fukunaga, Kanno, Nakata, Tam).

SCRep. 2906 Transportation, Military Affairs, and Government Operations on H.B. No. 2030

The purposes of this measure are to increase certain statutorily authorized towing fees, and to require towing companies to accommodate payment by cash, credit card, or automated teller machine, at the option of the owner of the towed vehicle.

Your Committee received testimony in support of this measure from the Hawaii State Towing Association and from Catrala-Hawaii. Testimony in opposition to this measure was submitted by the Department of Commerce and Consumer Affairs and the Hawaii Insurer's Council.

Your Committee finds that statutorily authorized towing fees were increased during the 2001 legislative session, and that no further increases are warranted at this time.

However, your Committee supports the amendments requiring towing companies to accommodate payment by cash, credit card, or ATM card, at the option of the owner of the towed vehicle. This will make it easier for vehicle owners to retrieve their cars.

Your Committee amended this measure by replacing its contents with the contents of S.B. No. 2334, S.D. 2, which does not provide for an increase in towing fees, but which requires towing companies to obtain all machinery necessary to accommodate payment by credit card and ATM machine.

Your Committee also amended this measure to require towing companies to attempt to notify vehicle owners by telephone and facsimile, in addition to registered or certified mail, within 24 hours after a vehicle is towed.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2030, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2030, H.D. 1, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2907 Transportation, Military Affairs, and Government Operations on H.B. No. 2234

The purpose of this measure is to re-establish and appropriate funds for the 50th Anniversary Commemoration of the Korean War Commission.

Your Committee received testimony from the Department of Defense, three members of the 50th Anniversary Commemoration of the Korean War Steering Committee, 102 members of the 5th Regimental Combat Team, 19 members of the Aloha Chapter of the Chosin Few, Inc., a veteran of the Korean Marine Corps, and 29 American veterans.

Your Committee finds that those who fought for Korea in her time of need are stalwart defenders of freedom who deserve commemorative ceremonies of a dignity commensurate with their great sacrifices. This measure would provide those brave soldiers with a welcome sense of closure and honor those who never returned.

Your Committee has amended the measure by raising the appropriation from \$1 to \$200,000.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2234, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2234, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2908 Transportation, Military Affairs, and Government Operations on H.B. No. 2304

The purpose of this measure is to prohibit public disclosure of confidential information contained in juror master lists and juror qualification forms.

Your Committee received testimony in support of this measure from the Judiciary and the Office of Information Practices. The Hawaii State Bar Association submitted testimony expressing its support for the substance of this measure.

Your Committee finds that prospective jurors are often concerned that the private information they provide on their juror selection forms will be disclosed to the parties in the case, their attorneys, and other court personnel.

Your Committee supports the intent of this measure, which will improve jurors' sense of privacy protection by limiting public disclosure of sensitive information and addressing related safety concerns.

Your Committee has amended this measure by replacing its contents with the contents of S.B. No. 2633, S.D. 1, which is substantially similar in substance. Specifically, the House measure would have required a court to approve a juror qualification form if the form inquired about the geographic location of the prospective juror's residence; the Senate measure contains no such requirement.

In addition, the Senate measure is less specific regarding the information that must be redacted before a grand jury master list is open for public inspection. Finally, your Committee also retained a reference in this measure that permits disclosure of certain information under section 612-23, Hawaii Revised Statutes, that was contained in the House measure but not in the Senate companion bill.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2304, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2304, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2909 Transportation, Military Affairs, and Government Operations on H.B. No. 2559

The purpose of this measure is to repeal specified null, void, and unnecessary administrative rules related to the Departments of Commerce and Consumer Affairs, Education, and Land and Natural Resources.

Testimony in support of this measure was received from the Lieutenant Governor, Department of Commerce and Consumer Affairs, Department of Education, and Department of Land and Natural Resources.

Your Committee finds that this measure is part of the administration's continuing efforts to eliminate unnecessary rules or reduce the regulatory burden of rules on business, the general public, and government.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2559, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2910 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on H.B. No. 2577

The purpose of this measure is to grant the Harbors Division of the Department of Transportation (DOT) greater flexibility in the disposition of leases for uses subject to the approval of the Board of Land and Natural Resources (BLNR).

Your Committees received testimony in support of this measure from DOT and the Maritime Committee of the Hawaii Chamber of Commerce. Hawaii's Thousand Friends submitted testimony in opposition to this measure.

Your Committees find that existing law allows maritime businesses to negotiate a lease not to exceed thirty-five years without recourse to public auction. Your Committees agree that it also makes sense to allow such leases for maritime related uses as well, and to define that term in the Hawaii Revised Statutes.

Your Committees amended this measure by replacing its contents with the contents of S.B. No. 2835, S.D. 1, the Senate companion to this measure. The only substantive difference between the House and Senate versions of this measure is that the Senate version amends section 171-59(b), Hawaii Revised Statutes, to include the term "maritime related" in the introductory paragraph.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2577, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2577, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, English, Fukunaga, Kanno, Nakata, Tam).

SCRep. 2911 Transportation, Military Affairs, and Government Operations on H.B. No. 2582

The purpose of this measure is to modify the State's commercial driver licensing laws to conform to new federal standards, regulations, and penalties pertaining to railroad and highway grade crossings for commercial motor vehicles.

Your Committee received testimony in support of this measure from the Department of Transportation (DOT).

Your Committee finds that commercial driver licensing laws are designed to improve highway safety by ensuring that drivers of large commercial vehicles are qualified to operate those vehicles safely.

Your Committee further finds that federal Motor Carrier Safety regulations require that Hawaii law with regard to commercial driver licensing conform to federal penalties and sanctions by October 4, 2002.

Therefore, your Committee supports this measure to comply with federal law.

Your Committee amended this measure to increase the minimum fines set by section 286-234(d), Hawaii Revised Statutes, to conform to federal standards. Your Committee also made technical grammatical amendments.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2582, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2582, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2912 Health and Human Services on H.B. No. 1749

The purpose of this measure is to require the Department of Health to disclose the criminal history of a prospective resident applicant seeking entry into an adult residential care home.

Testimony in support of this measure was submitted by a concerned citizen. Testimony in opposition to this measure was submitted by the Department of Health. The Office of Information Practices submitted concerns and recommended a technical amendment.

Your Committee finds that adult residential care homes (ARCHs) serve a critical function within our state healthcare network by providing housing for individuals with physical or mental impairments who would otherwise have no stable home environment. Your Committee further finds that the safety and well-being of the ARCH operators, as well as other residents and the surrounding neighbors should be a factor in the decisions to place certain individuals within an ARCH setting. Your Committee further acknowledges that ARCHs are appropriate settings to offer community-based long-term care to certain individuals, whose physical or mental impairments may be debilitating, but for whom a change in housing may be unnecessarily disruptive and adversely affect their physical or mental health. Thus, your Committee agrees that in these situations, if the ARCH operator and the Department of Health agree, individuals should be able to remain in the same ARCH placement, and live out the remaining years of their lives in the place they have come to know as home.

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

- (1) Inserting a reference to chapter 704, Hawaii Revised Statutes, regarding disclosure of criminal history information based upon acquittals;
- (2) Inserting the substance of H.B. No. 2020, which allows for “aging in place” ARCH placements, in consultation with the ARCH operator, the Department of Health, the resident, and the resident’s family, primary physician, and case worker; 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 and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1749, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1749, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2913 Health and Human Services on H.B. No. 2560

The purpose of this measure is to include employees of private companies working in correctional facilities in the scope of sexual offense statutes.

Testimony in support of this measure was submitted by the Department of Public Safety and Community Alliance on Prisons.

Your Committee finds that current Hawaii law prohibits sexual assaults against inmates in Hawaii correctional facilities, but no reference is made to correctional facilities operated by private companies. Your Committee further finds that this law could be construed to exclude acts by employees of private companies working in state correctional facilities. Your Committee agrees that this measure addresses this “loophole” in the current law by ensuring that sexual offenses committed by any correctional facility employee against inmates are prohibited, regardless of the employer.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2560, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2914 Health and Human Services on H.B. No. 1804

The purpose of this measure is to clarify the procedure to be followed by the family court in making orders to expunge juvenile arrest records.

Testimony in support of this measure was submitted by the Department of the Prosecuting Attorney for the City and County of Honolulu. Testimony in opposition to this measure was submitted by the Office of the Public Defender expressing concerns about inequitable application of this expungement statute.

Your Committee finds that the family court has recently been provided authority to expunge juvenile arrest records within certain legal criteria and upon consultation with law enforcement agencies. Your Committee further finds that expungement of juvenile arrest records is appropriate for those persons who have had no further interaction with the juvenile justice system. However, your Committee shares the concerns expressed by the Office of the Public Defender regarding the statute which allows expungement of juvenile arrest records referred to the prosecuting attorney or the court, but not those records of cases informally discharged by the police. Thus, your Committee requests that the Senate Judiciary Committee review these concerns and seek resolution through further consultation with the family court and law enforcement agencies.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1804, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2915 Agriculture on H.B. No. 2017

The purpose of this measure is to appropriate funding for agricultural research and development to be conducted by the Hawaii Agricultural Research Center (HARC).

Your Committee received testimony in favor of this measure from the University of Hawaii at Manoa, Chairperson of the Board of Agriculture, Land Use Research Foundation of Hawaii, Hawaii Macadamia Nut Association, Sweet Aloha Farms LLC, Hawaii Crop Improvement Association, Maui County Farm Bureau, Alluvion, Inc., Waialua Farmers, Hawaii Farm Bureau Federation, Gay & Robinson, Inc., Hawaii Crop Improvement Association, Hawaii Agriculture Research Center, Hawaii Forest Industry Association, Hawaii Leeward Planning Conference, North Shore Farms Waialua Vine Ripe, Water Users' Cooperative, Hawaiian Commercial & Sugar Company, Hawaii Egg Producers Cooperative, Pineapple Growers Association of Hawaii, Hawaii Papaya Industry Association, and three individuals.

Your Committee finds that agricultural research is essential to the success of diversified agriculture in Hawaii. It provides the knowledge base that will help producers increase their yields by choosing crops and varieties wisely, knowing when and where to plant, combating pests, and assuring the highest possible post-harvest quality. Increased yields mean increased profits; increased profits mean a greater contribution to Hawaii's economy.

Your Committee has amended this measure by replacing its contents with the contents of Senate Bill No. 2132, Senate Draft 1, for style purposes, and by inserting \$1,000,000 in the appropriation amount.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2017, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2017, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2916 Agriculture on H.B. No. 2169

The purpose of this measure is to expand mandatory labeling requirements for Kona roasted and instant coffee, to roasted and instant coffee made from all Hawaii-grown green coffee. This measure also clarifies labeling requirements, definitions, and violations; and establishes record keeping requirements.

Your Committee received testimony in support of this measure from the Chairperson of the Board of Agriculture, Hawaii Coffee Company, Petersen Marketing, Honaunau Coffee Company, Greenwell Farms, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Maui Oma Coffee Roasting Co. Inc., Coffee Creations, Inc., Hawaii Coffee Association, Kauai Coffee, Hawaii Food Industry Association, and Kona Coffee Council.

Your Committee finds that coffees of Hawaii geographic origins other than Kona are gaining recognition as coffees of importance and need the same protections against false claims of origin previously offered only to Kona coffees. Blends of the various Hawaii-grown coffees are also carving new market positions, and a standardized labeling criterion will improve consumer confidence in the blended products.

This measure's approach to labeling is based on truth-in-labeling and allows greater flexibility in the information presented to the consumer of these coffees than does current law. The consumer will be made aware of the coffee's origin, the percentage of Hawaii coffees used in a blend, and whether the coffee offered for sale is 100% from one of the identified coffee origins in Hawaii.

Record keeping requirements and more clearly defined violations are included to improve the ability of the enforcement agency to assure compliance with the law.

Your Committee made technical, nonsubstantive amendments to the measure to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2169, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2169, H.D. 2, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2917 Agriculture on H.B. No. 2176

The purpose of this measure is to assist farmers with marketing their products and produce by establishing a temporary agricultural cooperative. The agribusiness development corporation shall establish the cooperative, provide its knowledge and resources to develop the marketing plan, and annually report its findings, recommendations, and progress to the legislature.

Your Committee received testimony in favor of this measure from the Agribusiness Development Corporation, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Hawaii Leeward Planning Conference, North Shore Farms, and Waialua Farmers Cooperative.

Your Committee finds that the concept of a statewide marketing effort will allow farmers a mechanism to consolidate and market their produce in a cohesive manner. Marketing locally and overseas will help many small farmers compete in the world market.

Your Committee has amended this measure by deleting the establishment of a temporary agricultural cooperative. After consulting with federal experts in the formation of agricultural cooperatives and closely reviewing chapter 421, Hawaii Revised Statutes, the Agribusiness Development Corporation discovered that it does not meet the qualifications of incorporators and therefore cannot form a cooperative. Additionally, nonsubstantive, technical amendments have been made.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2176, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2176, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2918 Agriculture on H.B. No. 2248

The purpose of this measure is to issue special purpose revenue bonds to assist Poaka, Incorporated, a State of Hawaii corporation, in planning and constructing a food processing plant, which includes freeze-drying, for coffee and other agricultural products.

Your Committee received testimony in support of this measure from Genesis, Inc. and Kona Pacific Farmers Cooperative.

Your Committee finds that most of Hawaii's seven million pounds of green coffee production is sold raw, then processed in the continental United States. This processing plant will retain and bolster a greater part of the agricultural industry here in Hawaii by adding value, increasing employment, extending shelf life, and improving sanitary conditions.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2248, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2919 Agriculture on H.B. No. 2385

The purpose of this measure is to authorize the issuance of special purpose revenue bonds (SPRBS) in the amount of \$3,000,000, to assist Wines of Kauai, LLC.

Testimony in support of this measure was received from the Hawaii Farm Bureau, Kauai County Farm Bureau, Wines of Kauai, M & K Ohana Rentals, LLC., and an individual.

The proceeds from the SPRBS will be used to plan, design, construct, and equip a winery on Kauai. Your Committee finds that this project qualifies for issuance of SPRBS, as assisting a processing enterprise under part IV of chapter 39A, Hawaii Revised Statutes.

This measure would aid Kauai to diversify its economy. Kauai's economy has been in a downturn in the past few years, aggravated by several natural disasters and the recent closure of Kekaha Sugar Company. Wines of Kauai is a company that is conducive to agricultural activities and offers great potential to prosper on Kauai.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2385, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2920 Agriculture on H.B. No. 2708

The purpose of this measure is to authorize the Department of Agriculture to quarantine and destroy species of animals susceptible to contagious, infectious, or communicable diseases and provide authority to require proper carcass disposal and disinfecting of premises.

Testimony supporting this measure was received from the Department of Agriculture.

Your Committee finds that with the recent outbreaks of Foot and Mouth disease there is a heightened awareness of other highly contagious animal diseases. Certain national and international control measures for highly contagious animal diseases require the quarantine and destruction of animals that are susceptible to contraction of the disease. This measure allows the Department of Agriculture to implement these national and international disease control guidelines that are necessary to prevent the spreading of a contagious animal disease. Your Committee further recognizes that currently the Department of Agriculture and the federal government maintain oversight over the implementation of disease control measures, including the proper disposal of animal carcasses.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2708, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2921 Agriculture on H.B. No. 2744

The purpose of this measure is to appropriate funds for the Department of Agriculture to assess the economic feasibility of establishing a world-class farmers' market.

Testimony in support of this measure was received from the Department of Agriculture, Hawaii Tourism Authority, Hawaii Community Development Authority, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Hawaii Aquaculture Association, Pineapple Growers Association of Hawaii, North Shore Farmers, Waialua Farmers Cooperative, Waipahu Community Association, Meadow Gold Dairies, and Hawaii's Thousand Friends.

Your Committee finds that a premier farmers' market would showcase Hawaii's diverse agricultural products and benefit not only the industry, but Hawaii residents and visitors as well. Your Committee heard that the Department of Agriculture has initiated an exploratory study and finds that this measure would continue these efforts.

Your Committee has amended this measure to make the appropriation amount \$200,000.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2744, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2744, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2922 Education on H.B. No. 1878

The purpose of this measure is to statutorily establish the Hawaii State Student Council (HSSC).

Your Committee received written testimony in support of this measure from the Board of Education (BOE) Student Member, the Chair, Central District Representative and Kauai District Representative to the Hawaii State Student Council, and two concerned students. The Department of Education testified orally in support of this measure.

Your Committee finds that the Hawaii State Student Council (HSSC) was established by the Board of Education in 1972 and has become the official voice of public school students in the State. However, the HSSC is not statutorily recognized despite the fact that it is cited in the Hawaii State Constitution as the organization empowered to select the student member of the Board of Education. Council members also provide a voice for students across the State and are asked to represent students on such task forces as "Visioning: The High School Graduate" and the "Performance Standards Review Commission." The Council also provides students with leadership and community service opportunities, such as participating in Children and Youth Day; sponsoring Gun and Violence Pledges, Reach Out and Read programs and statewide student leadership workshops; drafting legislation to address student concerns with the help of legislators; and representing Hawaii at the regional and national levels of the National Association of Student Councils.

This measure proposes to statutorily establish the HSSC and requirements for its membership and governance. Your Committee finds that formally establishing the Council will not require additional funding and staffing since both have already provided by the Department of Education through general funds since 1971. The Department of Education has assigned its Educational Specialist for Student Activities to advise both the Hawaii State Student Council and the State Student Conference as a part of his or her job description. The HSSC has always worked and will continue to work, within the allocation that it receives annually, increasing or decreasing the number of its members as it feels is appropriate to address its purposes and/or budget allocation.

Your Committee finds that formally establishing the Council will ensure that public school students continue to have a voice in matters of student concern.

Your Committee amended this measure by replacing its contents with the contents of S.B. No. 2035. The primary differences between the House and Senate versions of this measure are as follows:

- (1) The House version would have provided greater discretion to HSSC to determine the manner in which the student member is selected;
- (2) The House version would have specifically required HSSC to conduct an annual conference of secondary school students, would have specifically directed HSSC to determine the format for the annual student conference, would have dictated the timing of the conference, and would have required HSSC to create an evaluation of the conference; and
- (3) The Senate version requires cooperation between HSSC and the student conference committee in planning the secondary school conference.

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. 1878, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1878, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chun Oakland, English, Kawamoto, Tam).

SCRep. 2923 Education on H.B. No. 2235

The purpose of this measure is to create a Pacific Center for Ecosystem Science within the University of Hawai'i at Manoa (UHM).

Your Committee received testimony in support of this measure from Maui Pineapple Company, Ltd., Hawaii's Coordinating Group on Alien Pest Species, and two UHM faculty members.

Your Committee finds that the Hawaiian islands have been called the "biological crown jewel" of the United States, but unfortunately, Hawaii's native ecosystems are among the most endangered in the world. Your Committee agrees that this project will not only bring much needed attention to Hawaii's ecosystems, but will also attract human and financial capital to Hawaii through this expansion of our post-secondary education industry. Your Committee also supports the concept of consolidating government operations and collaboration with private organizations to better leverage limited state resources.

Upon further consideration, your Committee has amended this measure by inserting the contents of S.B. 2579, S.D.1, which:

- (1) Deletes all references to a governing board of directors;
- (2) Deletes establishment of a special fund;
- (3) Deletes all specific references to the number, salary level, and academic subject matter of the positions to be created within UHM;
- (4) Deletes reference to the amount of matching funds required for the University to receive State funding; and
- (5) Makes 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. 2235, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2235, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2924 (Joint) Agriculture and Water, Land, Energy, and Environment on H.B. No. 1939

The purpose of this measure is to authorize the issuance of general obligation bonds and appropriate corresponding funds for the development and maintenance of agricultural water systems in the State.

Testimony supporting this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Hawaii Agriculture Research Center, Kauai County Farm Bureau, Hawaii Leeward Planning Conference, East Kauai Water Users' Cooperative, Hawaii Macadamia Nut Association, Honomalino Irrigation Cooperative, Mother Goose Farms, Gay & Robinson, Inc., Pineapple Growers Association of Hawaii, MacFarms of Hawaii, Land Use Research Foundation of Hawaii, Big Island Farm Bureau, Agro Resources, Inc., University of Hawaii College of Tropical Agriculture and Human Resources, Saiva Siddhanta Church, and Ka Lahui Hawaii.

Your Committees find that Hawaii's agricultural industry is growing, as there is further diversification in the types of agricultural products being developed, grown, and processed in Hawaii. The State has been successful in implementing various programs that promote diversified agriculture, however, more needs to be done to support Hawaii's basic agriculture infrastructure. This measure appropriates the necessary funds to develop and maintain agricultural water systems in the State and, thus, support Hawaii's growing agriculture industry.

Your Committees have amended this measure by specifying the amount of the general obligation bonds issuance and corresponding appropriation to be \$40,285,000 with \$5,000,000 to be for federal aid financing or reimbursement for the following projects: Upcountry Maui Watershed Project, Lower Hamakua Ditch Watershed Project, Kekaha Drainage and Irrigation System, East Kauai Irrigation System, Honomalino Irrigation Watershed Project, West Maui Irrigation System, Molokai Irrigation System, Waiahole Irrigation System, Waimanalo Irrigation Watershed Project, Waimea Irrigation System, and the State Agriculture Water and Use Development Plan. In addition, your Committees have clarified that the sum to be expended is that appropriated in section 2 of the measure.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1939, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1939, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Hanabusa, Ihara, Kawamoto, Matsunaga, Hemmings).

SCRep. 2925 (Joint) Agriculture and Water, Land, Energy, and Environment on H.B. No. 2018

The purpose of this measure is to allow a qualified tenant whose lease of public land is nearing expiration to petition the Department of Land and Natural Resources to solicit bidders interested in leasing the agricultural land. In addition, the winning bidder for the agricultural land lease is required to compensate the outgoing tenant for the residual value of any improvements. If there are no interested bidders, the department must negotiate a new lease with the existing tenant.

Testimony supporting this measure was received from the Hawaii Farm Bureau Federation. Testimony opposing this measure was received from the Department of Land and Natural Resources.

Your Committees find that many Hawaii farmers who have been farming for decades on state agricultural land find that their leases are now expiring during a critical time. Hawaii's agricultural industry is in the middle of transitioning to a diversified agricultural industry. Your Committees believe that although this shift should be supported and encouraged, due consideration should be given to Hawaii's farmers who need to adjust their businesses, product development, and lifestyle to the changing market. This measure provides these farmers with a degree of certainty in planning their future agricultural endeavors by creating a process that facilitates the transfer of agricultural land to another farmer and, if that is not possible, requires the negotiation of a lease for a certain time period.

Your Committees have amended this measure to require the Department of Land and Natural Resources, upon petition of the lessee, to issue a "public notice" rather than an "advertisement" for purposes of consistency with section 171-16, Hawaii Revised Statutes, deleting a redundant definition, and making technical, nonsubstantive changes for style.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2018, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2018, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Hanabusa, Ihara, Kawamoto, Matsunaga, Hemmings).

SCRep. 2926 (Joint) Agriculture and Education on H.B. No. 2172

The purpose of this measure is to appropriate funds for the research and development of high-value agriculture products and biotechnology, the creation and adoption of agricultural management practices that protect Hawaii's environment, and for the development of the agribusiness incubator initiative.

Testimony supporting this measure was received from the University of Hawaii College of Tropical Agriculture and Human Resources, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Maui County Farm Bureau, Hawaii Leeward Planning Conference, Green Point Nurseries, Hawaiian Commercial & Sugar, Hawaii Forest Industry Association, Hawaiian Host, Kilauea Agronomics, LLC, Tropical Hawaiian Products, Land Use Research Foundation of Hawaii, Pineapple Growers Association of Hawaii, and Hawaii Food Industry Association.

Your Committees find that the State has a constitutional obligation to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self sufficiency, and assure the availability of agriculturally suitable lands. To fulfill these duties, the State should support efforts that lead to progress and innovation in Hawaii's agriculture industry. Positive economic progress in this industry leads to economic gains to the State as a whole. Your Committees find that this measure provides the support necessary to allow Hawaii's agriculture industry to compete and succeed in the global marketplace.

Your Committees amended this measure by specifying that the appropriation amount shall be \$1,000,000, to be utilized as follows:

- (1) \$500,000 for the continued research and development of high-value agricultural products, biotechnology research and development, and the creation and adoption of agricultural management practices that protect Hawaii's environment; and
- (2) \$500,000 for the development of the agribusiness incubator initiative.

In addition, your Committees clarified that if one hundred thousand acres of underutilized land were put into productive use there could be an additional \$1,700,000,000 to \$4,000,000,000 injected into the State's economy.

As affirmed by the records of votes of the members of your Committees on Agriculture and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2172, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2172, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Chumbley, Hanabusa, Kawamoto, Tam).

SCRep. 2927 Hawaiian Affairs on H.B. No. 2400

The purpose of this measure is to provide interim revenue to the Office of Hawaiian Affairs (OHA).

Testimony in support of the measure was received from the OHA.

Your Committee finds that in 1997, a circuit court decision threw into question the amount of funds due to the OHA under the State Constitution. The Legislature enacted section 10-13.3, Hawaii Revised Statutes, to provide for interim revenue for fiscal years 1997-1998 and 1998-1999 while the issue was undergoing clarification. In fiscal years 1999-2000 and 2000-2001, the Legislature funded the OHA's budget through separate appropriation measures.

Your Committee also finds that a September, 2001, Hawaii Supreme Court decision effectively cut off ceded land revenue to OHA mandated by the State Constitution. Your Committee believes that the Legislature must do its part to provide funding for the OHA to continue its mission until a settlement can be reached. Your Committee acknowledges and reaffirms the State's responsibilities for Hawaiians and Native Hawaiians, for whose benefit the OHA was established.

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. 2400, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2928 (Joint) Water, Land, Energy, and Environment and Transportation, Military Affairs, and Government Operations on S.C.R. No. 24

The purpose of this measure is to provide the Legislature's prior approval to permit the lease of an easement for submerged lands at Maunaloa, Honolulu, Oahu, for maintenance of breakwater purposes.

Your Committees received testimony in support of this measure from the Board of Land and Natural Resources (Board).

Your Committees find that in March, 2000, Evershine VIII, a limited partnership, acquired lands in Hawaii Kai that formerly were owned by Henry J. Kaiser, including a breakwater in need of repair and maintenance.

The Board entered into discussions with Evershine on the issues of long-term maintenance of the breakwater, but determined that an easement was necessary to authorize Evershine's maintenance work.

Your Committees further find that in November, 2000, the Board approved the issuance of a long-term, non-exclusive easement for the use of State submerged lands in Hawaii Kai for the repair and maintenance of the breakwater there.

This measure will provide legislative approval for lease of the easement, as required by section 171-53, Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 24 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, English, Fukunaga, Kanno, Nakata, Tam).

SCRep. 2929 (Joint) Education and Labor on H.B. No. 2037

The purpose of this measure is to decentralize Hawaii's public education system by:

- (1) Abolishing the current Board of Education;
- (2) Establishing fifteen school districts to be determined by a newly established district apportionment commission;
- (3) Establishing a district board of education in each school district to implement the statewide educational policies formulated by the Superintendent of Education and to formulate and implement local district objectives;
- (4) Providing that the Superintendent of Education shall formulate statewide educational policy and be responsible for the general supervision and management of the Department of Education;
- (5) Providing that each school district board of education shall appoint a district administrator to assist the district board in implementing its directives;
- (6) Specifying that the salary of the Superintendent of Education shall be set by the Governor within the range of \$98,000 to \$150,000;
- (7) Convening a joint Senate and House of Representatives task force to review all education statutes to conform or implement the changes to the public education system provided in this measure and submit an interim report to the Legislature in 2003 and a final report in 2004; and

- (8) Providing that this measure shall take effect on July 1, 2005, and upon the ratification of a constitutional amendment requiring the abolition of the Board of Education and the appointment of the Superintendent of Education by the Governor; provided that the provisions establishing the school district apportionment commission shall take effect upon approval and ratification of the same constitutional amendment.

Testimony supporting this measure was received from one individual. Opposing testimony was received from the Hawaii State Teachers Association and Hawaii Government Employees Association, HGEA/AFSCME, Local 152, AFL-CIO.

Your Committees find that Hawaii's public education system is in need of substantial and meaningful reform. Recent investigations into the effectiveness and efficiency of the Department of Education have revealed severe short-comings in instruction, federal and state law compliance, cost-effectiveness, responsiveness to the needs of the community, and the securing of public confidence. Your Committees believe that decentralization of Hawaii's public education system is the first step in ensuring that Hawaii's children receive a quality education.

However, your Committees prefer the restructuring scheme set forth in S.B. No. 2102, S.D. 1, and its accompanying measure, S.B. No. 3018, S.D. 1.

S.B. No. 2102, S.D. 1, proposes constitutional amendments to change the governing structure of the public education system by:

- (1) Establishing district boards of education throughout the State comprised of elected members to monitor and oversee educational policy within their respective educational districts; and
- (2) Replacing the current elected statewide board of education with a statewide board comprised of the member representatives of the district boards of education to formulate statewide educational policy, appoint the superintendent of education, and ensure fair and equitable funding to each educational district.

S.B. No. 3018, S.D. 1, operates in tandem by establishing seven educational districts and requiring the first election of the members of the district boards of education to occur at the 2004 general election. Your Committees believe that the governing structure for Hawaii's public education system proposed by these two measures require further scrutiny but is a preferable framework for ensuring Hawaii's children receive a quality education.

Therefore, your Committees have amended this measure by replacing its contents with the provisions of S.B. No. 3018, S.D. 1.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2037, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2037, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Chumbley, English, Hanabusa, Ihara, Matsuura, Tam).

SCRep. 2930 (Joint/Majority) Education and Labor on H.B. No. 2163

The purpose of this measure is to allow the Department of Education to rehire teachers who have been retired for at least one year, and to extend this authority for an additional two years, through 2007.

Testimony in support of this measure was received from the Lieutenant Governor, Department of Education, Hawaii State Teachers Association, Hawaii Government Employees Association, and Hawaii Business Roundtable.

Your Committees find that the current law requires a teacher to be retired for two years before the teacher may be rehired and to date, the Department has rehired only thirty retired teachers under that provision. This measure will provide additional flexibility and allow the Department to utilize this critical educational resource more effectively.

Your Committees have amended this measure to make the effective date July 1, 2005.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2163, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2163, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, 1 (Ige). Excused, 6 (Chumbley, English, Hanabusa, Ihara, Matsuura, Tam).

SCRep. 2931 (Joint) Education and Labor on H.B. No. 2851

The purposes of this measure are to establish the Hawaii Administrator Standards Board to adopt school administrator certification standards, and to establish the Hawaii School Administrator Standards Board Revolving Fund.

Testimony in support of the intent of this measure was received from the Department of Education, Hawaii Teacher Standards Board, and Hawaii Government Employees Association.

Your Committees find that leadership is a key factor in the achievement of expectations for the public school system, and that the Department's school administrator training program contributes to this effort.

Your Committees have heard a number of concerns and comments regarding this measure and believe it warrants further discussion by the parties involved. Your Committees have amended this measure to delay the effective date and to make technical, nonsubstantive amendments to reflect the preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2851, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2851, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Chumbley, English, Hanabusa, Ihara, Matsuura, Tam).

SCRep. 2932 Agriculture on H.B. No. 2271

The purpose of this measure is to create and appropriate funds to establish an agricultural theft abatement task force.

Testimony supporting this measure was received from the Department of Agriculture, City and County of Honolulu Department of the Prosecuting Attorney, Hawaii Farm Bureau Federation, Hawaii Aquaculture Association, North Shore Farms, Waialua Farmers Cooperative, Pineapple Growers Association of Hawaii, and Hawaii Food Industry Association.

Your Committee finds that Hawaii's farmers lose millions of dollars every year to agricultural theft. The nature of farming makes it difficult to deter, prevent, and prosecute agricultural theft through conventional means. Your Committee finds that this measure assists Hawaii's farmers by bringing the stakeholders and appropriate law enforcement officials together to develop new and innovative strategies to abate agricultural theft.

Your Committee has amended this measure by specifying that \$50,000 shall be appropriated for the purpose of establishing an agricultural theft abatement task force. In so doing, your Committee currently envisions the funds to be utilized for the production and dissemination of educational pamphlets (\$5,000) and videos (\$15,000). In addition, the funds may also be used for law enforcement expenses incurred in implementing strategies developed by the task force (\$30,000). Your Committee believes that discussions on the use of the funds should continue as this measure proceeds through the legislative process.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2271, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2271, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2933 Judiciary on Gov. Msg. No. 173

Recommending that the Senate advise and consent to the nominations of the following:

CRIME VICTIM COMPENSATION COMMISSION

SANDRA JOY EASTLACK, for a term to expire June 30, 2002, to fill a vacancy and a reappointment for a term to expire June 30, 2006; and

DAWN YOSHIMURA SINCLAIR, for a term to expire June 30, 2003,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Crime Victim Compensation Commission.

Your Committee received testimony in support of Sandra Joy Eastlack from the Crime Victim Compensation Commission and Honolulu Information Service, and in support of Dawn Yoshimura Sinclair from the Crime Victim Compensation Commission.

Your Committee notes the following background and qualifications of the nominees:

Sandra Joy Eastlack is currently the Director of Program Services for Child and Family Services. She has a career in counseling and social work, and received a Master of Science degree in Counseling Psychology from Chaminade University of Honolulu. She was the 1998 and 2001 Counselor of the Year of the Hawaii Counseling Association. The nominee is a member of the Hawaii Counseling Association and Hawaii Mental Health Counseling Association, and has been a board member of the Hawaii State Coalition Against Domestic Violence, Oahu Domestic Violence Task Force, Waianae Domestic Violence Task Force, and SAVD (Americorps) Community Council.

Dawn Yoshimura Sinclair is a homemaker, who received an interim appointment in September 2001, to the Crime Victim Compensation Commission to fill a vacancy. She has manifested an exceptional ability to understand and appreciate her role as a member of the Commission. She has taken a lead in planning an innovative program to make the Commission more accessible to the public, utilizing state-of-the-art communication and Internet capabilities. The nominee received a Master of Arts degree from the University of Minnesota, Humphrey Institute of Public Affairs.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 2934 Commerce, Consumer Protection and Housing on Gov. Msg. No. 180

Recommending that the Senate advise and consent to the nomination of the following:

STATE BOXING COMMISSION OF HAWAII

ALFRED CASTRO, for a term to expire June 30, 2006,

Your Committee received testimony in support of the nomination from the State Representative from the Second District and an individual.

Alfred Castro has an extensive history in the sport of boxing. As an amateur boxer, he earned the title of Big Island Champion, and went on to twice defeat the State Champion. The nominee also boxed successfully as a professional. Mr. Castro co-founded the 50th State Boxing Club and coached a boxing team from 1975 to 1980. As a boxing coach, Mr. Castro developed two national gold medal winners, one of whom was ranked fourth among the world's top ten best amateur boxers. In addition, the nominee served on the board of directors for the Big Island Amateur Boxing Association for several years.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 2935 Commerce, Consumer Protection and Housing on Gov. Msg. No. 181

Recommending that the Senate advise and consent to the nomination of the following:

CREDIT UNION ADVISORY BOARD

MICHAEL E. ASAM, for a term to expire June 30, 2006,

The Hawaii Credit Union League testified in support of the nomination.

Michael E. Asam has served as President and Chief Executive Officer of the Hawaii Community Federal Credit Union since 1987. He has worked in the credit union industry since 1975 as a consultant, research and development specialist, and in various executive positions. In addition, Mr. Asam has been active with the Certified Credit Union Executive, Big Island Credit Union Managers Association, Pacific Corporate Federal Credit Union, and Hawaii Credit Union Service Organization. He currently serves on the board of directors for the Hawaii Credit Union League. In 1997, the nominee was named the State of Hawaii Credit Union Professional of the Year.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 2936 Education on Gov. Msg. No. 182

Recommending that the Senate advise and consent to the nominations of the following:

EDUCATION COMMISSION OF THE STATES

KAREN Y. AKA, PH.D., for a term to expire on June 30, 2006; and

CARL T. TAKAMURA for a term to expire on June 30, 2004,

Your Committee notes that Governor's Message No. 217 amended the term to expire for nominee Carl T. Takamura to June 30, 2004.

Upon review of the statements submitted by the nominees, your Committee finds that the aforementioned nominees will work with compassion and commitment to represent Hawaii effectively on the Education Commission of the States. Your Committee further finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve education in Hawaii through their participation on the Education Commission of the States to which they have been nominated.

Karen Y. Aka has been an educational consultant since 1995 through her company, Knowledge, Inc. This is the culmination of a long and varied career in education that has included teaching (with a strong emphasis on special education), support services, counseling, curriculum design, and policy work. Her academic credentials are as strong as her professional ones and include a Master's of Education from the University of Pittsburgh and a Doctorate in Philosophy from the Union Institute with an emphasis on Educational Policy.

Carl T. Takamura has been Executive Director of Hawaii Business Roundtable since 1990. Prior to that, Mr. Takamura has had ample experience in the public policy arena as a member of the House of Representatives of the State of Hawaii, Special Assistant to Governor George Ariyoshi, and Government Affairs Administrator for GTE Hawaiian Telephone. He has also won numerous awards, including one for "Excellence in Teaching" during his stint as a teacher at Windward Community College. This educational experience is complemented by a Master's degree in Student Personnel Administration from Cornell University. Mr. Takamura is also active in a number of professional and community organizations.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which they have been nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Kawamoto, Menor, Tam).

SCRep. 2937 Education on Gov. Msg. No. 240

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DIRECTORS, RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

SHIGEO IWAMOTO for a term to expire June 30, 2006;
LYNN C. KINNEY for a term to expire June 30, 2005; and
BRIAN T. TAMAMOTO for a term to expire June 30, 2006,

Your Committee finds that one of the reasons the Research Corporation of the University of Hawaii (RCUH) is so effective at securing and administering scientific research grants for the University of Hawaii is because its Board of Directors brings a great diversity of backgrounds to the table. This group of nominees is no exception.

For example, Shigeo Iwamoto has over forty years of insurance experience. This is invaluable to RCUH as it is self-insured and have significant liability exposure in the course of serving as fiscal agent to such a large number of projects. Mr. Iwamoto also holds a Master's degree in Education from Temple University and is active in a variety of community and professional organizations.

With over 25 years as Business Manager and Financial Secretary for the International Brotherhood of Painters and Allied Trades, Local 1791, Lynn C. Kinney provides valuable labor and financial perspectives. Mr. Kinney is also a veteran and Board member of the Make a Wish Foundation.

Brian T. Tamamoto's expertise is in the area of human resources, developed over long years working with the University of Hawaii and numerous corporations. Mr. Tamamoto has won numerous awards in his field, served on many government commissions, and was President of the Society of Human Resources Management in 1999.

Upon review of the statements submitted by the nominees, your Committee finds that the aforementioned nominees will work with compassion and commitment to assist in administering the functions related to facilitating scientific research at the University of Hawaii. Your Committee further finds that the nominees have been appointed based upon credentials, integrity, and a desire to make Hawaii better through their participation on the Board of Directors of the Research Corporation of the University of Hawaii.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 3 (Chumbley, Kawamoto, Tam).

SCRep. 2938 Education on S.C.R. No. 54

The purpose of this measure is to request the Department of Education, as part of a comprehensive career development system, to design a plan for implementing a grades 6-12 career and life skills program.

Your Committee finds that, in this era of rapid technological change within an increasingly global economy, it is more important than ever for schools to equip students for success in an ever-changing job market. The department will incorporate this effort into its Secondary School Reform initiative to ensure that it is a key component of their school improvement efforts.

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. 54 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Menor, Tam).

SCRep. 2939 Agriculture on S.C.R. No. 50

The purpose of this measure is to declare that all agricultural lands and their components are considered an essential industry and important contributor to Hawaii's economy and to state that it is the intent of the Legislature to provide for the creation of permanent agricultural areas.

Testimony in support of this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Hawaii Crop Improvement Association, Pineapple Growers Association of Hawaii, Waialua Farmers Cooperative, North Shore Farms, Hawaii's Thousands Friends, and one individual.

Your Committee finds that implementing an equitable statewide program of protecting important agricultural resources for legitimate agricultural use is critical to further the growth of the industry in Hawaii. Your Committee has heard that these and related issues are currently under discussion by the Ag Coalition, a consortium of Hawaii's farmers, landowners, and other agricultural interests, and show promise of developing creative, workable approaches to Hawaii's agricultural land use issues.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 50 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2940 Agriculture on S.R. No. 28

The purpose of this measure is to declare that all agricultural lands and their components are considered an essential industry and important contributor to Hawaii's economy and to state that it is the intent of the Legislature to provide for the creation of permanent agricultural areas.

Testimony in support of this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Hawaii Crop Improvement Association, Pineapple Growers Association of Hawaii, Waialua Farmers Cooperative, North Shore Farms, Hawaii's Thousands Friends, and one individual.

Your Committee finds that implementing an equitable statewide program of protecting important agricultural resources for legitimate agricultural use is critical to further the growth of the industry in Hawaii. Your Committee has heard that these and related issues are currently under discussion by the Ag Coalition, a consortium of Hawaii's farmers, landowners, and other agricultural interests, and show promise of developing creative, workable approaches to Hawaii's agricultural land use issues.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 28 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2941 Hawaiian Affairs on H.B. No. 2493

The purpose of this measure is to allow a homestead lessee, who is at least one-quarter Hawaiian, to transfer the leasehold interest in the tract to a brother or sister who is at least one-quarter Hawaiian.

Your Committee received testimony in favor of the measure from the Department of Hawaiian Home Lands (DHHL) and the Office of Hawaiian Affairs.

Your Committee finds that section 208(5) of the Hawaiian Homes Commission Act currently allows a homestead lessee to transfer the leasehold interest in the tract to a husband, wife, child, or grandchild who is at least one-quarter Hawaiian (qualified relatives of the lessee). The measure would authorize a qualified relative of the lessee, with the approval of DHHL, to transfer the lease to a brother or sister who is at least one-quarter Hawaiian. Your Committee believes that the measure is a positive change that will help ensure that the homestead lease remains in the family of the original lessee.

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. 2493, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 2942 Transportation, Military Affairs, and Government Operations on H.B. No. 1726

The purpose of this measure is to authorize the examiner of drivers to examine an applicant for a driver's license whose instruction permit has expired if a new instruction permit was obtained within thirty days of the expiration.

Your Committee received testimony in favor of this measure from the Department of Transportation and the City & County of Honolulu Department of Customer Services.

Current law requires that driver's license applicants between sixteen and seventeen years old must have had a valid instruction permit for at least ninety days prior to taking the road test. However, if a minor allows the one-year permit to expire, a new ninety-day waiting period would be required upon issuance of a new permit. Your Committee finds that this second ninety-day waiting period is unnecessary.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1726, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2943 Transportation, Military Affairs, and Government Operations on H.B. No. 1970

The purpose of this measure is to replace the University of Hawaii (UH) Dean of the School of Public Health with the UH Dean of the School of Medicine as a voting member of the Hawaii State Emergency Response Commission (Commission).

Your Committee received testimony in support of this measure from the Department of Health and the UH School of Public Health Alumni Association.

Your Committee finds that the closure of the School of Public Health has left a void on the Commission. The Commission members have already voted to fill the vacant position with the Dean of the UH School of Medicine. Therefore, your Committee supports this amendment to the Hawaii Revised Statutes to authorize the change in membership.

Your Committee amended this measure by replacing its contents with the contents of S.B. No. 2001, S.D. 1, to provide greater flexibility in the future. If the School of Public Health again receives accreditation, your Committee believes that the Governor should have the flexibility to appoint either the Dean of the School of Medicine or the Dean of the School of Public Health to the Commission. Senate Bill No. 2001, S.D. 1, provides that flexibility.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1970, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1970, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2944 Agriculture on H.B. No. 2009

The purposes of this measure are to:

- (1) Allow the Department of Agriculture to issue permits for the import and possession of a restricted microorganism for emergency preparedness;
- (2) Clarify that the permits for microorganism importation issued prior to and which expire after July 1, 2000, shall not be renewed. Reapplication for a permit must comply with the microorganism import framework established by Act 211, Session Laws of Hawaii 2000;
- (3) Provides the Department of Agriculture with flexibility to modify microorganism import regulations as necessary to address newly discovered health and environmental risks; and
- (4) Clarifies that documents relating to the importation of soil, plants, animals, and microorganisms must be issued in compliance with Department of Agriculture rules.

Testimony supporting this measure was received from the Department of Agriculture.

Your Committee finds that public awareness of microorganisms is increasing for various reasons, including their usefulness in a range of agricultural-related activities and their threat to the public health if not controlled responsibly. As scientific knowledge about microorganisms accumulates, the Department of Agriculture requires the necessary authority and flexibility to ensure their proper importation, handling, and use. Your Committee finds that this measure adequately equips the Department of Agriculture to safely regulate the importation of microorganisms and protect the public health.

Your Committee has amended this measure by making technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2009, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2009, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 2945 (Joint/Majority) Education and Judiciary on H.B. No. 1969

The purpose of this measure is to allow the Board of Education to employ attorneys without the Attorney General's approval.

Your Committees received testimony in support of the measure from a private individual. Your Committees received testimony in opposition to the measure from the Attorney General.

Your Committees find that the measure will provide the Department of Education with access to timely and independent legal advice, which could provide one means of improving its administrative and instructional practices.

Your Committees have amended the measure by replacing its contents with the contents of S.B. No. 2206, S.D. 1. As amended, the measure:

- (1) Allows the Department of Education to be the primary hiring authority, instead of the Board of Education;
- (2) Sets forth the legal services to be provided;
- (3) Allows the board to set the compensation of the attorneys;
- (4) Allows attorneys to be retained by contract; and
- (5) Specifies that the board is not precluded from requesting and securing legal services from the attorney general.

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. 1969, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1969, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, 3 (Chumbley, English, Slom). Excused, 8 (Fukunaga, Hanabusa, Ige, Ihara, Matsunaga, Menor, Nakata, Hogue).

SCRep. 2946 Health and Human Services on H.B. No. 1842

The purpose of this measure is to redefine the scope of pharmaceutical practice to allow pharmacists to provide services in a broader range of settings.

Testimony in support of this measure was submitted by Department of Health, Hawaii Pharmacists' Association, Healthcare Association of Hawaii, Hawaii Medical Service Association, and Longs Drugs. The Board of Pharmacy submitted testimony with comments and suggested amendments.

Your Committee finds that this measure recognizes the dynamic nature of the health care environment by broadening the scope of practice for pharmacists who are adequately trained and competent to practice outside of pharmacies and acute care hospitals. Your Committee further finds that this measure will enable pharmacists to provide consultation, information, and education to patients and health care professionals, and thereby reduce the risk of adverse drug reaction through early detection and monitoring for positive medication outcomes. Your Committee notes that this measure does not provide pharmacists with prescriptive authority.

Upon further consideration, your Committee has amended this measure by replacing it with S.B. 2087, S.D.2, thereby adopting changes agreed to by the Hawaii Pharmacists' Association and Hawaii Medical Association. As amended, this measure:

- (1) Clarifies that a pharmacist must have appropriate training recognized by the Board of Pharmacy in order to administer drugs;
- (2) Requires a pharmacist who administers immunizations by injection to have appropriate training recognized by the Board of Pharmacy, and limits the administration of injections to adults; and
- (3) Provides that a pharmacist may only initiate or adjust a patient's drug regimen if authorized by written instructions from the patient's licensed medical doctor.

Your Committee also made technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1842, H.D. 1, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 1842, H.D. 1, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2947 Health and Human Services on H.B. No. 2056

The purpose of this measure is to establish a three-tier licensure system for social work practice that recognizes educational and professional experience in the assignment of a license category.

Testimony in support of this measure was submitted by the National Association of Social Workers, the Clinical Social Work Society of Hawaii, Hawaii Youth Services Network, nine licensed social workers and social work students. Testimony in opposition to this measure was submitted by a social work student. The Department of Commerce and Consumer Affairs and the Hawai'i Nurses' Association submitted testimony with comments and suggested amendments.

Your Committee finds that the State's existing social work licensing law does not recognize the various educational and experiential distinctions between social work practitioners. Your Committee further finds that the three-tier model proposed in this measure reflects the current national model for social work licensure and will offer consumers more informed choices when seeking and retaining services of licensed social workers.

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

- (1) Clearly delineating the three tier-system by linking each tier to their respective definitions in chapter 467E, Hawaii Revised Statutes (HRS);
- (2) Deleting the qualifying term "psychiatric or mental health specialty or subspecialty" that is attached to all references to "advanced practice registered nurses";
- (3) Changing the language in the definition of "qualified" on page 5 of the measure to clarify that the certification under chapter 321 applies to all physicians, psychologists, advanced practice registered nurses;
- (4) Correcting a cross-reference in the new language in paragraph (8) added to section 467E-6, HRS, related to qualifications for a licensed clinical social worker;
- (5) Inserting a conforming amendment to section 467E-15, HRS, related to privileged communication;
- (6) Extending the deadline to June 30, 2005, to allow applicants for the "licensed clinical social worker" license who have passed the diplomate clinical assessment examination to file for licensure with the Department of Commerce and Consumer Affairs;
- (7) Removing the sunset provision from Act 229, Session Laws of Hawaii 2001; and
- (8) 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 and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2056, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2056, H.D. 2, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Buen).

SCRep. 2948 (Joint) Health and Human Services and Education on H.B. No. 2761

The purpose of this measure is to develop and implement a school-community based oral health program for children attending Hawaii public schools.

Testimony in support of this measure was submitted by the Department of Health, State Planning Council on Developmental Disabilities, and Hawai'i Primary Care Association. Testimony in opposition to portions of this measure was submitted by a concerned citizen.

Your Committees find that Hawaii's children, especially those from poor families, lack regular and proper dental care. Your Committees further find that providing dental health services for these children will promote positive oral health habits and prevent development of more serious dental problems through early detection and treatment in a school setting.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2761, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 5 (Buen, Ige, Kawamoto, Menor, Tam).

SCRep. 2949 Judiciary on H.B. No. 2117

The purpose of this measure is to clarify the sentencing provisions for the second, third, and subsequent offenses of abuse of a family or household member.

Testimony in support of this measure was received from the Attorney General, Honolulu Prosecuting Attorney, Honolulu Police Department, and Hawaii State Coalition Against Domestic Violence.

This measure is intended to remedy a constitutionally defective statute. In State v. Modica, 58 Haw. 249 (1977), the Hawaii Supreme Court held that a defendant's due process and equal protection rights are violated if the defendant is convicted of a felony, when the same act committed under the same circumstances could also have been punished as a misdemeanor under another statute, and the elements of proof essential to either conviction are exactly the same.

Section 709-906(5)(b), Hawaii Revised Statutes (HRS), makes it a misdemeanor for second and subsequent offenses of abuse of a family member that occur within one year of the first offense. Section 709-906(7), HRS, makes it a class C felony of any subsequent offense occurring within two years after a second misdemeanor conviction. Under the foregoing provisions, subsequent offenses after a second offense could be charged either as a felony or a misdemeanor. Under State v. Modica, a potential constitutional problem exists. This measure remedies the potential defect by limiting misdemeanors to the first and second offense, while making it a class C felony for any third and subsequent 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. 2117, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2950 Judiciary on H.B. No. 2305

The purpose of this measure is to clarify the time limits within which to contest a probated will, and to bar the claims of creditors against a probated estate unless the personal representative mails notice to the claimant of the sixty-day impending bar to claims.

Testimony in support of this measure was received from the Judiciary, Committee on the Uniform Probate Code and Probate Court Practices, and Hawaii Bankers Association.

According to the testimony, this measure is intended to:

- (1) Shorten the time limitation period in which to contest a probated will by allowing an informal probate to be closed without fear of a will contest after-the-fact; and
- (2) Set a reasonable deadline for creditors to challenge a probated will.

Your Committee has amended this measure by deleting its contents and inserting S.B. No. 2629, S.D. 1.

As affirmed by the record of votes of 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. 2305, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2305, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2951 Judiciary on H.B. No. 2306

The purpose of this measure is to allow the supreme court to determine how to manage case, fiscal, and administrative records, including storage in electronic form.

Testimony in support of this measure was received from the Judiciary.

This measure is intended to enhance the Judiciary's ability to manage its records, particularly in view of section 601-3.7, Hawaii Revised Statutes, relating to the judicial computer special fund which allows the Judiciary to purchase hardware and software for a judiciary computer system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2306, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2952 Judiciary on H.B. No. 2308

The purpose of this measure is to delete the requirement that the director of the family court collect statistics and prepare an annual report of the court's work.

Testimony in support of this measure was received from the Judiciary.

Section 601-2, Hawaii Revised Statutes, relating to court administration, requires the chief justice to make a report to the legislature at each regular session of the business of the judiciary, and to present a six-year program and financial plan. This measure would remedy a duplication of requirements in the 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. 2308, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2953 Judiciary on H.B. No. 2310

The purpose of this measure is to remove the exception for venue where a party cannot be served.

Your Committee received testimony in favor of this measure from the Judiciary.

Your Committee finds that section 604-7(d), Hawaii Revised Statutes (HRS), includes a clause which allows venue for parties that cannot be served in a particular circuit. Individuals can be served in all circuits, pursuant to section 604-7(c), HRS, and Rule 4 of the District Court Rules of Civil Procedure. The clause regarding venue for a person who cannot be served in a particular circuit is confusing and no longer has practical value.

As affirmed by the record of votes of 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. 2310, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2954 Judiciary on H.B. No. 2311

The purpose of this measure is to increase the number of judges in the second and third circuits from three to four.

Testimony in support of this measure was received from the Judiciary.

The second judicial circuit has only two Circuit Court judges to serve the entire circuit, which is comprised of Maui, Molokai, and Lanai. Your Committee finds that in the ten years since the last judgeship was granted to the second judicial circuit, the population of this tri-island county has expanded by twenty per cent and, concomitantly, the number of court cases and their complexity have increased significantly. This situation has resulted in additional overtime work for the existing judges, with a corresponding increase in the overtime cost for court staff, and an increase in the cost of per diem judges.

Your Committee further finds that the third judicial circuit, which serves the entire county of Hawaii, will be home to the impending Drug Court. To ensure the success of the Big Island Drug Court, an additional circuit-level judge will be necessary to handle the judicial processes of the court full-time.

Your Committee notes that the funds for these additional judgeships are currently in the Judiciary's budget request, and that this measure is needed to authorize the appointments.

Your Committee has amended this measure by deleting its contents and inserting S.B. No. 2634, S.D. 1, an identical measure which makes a punctuation change in the section title.

As affirmed by the record of votes of 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. 2311, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2311, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2955 Judiciary on H.B. No. 2317

The purpose of this measure is to confer concurrent jurisdiction in the family court over the offenses of unlawful imprisonment in the second degree (section 707-722, Hawaii Revised Statutes (HRS)) and interference with reporting an emergency or crime (section 710-1010.5, HRS).

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney.

Under current law, jurisdiction over sections 707-722 and 710-1010.5, HRS, is in the district court, as a misdemeanor and petty misdemeanor, respectively. Vesting jurisdiction concurrently with the family court would make it possible for the family court to hear these cases, usually in conjunction with a case involving a criminal charge that stems from the same incident. The defendant could not be charged with multiple offenses for the same incident if the family court had no jurisdiction over some of those charges.

As affirmed by the record of votes of 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. 2317, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2956 Judiciary on H.B. No. 2318

The purpose of this measure is to add personal service on the surety as a means to serve notice of forfeiture of a bail bond in a criminal case.

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney and an individual.

Under current law, certified mail is the only method of service permitted to notify the surety of the forfeiture of the bond for the non-appearance in court of the defendant. This measure would make it easier to serve the surety.

As affirmed by the record of votes of 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. 2318, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2957 Judiciary on H.B. No. 2387

The purpose of this measure is to change the penalty for the offense of desecration.

Testimony in support of this measure was received from the Oahu Island Burial Council. The Public Defender submitted testimony in opposition.

This measure changes the current penalty of a misdemeanor to one year imprisonment and a fine of \$5,000.

Your Committee heard graphic testimony of acts of vandalizing graves, including theft of bronze vases used to hold flowers. Current law prohibits desecration, which apparently does not serve as a sufficient deterrent. Therefore, the only recourse is to increase the penalty for desecration.

Your Committee has amended this measure by increasing the fine to \$10,000, to be consistent with the penalty provided in section 6E-11(c), Hawaii Revised Statutes, relating to destruction of historic property. Your Committee believes that a burial place or grave deserves no less a penalty for damage than does a historical monument.

As affirmed by the record of votes of 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. 2387, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2387, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 2958 Judiciary on H.B. No. 2427

The purpose of this measure is to toll or suspend the statute of limitations for civil actions against a defendant while the defendant is in prison serving a sentence for certain crimes that form the basis of the civil suit.

Testimony in support of this measure was received from the Judiciary, Attorney General, Department of Public Safety, Crime Victim Compensation Commission, Honolulu Prosecuting Attorney, and an individual. Testimony in opposition was received from the Public Defender.

The crimes covered by this measure are crimes that constitute sexually violent offenses and criminal offenses against a victim who is a minor. These crimes very often entail physical and mental injury to the victim, which form the basis of a separate civil cause of action. However, current law does not make exception to the running of the statute of limitations to file a civil suit if the defendant is incarcerated. This measure tolls the statute of limitations during the defendant's incarceration, giving the victim more time to file a civil suit after the defendant is released.

This measure also requires notification of the victim or surviving family of the victim if the incarcerated person receives any civil judgment or settlement or other income exceeding \$10,000. Release from incarceration to parole would be preconditioned upon the

incarcerated person paying restitution and judgments to the victim or victim's family, if the Hawaii Paroling Authority determines that the person is financially able to do so. This measure also provides immunity to the State and any county from damages in any lawsuit based upon these requirements.

Your Committee has amended this measure on the recommendation of the Attorney General, by deleting its contents and inserting S.B. No. 2685, which does not add a new section to chapter 657, 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. 2427, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2427, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2959 Judiciary on H.B. No. 2437

The purpose of this measure is to extend the immunity from liability for the enforcement of a valid foreign protective order to the enforcement of a foreign protective order that is authentic on its face.

Your Committee received testimony in support of this measure from the Attorney General, Honolulu Prosecuting Attorney, Honolulu Police Department, Maui Police Department, Hawaii Police Department, Volunteer Legal Services of Hawaii, and a private citizen.

The timely enforcement of protective orders is critical to protecting the victims of abuse from further abuse or death. However, the timely enforcement of orders issued by other jurisdictions is rendered more difficult by the need to obtain confirmation of the order's validity from the issuing jurisdiction. Practical considerations, such as time zone differences between Hawaii and other jurisdictions, may preclude a quick confirmation, meanwhile leaving the persons seeking protection under the order vulnerable to further abuse.

This measure addresses the above problem by extending the immunity from civil or criminal liability currently provided to a law enforcement officer who enforces a valid foreign protective order to an officer who enforces a foreign protective order that is authentic on its face. Under section 586-24, Hawaii Revised Statutes, a foreign protective order is "authentic on its face" if it contains the names of both parties and remains in effect. Using this criteria, a law enforcement officer will be able to quickly determine the validity of a foreign protective order and enforce apparently authentic orders in a timely manner without fear of incurring 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. 2437, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2960 Judiciary on H.B. No. 2438

The purpose of this measure is to provide criminal penalties for those who steal the identity of another, and for those who obtain identity documents under false pretenses or use a false or fictitious identity.

Your Committee received testimony in support of the measure from the Attorney General, Office of Information Practices, Honolulu Prosecuting Attorney, Honolulu Police Department, Hawaii Police Department, and an individual.

This measure would create the offenses of identity theft in the first, second, and third degrees, obtaining a government-issued identification document under false pretenses in the first and second degrees, and misuse of certificate of identification.

Your Committee finds that, in light of the terrorist attacks of September 11, 2001, the ramifications of identity theft have proven much more grave than previously thought. Identity theft, a huge problem in financial fraud and theft cases, now has implications for national security. This measure provides a comprehensive framework of statutes to deal with the various aspects of identity theft.

Your Committee has amended this measure on the recommendation of the Attorney General by deleting its contents and inserting S.B. No. 2696, S.D. 1, with an amendment to clarify that the deceptive use of a fictitious identity is for an unlawful purpose. Your Committee notes that the substantive difference between the two measures is that the House version deleted the offense of use of a fictitious identity which is in the senate bill. In addition, there are technical, nonsubstantive differences between the bills as the senate bill made changes for 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. 2438, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2438, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2961 Judiciary on H.B. No. 2563

The purpose of this measure is to increase the allowable compensation awarded to crime victims for medical expenses.

Testimony in support of this measure was received from the Crime Victim Compensation Commission (Commission), Honolulu Prosecuting Attorney, and an individual.

This measure provides that for compensable medical expenses in excess of the compensation award ceiling of \$10,000, the maximum award is limited to \$20,000.

Your Committee finds that the vast majority of states have higher compensation award ceilings: these range from \$15,000 to a high of \$150,000 in Washington State, with no statutory ceiling imposed in New York. In contrast, only eight states, including Hawaii, have a \$10,000 award ceiling. Your Committee believes that the State's present compensation award ceiling of \$10,000 is woefully inadequate to address cases involving catastrophic medical care and should be raised in cases involving compensable medical expenses that are in excess of \$10,000.

Your Committee has amended this measure by deleting its contents and inserting S.B. No. 2821, S.D. 1, a companion measure, which:

- (1) Clarifies that the award is the lower of \$20,000 or the actual compensable medical expenses if the compensable medical expenses are in excess of \$10,000; and
- (2) Clarifies that in determining the amount of compensable medical expense to be awarded, the Commission is required to deduct amounts or benefits as provided under section 351-63, Hawaii Revised Statutes.

Your Committee also corrected the numbering of sections in 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. 2563, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2563, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 2962 (Joint) Health and Human Services and Education on H.B. No. 1858

The purpose of this measure is to appropriate an unspecified sum of general revenues for before-school, after-school, and weekend programs to the Office of Youth Services (OYS).

Testimony in support of this measure was submitted by the Keiki Injury Prevention Coalition and Blueprint for Change. The Office of Youth Services submitted testimony in support of the intent of the measure. The Hawaii Youth Services Network submitted testimony supporting the intent and recommending the use of tobacco settlement funds to support these programs.

Your Committees find that providing programs outside school hours is beneficial in keeping Hawaii's youths safe and helps prevent illegal and harmful activity. Your Committees further find that it is appropriate to specify a dedicated source of state funding for these programs as part of the State's commitment to supporting youth development and child protection.

Upon further consideration, your Committees have amended this bill by deleting its contents and substituting therefor S.B. No. 2143, S.D. 1, which:

- (1) Earmarks an unspecified percent of tobacco settlement funds and appropriates these funds to the Office of Youth Services for youth programs; and
- (2) Changes the effective date of this measure to upon its approval.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1858, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1858, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 5 (Buen, Ige, Kawamoto, Menor, Tam).

SCRep. 2963 Labor on H.B. No. 682

The purpose of this measure is to transfer the responsibility of adjudicating appeals on matters of occupational safety and health (OSHA) from the Labor and Industrial Relations Appeals Board (LIRAB) to the Hawaii Labor Relations Board (HLRB).

Testimony in support of the measure was received from LIRAB, HLRB, and the ILWU, Local 142.

Your Committee finds that OSHA cases involve the important matter of health and safety in the workplace. Cases are presently under the jurisdiction of LIRAB. Also within LIRAB's jurisdiction are workers' compensation cases. These cases represent a tremendous caseload for LIRAB. For example, at the close of FY 1999-2000 LIRAB's pending workers' compensation caseload was

761. Accordingly, because of this heavy caseload, cases before LIRAB, including OSHA cases, are not resolved for several months and may take over a year.

Your Committee also finds that since July, 2000, LIRAB and HLRB have worked cooperatively to utilize HLRB's existing resources to address the backlog of OSHA cases. LIRAB appointed HLRB as hearings officers to hear and recommend a decision in OSHA cases. Fifty-six cases were referred to HLRB since July, 2000, of that number, thirty-one cases have been settled, twelve dismissed, and recommended decisions have been issued by HLRB in three cases.

Your Committee believes that transferring jurisdiction of OSHA cases from LIRAB to HLRB will improve the timeliness in resolving OSHA cases. Moreover, the transferring of OSHA cases to HLRB will permit LIRAB to focus solely on workers' compensation cases.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 682, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Hanabusa, Ihara, Matsuura).

SCRep. 2964 Labor on H.B. No. 2232

The purpose of this measure is to strengthen the protection provided by Hawaii's Whistleblowers' Protection Act.

Testimony in support of the measure was received from the Hawaii State Commission on the Status of Women, the ILWU Local 142, Common Cause Hawaii, the League of Women Voters of Hawaii, the Hawaii Government Employees Association, and the Hawaii State Teachers Association. The Society of Human Resource Management - Hawaii Chapter, the Hawaii Bankers Association, the Chamber of Commerce of Hawaii, and HMSA testified in opposition to the measure.

Specifically, the measure strengthens the Whistleblowers' Protection Act by:

- (1) Providing protection to employees who report or are about to report violations of law to government entities or their employers;
- (2) Increasing the duration of the statute of limitations for filing a claim under the Whistleblowers' Protection Act from ninety days to two years; and
- (3) Replacing the flat \$500 per violation penalty with a range of \$500 to \$5,000 per violation.

Your Committee believes that the measure not only provides aggrieved employees with better protection under the law, but also serves as a stronger deterrent against unscrupulous employers who would otherwise take advantage of their employees' trust.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2232, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Hanabusa, Ihara, Matsuura).

SCRep. 2965 (Joint) Labor and Tourism and Intergovernmental Affairs on H.B. No. 1772

The purpose of this measure is to allow applicants for police officer positions to be non-residents of Hawaii at the time of their application.

Testimony in support of the measure was received from the County of Hawaii Police Department, the County of Maui Police Department, and a member of the Maui County Council.

Your Committees find that state residency requirements deter prospective police officer applicants at a time when the State suffers from serious shortages in public safety positions.

During your Committees' discussion of this measure, the Chair of the Tourism and Intergovernmental Affairs' Committee questioned whether the measure's passage was necessary in order to resolve the problem of the dwindling supply of police applicants. Testifiers indicated that the residency requirement is a factor in limiting the amount of potential police officer applicants and that such applicants need to be specifically exempted from the statutorily mandated residency requirement in order to allow out-of-state applicants to apply.

Your Committees believe that removing the residency requirement for police officer applicants is prudent and will enable police departments to select qualified police officers from a larger pool of applicants.

As affirmed by the records of votes of the members of your Committees on Labor and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1772, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, none. Excused, 6 (Buen, Chumbley, Hanabusa, Ihara, Inouye, Matsuura).

SCRep. 2966 (Joint) Agriculture and Commerce, Consumer Protection and Housing on H.B. No. 1825

The purpose of this measure is to make technical amendments to Article 9 of the Uniform Commercial Code (UCC) in Chapter 490, Hawaii Revised Statutes to maintain consistency with other state UCC statutes.

Your Committees received testimony in favor of this measure from Hawaii's Commission to Promote Uniform Legislation.

Your Committees find that the revision of Article 9 was a five-year drafting project of the National Conference of Commissioners on Uniform State Laws, and because of the complexities of the project, there were some errors and ambiguities that had not been detected until after the enactment of Revised Article 9 in the various states. This measure corrects these technical errors and provides consistency in the perfection of various security interests. Further, section 3 provides that if a person sells a right to receive payment of winnings in a lottery or other game of chance, the security interest of the party that purchases that right to payments is automatically perfected and the purchaser does not have to file or refile UCC financing statements. Other "payment tangibles" are treated the same way under Revised Article 9. These amendments will maintain uniformity with Revised Article 9, which has been adopted in all other states and the District of Columbia.

As affirmed by the records of votes of the members of your Committees on Agriculture and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1825, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 4 (Hanabusa, Kawamoto, Matsunaga, Tam).

SCRep. 2967 (Joint) Agriculture and Commerce, Consumer Protection and Housing on H.B. No. 2630

The purpose of this measure is to establish a seal of quality program for fresh and processed agricultural products that are produced in Hawaii. In addition, this measure establishes a Hawaii Marketing Alliance to develop and implement the program.

Testimony supporting this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, North Shore Farms, Waiialua Farmers Cooperative, Meadow Gold Dairies, Del Monte, Commodity Advisory Group of the Hawaii Farm Bureau Federation, Pineapple Growers Association of Hawaii, University of Hawaii College of Tropical Agriculture and Human Resources, Hawaii Food Industry Association, and Hawaii Papaya Industry Association.

Your Committees find that Hawaii's agricultural products maintain a distinct and valuable reputation for freshness, uniqueness, and quality. The worldwide market for agriculture products is highly competitive and strong branding is key to success. Therefore, there needs to be a uniform method of indicating that an agricultural product originates from Hawaii and carries with it Hawaii's valuable goodwill. This measure accomplishes this objective and further preserves and enhances the value and marketability of Hawaiian products.

Your Committees have amended this measure by replacing its contents with the Senate version, S.B. No. 2666, S.D. 2, which amends this measure by:

- (1) Deleting the language which establishes the Hawaii marketing alliance;
- (2) Authorizing the Department of Agriculture to contract with nonprofit organizations to assist in the development and implementation of the seal of quality program;
- (3) Authorizing the Department of Agriculture to enforce the requirements of the seal of quality program and to examine the records of a business to ensure compliance; and
- (4) Making technical, nonsubstantive changes for style.

As affirmed by the records of votes of the members of your Committees on Agriculture and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2630, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2630, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 4 (Chumbley, English, Hanabusa, Kawamoto).

SCRep. 2968 Water, Land, Energy, and Environment on H.B. No. 2554

The purpose of this measure is to authorize the Board of Land and Natural Resources to lease state submerged lands for private nonresidential, noncommercial piers. Currently, the Board is restricted to lease state submerged lands for private residential, noncommercial piers.

Your Committee received testimony in support of this measure from the Board of Land and Natural Resources, and two individuals. Opposing testimony was received from five individuals.

Your Committee finds that the problem of illegal unauthorized piers in Kaneohe Bay has persisted for decades. Act 261, Session Laws of Hawaii 2000, combats this problem by authorizing the Board to lease by direct negotiation and without regard to public auction, state submerged lands for private residential noncommercial piers, to the owners of unauthorized piers on State waters. In May of 1998, the Board approved a plan to provide owners of illegal piers with the required permits to achieve compliance with State land use laws. However, upon notifying the pier owners of these actions, the Department discovered there were a few piers that do not clearly fall under the category of "residential", but do meet the "noncommercial" criterion of Act 261, SLH 2000.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2554, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 2969 Water, Land, Energy, and Environment on H.B. No. 2710

The purpose of this measure is to repeal the sunset provision that would terminate ocean leasing activity.

Your Committee received testimony in support of the measure from the Board of Agriculture, Department of Business, Economic Development, and Tourism, Board of Land and Natural Resources, Hawaii Aquaculture Association, Oceanic Institute, and Black Pearls, Inc. Your Committee also received oral testimony in support of the measure from a private individual.

Your Committee finds that this measure would make open ocean aquaculture leasing more attractive to potential investors. The initial lease to Cates International was the first open ocean aquaculture lease in the nation and Hawaii continues to lead the nation in developing open ocean aquaculture. With recently imposed restrictions on capture fisheries in the State, and closures of some fishing areas, the potential for aquaculture and offshore fish farming to fill an economic void and expand the State's economy has never been greater.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2710, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 2970 Water, Land, Energy, and Environment on S.C.R. No. 27

The purpose of this measure is to require the Department of Land and Natural Resources to evaluate the problems associated with the public land leases that are due to expire soon.

Testimony supporting this measure was received from the Department of Land and Natural Resources and Mayor of the County of Hawaii.

Your Committee finds that many economically important enterprises in the State are conducted on public lands by way of a lease. Many of these leases have been let for several decades during which time the lessees have established businesses on the public land. An inordinate number of these leases will be expiring soon and the effect on the economy could be dramatic, particularly during this time when the state and national economies are struggling to recover from the recent recession. Therefore, the ramifications of the imminent en masse expiration of public land leases require evaluation so contingencies may be accommodated to ensure the stability of the state economy.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 27 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 2971 Tourism and Intergovernmental Affairs on H.B. No. 2045

The purpose of this measure is to authorize issuance of revenue bonds by a corporation established by a county as a public body corporate and politic and instrumentality and agency of the county for the purpose of owning or operating facilities for the furnishing of electricity, or any board of a county that owns or operates such facilities.

Testimony in support of this measure was received from the Mayor of Kauai. The Consumer Advocate testified in opposition.

Your Committee finds that the County of Kauai is working to establish a legal framework for the creation of a power authority, should the county decide to pursue ownership of Kauai Electric. Your Committee has heard that this option is one of the

recommendations of a citizen committee established by the Mayor to review governance of Kauai Electric, and that the bonding authority would be an important component of exercising this option.

Your Committee has, however, raised concerns that this measure would apply to all counties, and that should the County decide not to pursue ownership, the legislation would be unnecessary.

Your Committee has amended this measure accordingly to make it applicable only to a county with a resident population under 100,000, and to add a sunset date of June 30, 2004.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2045, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2045, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2972 Tourism and Intergovernmental Affairs on H.B. No. 2192

The purpose of this measure is to increase the membership and the areas of expertise of members of the Hawaii Tourism Authority board, including knowledge in Hawaiian cultural practices.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority (HTA), Department of Land and Natural Resources, Hawaii Hotel Association, Retail Merchants of Hawaii, Association of Hawaiian Civic Clubs, and Native Hawaiian Chamber of Commerce. The National Association of Social Workers, Domestic Violence Clearinghouse, Hale `Opio Kaua`i, Inc., Waikiki Health Center, and Hawaii Activities and Tours Association submitted comments.

Your Committee finds that increasing the board's membership and the areas of expertise of its members will enable the HTA board to respond more effectively to the challenges facing Hawaii's visitor industry.

Your Committee believes, however, that there are a number of additional changes that would make the HTA more successful in these efforts and in its management of its financial resources. Your Committee has amended this measure accordingly, to incorporate changes addressed in S.B. No. 2421, S.D. 2, previously heard in this Committee. As amended this measure:

- (1) Specifies that the authority is a policy-making board;
- (2) Limits membership to no more than two members representing any individual sector of the industry;
- (3) Requires any new appointments after the effective date of the Act to fulfill new requirements;
- (4) Further clarifies the number of affirmative votes needed for an action by the board;
- (5) Requires Senate confirmation of the executive director and caps the salary at fifteen per cent of the three per cent authorized for administrative expenses;
- (6) Adds language regarding support for natural resources;
- (7) Restricts contracts awarded from contract administration except for single events;
- (8) Requires the authority to notify the legislature about any contracts over \$25,000;
- (9) Adds statutory language to require the Auditor to conduct audits at least every five years on contracts over \$15,000,000; and
- (10) Changes the effective date from upon approval to July 1, 2002.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2192, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2192, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2973 (Joint) Tourism and Intergovernmental Affairs and Commerce, Consumer Protection and Housing on H.B. No. 2199

The purpose of this measure is to allow recorked or resealed wine purchased for consumption with a meal to be removed from the licensed premises of a bona fide hotel, restaurant, or club with a class 2, 6, 11, 12, or 14 license; provided that it is recorked or resealed in its original container.

Testimony in support of this measure was received from Hawaii Restaurant Association, Big Island Restaurant Association, Legislative Information Services of Hawaii, Retail Liquor Dealers Association, Hawaii Food Industry Association, and The Wine Institute.

Your Committees have heard that several states have passed similar legislation and have not reported any adverse effects. By allowing customers to take home an unfinished bottle of wine, the customers does not feel compelled to drink the entire contents in order to get their moneys worth.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2199, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2974 (Majority) Tourism and Intergovernmental Affairs on H.B. No. 2451

The purposes of this measure are to establish a convention center enterprise special fund and a convention center facility reserve special fund, and to assign the responsibility to market, operate, manage, and maintain the convention center facility to the Hawaii Tourism Authority.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, the Hawaii Tourism Authority (HTA), SMG, and Hawaii Hotel Association. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that after the sunset of the previous convention center law on June 30, 2000, the Governor assigned the control and management of the convention center to the HTA through Executive Order No. 3817. This measure would formalize that responsibility in statute.

Your Committee believes formalizing the responsibility would help to ensure efficient management of the convention center, but has some reservations about the need for two convention center special funds.

Your Committee has amended this measure accordingly, to:

- (1) Delete the convention center facility reserve special fund and authorize moneys for any unforeseen or unplanned repairs under the convention center enterprise special fund;
- (2) Require the contract for management of the convention center facility to include marketing for all uses of the facility;
- (3) Formally repeal the previous convention center authority law;
- (4) Replace the sum appropriated with a blank amount to facilitate further discussions of the funding necessary to carry out the purposes of this measure; and
- (5) Make technical amendments in conformance with the preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2451, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2451, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2975 (Joint) Tourism and Intergovernmental Affairs and Agriculture on H.B. No. 2595

The purpose of this measure is to appropriate moneys for the enhancement of agricultural tourism venues.

Testimony in support of this measure was received from the Department of Agriculture, the Hawaii Tourism Authority, and the Hawaii Farm Bureau Federation.

Your Committees find that agricultural tourism is an important component in efforts to diversify and expand tourism in Hawaii, as well as a means of providing financial opportunities for the agricultural community.

Your Committees believe that while the Department of Agriculture does promote Hawaii's agricultural industry and products, marketing agricultural tourism would be more appropriate as part of the Hawaii Tourism Authority's overall marketing efforts.

Your Committees have amended this measure accordingly, to appropriate \$500,000 from the tourism special fund, to be expended by the Hawaii Tourism Authority.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2595, H.D. 1, as amended

herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2595, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Hanabusa, Inouye).

SCRep. 2976 Tourism and Intergovernmental Affairs on H.B. No. 2832

The purpose of this measure is to permit the Director of Commerce and Consumer Affairs to authorize independent contractors to invite others to time-share sales presentations.

Testimony in support of this measure was received from the Time Share Administrator and one individual.

Your Committee finds that the intent of this measure is to clarify unintended ambiguities that resulted from legislation passed in the 2001 session. Your Committee has also heard a recommendation for additional amendments in certain disclosure requirements.

Your Committee has amended this measure to clarify the requirements concerning delivery of a developer's public report and disclosure abstract of a time share plan or project that is part of a condominium project.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2832, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2832, H.D. 1, S.D. 1, and be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2977 Transportation, Military Affairs, and Government Operations on H.B. No. 1093

The purpose of this measure is to prohibit the use of Washington Place for political activities.

Your Committee received testimony in support of this measure from the Hawaii State Ethics Commission (Commission), Common Cause Hawaii, the League of Women Voters of Hawaii, and a concerned citizen.

This measure prohibits the Governor from allowing Washington Place to be used for any events intended to solicit funds, support, or votes for any candidate for elective office. This measure tracks with similar restrictions on state employees in using their official position to grant unwarranted privileges or advantages and prohibiting them from using state time, equipment, and facilities for private business purpose. The Commission holds that political campaigning should not occur at what is a state facility supported by state tax dollars.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1093, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 2978 Transportation, Military Affairs, and Government Operations on H.B. No. 1823

The purposes of this measure are to provide a general excise tax exemption for sales of goods and services, including contracting, to the State, to change the central services assessment rate from 5% to an unspecified percentage, and to repeal all central service and departmental administrative expense assessment exemptions.

Testimony in opposition to this measure was received from the Department of Business, Economic Development, and Tourism, the Department of Budget and Finance, the Attorney General, the Department of Commerce and Consumer Affairs and its Insurance and Consumer Advocacy Divisions, the Department of Taxation, the Judiciary, the Hawaii Community Development Authority, the Aloha Tower Development Corporation, Hawaii Health Systems Corporation, the High Technology Development Corporation, the Hawaii Hurricane Relief Fund, the Public Utilities Commission, and the Hawaii Tourism Authority. The Department of Land and Natural Resources and the Department of Health submitted testimony expressing concern with this measure, and the Tax Foundation of Hawaii submitted comments.

Your Committee recognizes that this measure will have an impact on state revenues, and that funds that are currently exempt from the central services and administrative expense assessments will be negatively impacted as well. In addition, your Committee recognizes that some of these funds do not utilize state administration, and therefore probably should not be assessed the administrative expense fee.

Your Committee finds that the opposition to this measure is overwhelming and unanimous. However, the Senate companion to this measure was held by your Committee earlier this session based on the same concerns; therefore, your Committee has decided to pass this measure so that your Committee on Ways and Means can review the feasibility and efficacy of the amendments proposed by this measure.

Your Committee amended this measure by delaying its effective date until July 1, 2050, and by making several technical, nonsubstantive amendments for style, and to effectuate the intent of the measure.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1823, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1823, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 2979 Transportation, Military Affairs, and Government Operations on H.B. No. 2349

The purposes of this measure are to expand the privileges of authorized emergency vehicles to include driving on the shoulder of a roadway and in controlled-access highways, and to remove the condition that officers use audible and visual signals when using their vehicles in an emergency manner.

Your Committee received testimony in support of this measure from the Honolulu City and County Police Department. The Department of Transportation submitted comments.

Your Committee agrees that our law enforcement personnel require the ability to respond to emergencies, including exemptions from general driving laws while responding to such situations. Therefore, your Committee supports this measure, to better equip law enforcement agencies to respond to emergency situations.

Your Committee amended this measure to expand the privileges granted by section 291C-26, Hawaii Revised Statutes (HRS), regarding exemption from certain driving laws, to cover all vehicles used by police officers for a police function.

Your Committee also amended this measure to reinstate subsection (c) of section 291C-26, HRS, which requires use of authorized audible and visual signals when law enforcers operate their vehicles under an exemption from the State's driving laws. As amended, audible and visual signals will only be required when the vehicle is being operated on the shoulder, median, or in a controlled-access highway.

Your Committee further amended this measure to allow officers on police motorcycles to take advantage of the exemptions without requiring any signals.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2349, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2349, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2980 Transportation, Military Affairs, and Government Operations on H.B. No. 2509

The purpose of this measure is to establish a separate offense for parking in or otherwise using the access aisle adjacent to a parking space reserved for a person with a disability.

Your Committee received testimony in support of this measure from the Honolulu City and County Police Department, the Disability and Communications Access Board, and the Hawaii Disability Rights Center.

During the 2001 regular session, legislation was enacted providing for increased penalties for persons who violate the law regarding parking for persons with disabilities. Your Committee finds that this measure is a logical extension of last year's amendments.

Your Committee finds that the access aisle adjacent to parking spaces reserved for a person with a disability is important to provide sufficient room to enter and exit vehicles parked in those spaces.

A person who illegally uses the access aisle inhibits use of that space to nearly the same extent as a person who illegally parks within the space itself. Therefore, your Committee fully supports this measure.

Your Committee has amended this measure by including a separate amendment to section 291-58, Hawaii Revised Statutes (HRS), to delay for one year the date by which private and public entities must comply with the signage posting and other requirements of Part III of chapter 291, HRS, relating to parking for persons with disabilities.

Your Committee also clarified the title of section 291-57, HRS, to reflect the substantive amendments contained in this measure. Finally, your Committee amended section 291-51.6, HRS, to insert words that were inadvertently omitted when that section was amended during the 2001 legislative session.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2509, H.D. 1, as

amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2509, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2981 Transportation, Military Affairs, and Government Operations on H.B. No. 2580

The purpose of this measure is to distinguish the examination, licensing, and operation of mopeds from that of motor scooters and motorcycles.

Testimony in support of the measure was received from the Department of Transportation.

Your Committee finds that under existing law, persons may use mopeds to meet the licensing requirements in section 286-102, Hawaii Revised Statutes, for motor scooters. This measure would distinguish mopeds as class 1 vehicles and motor scooters and motorcycles as class 2 vehicles.

Your Committee believes that the measure will conform licensing requirements to the definitions of mopeds, motor scooters, and motorcycles found in Section 286-2, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2580, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukuanga, Kanno, Tam).

SCRep. 2982 (Majority) Tourism and Intergovernmental Affairs on S.C.R. No. 34

The purpose of this measure is to request the Legislative Reference Bureau to study the level and scope of private sector spending to advertise and promote Hawaii for tourism.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, and Hawaii Hotel Association.

Your Committee finds that the private sector plays an important role in advertising Hawaii through a variety of venues, but little specific data is available regarding the level and scope.

Your Committee believes this information could be an important source of expanded cooperative ventures between the private sector and the State in promoting Hawaii. Your Committee has amended this measure to:

- (1) Add language regarding these enhanced opportunities;
- (2) Specify the time of the study shall be from 1997 through 2001 and clarify the scope of advertising and promotional expenses; and
- (3) Specify that the information shall be reported by sectors of the industry in order to preserve confidentiality.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 34, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 34, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2983 (Majority) Tourism and Intergovernmental Affairs on S.R. No. 15

The purpose of this measure is to request the Legislative Reference Bureau to study the level and scope of private sector spending to advertise and promote Hawaii for tourism.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, and Hawaii Hotel Association.

Your Committee finds that the private sector plays an important role in advertising Hawaii through a variety of venues, but little specific data is available regarding the level and scope.

Your Committee believes this information could be an important source of expanded cooperative ventures between the private sector and the State in promoting Hawaii. Your Committee has amended this measure to:

- (1) Add language regarding these enhanced opportunities;

- (2) Specify the time of the study shall be from 1997 through 2001 and clarify the scope of advertising and promotional expenses; and
- (3) Specify that the information shall be reported by sectors of the industry in order to preserve confidentiality.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 15, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 15, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 2984 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.C.R. No. 44

The purpose of this measure is to request the Army National Guard of the State of Hawaii to provide logistical and transportation support to the Emergency Environmental Workforce created by Act 4, Third Special Session 2001.

Your Committees received testimony in support of this measure from the Maui County Mayor, the Project Coordinator for the Emergency Environmental Workforce, the Project Coordinator of the Big Island Environmental Workforce, and a concerned citizen. The Adjutant General submitted comments.

Your Committees find that the Emergency Environmental Workforce created during the Third Special Session of 2001 has begun its work in earnest, and has provided jobs for many workers terminated as a result of the September 11, 2001, terrorist attacks.

Your Committees also find that the Workforce has been experiencing transportation problems, particularly on the Big Island and Maui. Your Committees further find that the Environmental Workforce could benefit from assistance from the Department of Defense and other government agencies.

Your Committees also understand that federal law prohibits the Army National Guard from competing with commercial enterprises in the private sector. However, there is no federal law prohibiting the Army National Guard from providing assistance or training to the Environmental Workforce from time to time when such cooperation is feasible within the National Guard's schedule.

Therefore, your Committees have amended this measure to clarify further that the Army National Guard is merely requested to provide assistance and training to the workforce whenever possible and consistent with federal law. Other government agencies are also requested to provide transportation assistance and training as well.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 44, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 44, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, English, Fukunaga, Kanno, Nakata, Tam).

SCRep. 2985 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.R. No. 25

The purpose of this measure is to request the Army National Guard of the State of Hawaii to provide logistical and transportation support to the Emergency Environmental Workforce created by Act 4, Third Special Session 2001.

Your Committees received testimony in support of this measure from the Maui County Mayor, the Project Coordinator for the Emergency Environmental Workforce, the Project Coordinator of the Big Island Environmental Workforce, and a concerned citizen. The Adjutant General submitted comments.

Your Committees find that the Emergency Environmental Workforce created during the Third Special Session of 2001 has begun its work in earnest, and has provided jobs for many workers terminated as a result of the September 11, 2001, terrorist attacks.

Your Committees also find that the Workforce has been experiencing transportation problems, particularly on the Big Island and Maui. Your Committees further find that the Environmental Workforce could benefit from assistance from the Department of Defense and other government agencies.

Your Committees also understand that federal law prohibits the Army National Guard from competing with commercial enterprises in the private sector. However, there is no federal law prohibiting the Army National Guard from providing assistance or training to the Environmental Workforce from time to time when such cooperation is feasible within the National Guard's schedule.

Therefore, your Committees have amended this measure to clarify further that the Army National Guard is merely requested to provide assistance and training to the workforce whenever possible and consistent with federal law. Other government agencies are also requested to provide transportation assistance and training as well.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 25, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 25, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, English, Fukunaga, Kanno, Nakata, Tam).

SCRep. 2986 Agriculture on S.C.R. No. 78

The purpose of this measure is to request the Department of Agriculture to update its 1996 rabies scientific risk assessment and review current quarantine procedures with public input to determine if a reduction of the quarantine period and other changes are warranted.

Testimony supporting this measure was received from the Department of Agriculture, Chamber of Commerce of Hawaii, Hawaiian Humane Society, and Hawaii Business Roundtable. Testimony opposing this measure was received from the Community Quarantine Reform Coalition and one individual.

Your Committee finds that maintaining Hawaii's rabies-free status is a high priority for the State to ensure the public health and welfare. Therefore, strict and vigorous regulation of animals is necessary. It would be a terrible tragedy for the initial introduction of rabies to Hawaii to occur due to deregulation, or any other reason. However, your Committee recognizes that current quarantine regulations impose a substantial burden on new state residents as well as current residents that wish to travel with their animals. Therefore, your Committee finds that a re-analysis of scientific findings and quarantine regulations is necessary. However, your Committee reiterates that proposed changes to current quarantine regulations that lessen the compliance burden on animal owners should not, in any way, increase the risk of rabies introduction to the State.

Your Committee has amended this measure by recognizing the Rabies Risk Analysis Report conducted by Peter S. Holck, Ph.D., and providing that the Department of Agriculture should consider the report to facilitate completion of the requests provided in this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 78, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 78, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chun, Hanabusa, Kokubun).

SCRep. 2987 Agriculture on S.R. No. 37

The purpose of this measure is to request the Department of Agriculture to update its 1996 rabies scientific risk assessment and review current quarantine procedures with public input to determine if a reduction of the quarantine period and other changes are warranted.

Testimony supporting this measure was received from the Department of Agriculture, Chamber of Commerce of Hawaii, Hawaiian Humane Society, and Hawaii Business Roundtable. Testimony opposing this measure was received from the Community Quarantine Reform Coalition and one individual.

Your Committee finds that maintaining Hawaii's rabies-free status is a high priority for the State to ensure the public health and welfare. Therefore, strict and vigorous regulation of animals is necessary. It would be a terrible tragedy for the initial introduction of rabies to Hawaii to occur due to deregulation, or any other reason. However, your Committee recognizes that current quarantine regulations impose a substantial burden on new state residents as well as current residents that wish to travel with their animals. Therefore, your Committee finds that a re-analysis of scientific findings and quarantine regulations is necessary. However, your Committee reiterates that proposed changes to current quarantine regulations that lessen the compliance burden on animal owners should not, in any way, increase the risk of rabies introduction to the State.

Your Committee has amended this measure by recognizing the Rabies Risk Analysis Report conducted by Peter S. Holck, Ph.D., and providing that the Department of Agriculture should consider the report to facilitate completion of the requests provided in this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 37, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 37, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chun, Hanabusa, Kokubun).

SCRep. 2988 Judiciary on H.B. No. 2132

The purpose of this measure is to require the provision of parity programs for female adult prisoners, and gender-responsive community-based programs for female adult prisoners and adjudicated youth.

Testimony in support of this measure was received from the Department of Public Safety (PSD), Hawaii State Commission on the Status of Women, TJ Mahoney & Associates, Community Alliance on Prisons, and an individual.

Current state law does not require parity in correctional rehabilitation programs for males and females. Your Committee recognizes that correctional programs and services were created for the male dominant population and should better reflect the needs of women offenders, including the identification of issues of importance to women such as childhood abuse, early onset alcohol and drug abuse, poverty and homelessness, lack of job skills and employment, health problems and needs, and single motherhood.

This measure accomplishes its purpose in part by providing grants-in-aid to encourage cooperation and assist private agencies that have existing programs for female offenders, to develop and implement new programs.

Your Committee notes that S.B. No. 119, C.D. 1, 2001, a similar measure, was vetoed because it lacked appropriations and the vagueness and ambiguity of the terms "substantially equivalent" and "psychosocial development needs of female offenders", both in reference to "parity programs". The amended measure cures both grounds for the veto.

Your Committee has amended this measure by:

- (1) On the recommendation of the PSD, deleting reference in the purpose section to the adverse impact of the two reports on prison reform efforts and to facilitating innovative programs, because the language could set broad and vague requirements which could be difficult to achieve and are unnecessary;
- (2) Deleting new section -1, relating to female prisoners and parity programs as being the grounds for the veto and as being unnecessary because new section -2 covers the matter, and changing the purpose section accordingly; and
- (3) Changing the title of new section -2 to "Female prisoners; parity programs" and deleting reference to "model".

As affirmed by the record of votes of 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. 2132, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2132, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 2989 Judiciary on H.B. No. 2382

The purpose of this measure is to require public notification to allow public comment on site selection, new construction, and expansion of a correctional facility under private development.

Testimony in support of this measure was received from the Department of Public Safety (PSD) and Community Alliance on Prisons.

This measure is intended to ensure that the public is kept abreast on any private prison development in Hawaii, whether for a new facility or to expand an existing facility. Under existing law, the Governor may contract for the development of private in-state correctional facilities or public in-state turnkey correctional facilities to reduce prison overcrowding. Your Committee finds that the process should be made public, in the same manner as an environmental assessment or environmental impact statement process which is also required of these types of construction.

Your Committee has amended this measure on the recommendation of the PSD by:

- (1) Changing the public comment period from ninety to sixty days for site selection and for expansion and new construction, and requiring that the public comment period run concurrently with any required environmental assessment public comment period of 30 days and environmental impact statement public comment period of 45 days; and
- (2) Deleting the \$500,000 qualification for capital improvement projects.

As affirmed by the record of votes of 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. 2382, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2382, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 2990 Labor on H.B. No. 2276

The purpose of this measure is to amend collective bargaining laws to enable parties to agree that non-cost items may become effective prior to legislative approval of cost items.

Testimony in support of the measure was received from the University of Hawaii Professional Assembly. The Office of Collective Bargaining submitted concerns over the fragmenting of a collective bargaining agreement's implementation. The Hawaii Government Employees Association testified in opposition to the measure.

Your Committee finds that in collective bargaining, it is common that concessions of cost items be traded off against reciprocal concessions on non-cost items. This may be the only way to reach an agreement and avoid a strike in many cases. Unfortunately, recent amendments to the collective bargaining law have made trade-offs between cost items and non-cost items difficult. By granting the negotiating parties the flexibility to agree that non-cost items are valid and enforceable, collective bargaining will be more effective.

However, your Committee is concerned that the flexibility proposed under the measure is overly broad and would encourage parties to attempt to open up any provision of the collective bargaining agreement that in their minds, is unsatisfactory. Such an occurrence could hinder the expeditious negotiation of a collective bargaining agreement.

In light of this concern, your Committee has amended the measure by:

- (1) Restoring the existing statutory language that stated the grievance and impasse procedures would be valid and enforceable regardless of whether cost items have been approved by the appropriate legislative bodies; and
- (2) Restricting the scope of the enforceability of non-cost items to only those non-cost items that are not tied to or bargained against cost items.

In establishing that only non-cost items that are not tied to or bargained against cost items may be enforceable prior to the approval of cost items by the appropriate legislative bodies, your Committee would like to make clear that the identification of cost and non-cost items that are tied to or bargained against one another should be determined by the negotiating parties.

Your Committee believes that the amended measure may facilitate the parties' ability to bargain cost and non-cost items without unduly lengthening the collective bargaining process.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2276, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2276, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Hanabusa, Ihara, Matsuura).

SCRep. 2991 (Joint) Labor, Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2525

The purpose of this measure is to ensure that when contractors bid on public works construction projects, it is done pursuant to standards that are fair, equitable, and uniformly applied.

The Department of Labor and Industrial Relations (DLIR), the Hawaii Construction Industry Association, and the International Brotherhood of Electrical Workers, Local Union 1186 testified in support of the measure. Abhe and Svoboda, Inc., Associated Builders and Contractors, Inc., Hawaii Chapter, and two attorneys testified in opposition to the measure.

Specifically, the measure promotes a fair public works bidding process by:

- (1) Clarifying that the provisions of Chapter 104, Hawaii Revised Statutes (HRS), apply to every public works contract in excess of \$2,000 regardless of whether prevailing wage, overtime, and other requirements are stated in a contract or specifications;
- (2) Declaring that omission of these provisions shall not be used as a defense by a contractor who is not in compliance with the requirements of Chapter 104, HRS; and
- (3) Authorizing the disclosure of the terms of a collective bargaining agreement to a federal or state agency authorized to enforce the provisions of Chapter 104, HRS.

Your Committees find that the purpose of Chapter 104, HRS, is to ensure a level playing field for contractors who bid on public works construction projects. Chapter 104, HRS, requires that prevailing wage, overtime, recordkeeping, and other provisions are inserted in every State and county public works contract over \$2,000.

However, problems have arisen when some State and county agencies have inadvertently omitted the specific provisions that require contractors to comply with Chapter 104, HRS, from their contracts and specifications. When these contractors are cited for violations, they assert that Chapter 104, HRS, does not apply to them because the specific provisions were not included in the contract.

Your Committees find that this situation has created enforcement problems for DLIR because DLIR does not have control over what is contained in every State and county construction contract. This erodes the level playing field for contract bidders since contractors who do not pay prevailing wages can underbid contractors who base their bids upon prevailing wages.

Your Committees have amended the measure by:

- (1) Requiring that prior to the execution of any contract subject to Chapter 104, HRS, the governmental contracting agency shall require of and receive from each bidder, a signed affidavit attesting to the bidder's acknowledgment of and intent to comply with Chapter 104; and

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

As affirmed by the records of votes of the members of your Committees on Labor and Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2525, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2525, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 7 (Buen, Chumbley, Hanabusa, Ihara, Matsuura, Tam, Hemmings).

SCRep. 2992 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on H.B. No. 1950

The purpose of this measure is to appropriate funds to the Department of Human Services to establish a Medicaid waiver program that would pay \$1 on prescriptions written for qualified individuals.

Testimony in support of this measure was submitted by the Hawaii State Teachers Association, Hawaii Government Employees Association Retirees Unit, Hawaii State AFL-CIO, Legal Aid Society of Hawaii, Healthcare Association of Hawaii, AARP Hawaii, Hawai'i State Council of Senior Citizens, Policy Advisory Board for Elder Affairs, NAMI Oahu, and The Medicine Bank. The Department of Health, the State Insurance Commissioner, and the Executive Office on Aging supported the intent of this measure. The Department of Human Services and Longs Drugs submitted testimony in support of the intent of the measure with proposed amendments. Testimony in opposition to this measure was submitted by the Hawaii Medical Association.

Your Committees find that the cost of prescription drugs continues to escalate, creating a larger gap between those individuals who have adequate insurance coverage to afford them and those, particularly elderly and disabled individuals, who are forced to spend a disproportionate share of their incomes on prescription drugs. Your Committees further find that while many pharmaceutical companies voluntarily offer low- or no-cost drugs for target groups, these programs offer no long-term solution because they are discretionary, are limited to certain drugs, or allow reimbursement only after full price is paid for the drug. Your Committees note that 29 other states have established some type of state pharmaceutical assistance program, choosing not to wait for federal action to add drug benefits to the Medicare program. Your Committees were informed that the fiscal impact of establishing this Medicaid waiver program in Hawaii is approximately \$1,000,000 and agree that it is necessary and appropriate at this time to assist those on fixed and low-incomes.

Upon further consideration, your Committees have amended this measure by adopting the amendments offered by the Department of Human Services as follows:

- (1) Establishing in statute a Medicaid prescription drug expansion program (program) as an expansion under the existing Medicaid program by offering discounted prescription drugs to individuals whose income is at or below three hundred percent of the federal poverty level;
- (2) Establishing in statute a Medicaid prescription drug rebate special fund (fund) into which shall be deposited all moneys received by the State as rebates from pharmaceutical manufacturers for the prescription drug expansion program;
- (3) Providing that upon termination of the program, any moneys remaining in the fund shall lapse to the general fund;
- (4) Making an appropriation of general funds into the special fund to pay start-up and administrative costs of the program; and
- (5) Providing that the general fund appropriation made for start-up-costs of the program shall be repaid to the general fund by the fiscal year 2004-2005 if sufficient manufacturer rebates are received.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1950, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1950, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 2 (Buen, Chumbley).

SCRep. 2993 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on H.B. No. 2072

The purpose of this measure is to provide housing assistance, including rent, mortgage, utility, and related expenses, to certain needy individuals who lost their jobs in the economic downturn resulting from September 11, 2001.

Testimony in support of this measure was submitted by the Hawaii State Commission on the Status of Women; Volunteer Legal Services Hawai'i; Kauai Economic Opportunity, Incorporated; Partners In Care; Hawaii Catholic Conference; Affordable Housing and Homeless Alliance, Institute for Human Services, Inc.; and Hawai'i Together. The Housing and Community Development Corporation of Hawaii submitted testimony supporting the intent of this measure.

Your Committees find that the Emergency Assistance Grant and Loan (EAGL) Fund, established in the Third Special Session of 2001, provided a first response and has been successful in assisting hundreds of individuals with maintaining self-sufficiency through housing assistance. Your Committees further find, however, that many individuals have not yet been able to secure adequate

employment to meet all of their living expenses and thus the State's safety net of housing assistance needs to remain in place so that families may remain in their homes.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2072, H.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Buen, Chumbley).

SCRep. 2994 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on H.B. No. 2216

The purpose of this measure is to extend the sunset provision on mental health, alcohol, and drug abuse treatment benefits contained in Act 202, Session Laws of Hawaii 1988 ("Act 202"), as amended by various subsequent Acts, until July 1, 2004.

Testimony in support of this measure was submitted by the Department of Health, Hawaii Psychological Association, Equal Insurance Coalition, Mental Health Association in Hawai'i, National Association of Social Workers, NAMI Oahu, Hawaii Government Employees Association, Hawaii Medical Association, and two concerned citizens. The Chamber of Commerce of Hawaii submitted testimony expressing concerns about this measure.

Your Committees find that untreated mental illness and substance abuse result in unnecessary loss of financial and human resources within the public and private sector alike. Your Committees further find that the mental health and substance abuse treatment benefits established by Act 202 have been beneficial to many individuals and continuing these benefits is a step forward in achieving parity between mental and physical illnesses.

Upon further consideration, your Committees have amended this measure by:

- (1) Inserting a reference to Act 18, Session Laws of Hawaii 1999, which last amended Act 202;
- (2) Deleting the sunset provision on the benefits; and
- (3) Changing the effective date to June 29, 2002.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2216, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2216, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Buen, Chumbley).

SCRep. 2995 (Joint/Majority) Health and Human Services and Commerce, Consumer Protection and Housing on H.B. No. 2638

The purpose of this measure is to create a mandatory income tax assessment system to finance long-term care services for most residents of Hawaii.

Testimony in support of this measure was received from the Executive Office on Aging, Department of Taxation, Department of Human Services, Department of Accounting and General Services, Insurance Commissioner, Hawaii State Commission on the Status of Women, Healthcare Association of Hawaii, Coalition for Affordable Long-Term Care, ILWU Local 142, Policy Advisory Board for Elder Affairs, Faith Action for Community Equity, American Association of Retired Persons, Hawaii State Coalition of Senior Citizens, Kokua Council, Hawaii Long-Term Care Association, National Association of Social Workers, NAMI Oahu, and five individuals. Testimony in opposition was received from the Legislative Information Services of Hawaii, Chamber of Commerce of Hawaii, Hawaii Medical Association, Libertarian Party of Hawaii, National Association of Insurance and Financial Advisors, Hawaii Medical Association, and two individuals. Comments were submitted by the Office of Information Practices and Tax Foundation of Hawaii.

There is little dispute of the need for long-term care services to assist the rapidly growing population of Hawaii's elderly and disabled. There is also little dispute that the cost of long-term care services, particularly institutional nursing home care, is astronomical and out of the reach to all but the most affluent.

Medicaid finances a small percentage of individuals needing long-term care services who are income-qualified. Medicare is not intended to pay for long-term care services. Private insurance is a good product that is much touted but is still largely unaffordable to the average wage earner.

Therefore, there is presently no recourse for families but to pay out-of-pocket for long-term care. The present system encourages families to spend down their assets and get on Medicaid, in which the State incurs costs for its federally subsidized share.

Your Committees find that in view of the foregoing, there is a public necessity for an affordable and universal state-sponsored long-term care system. This matter is not new and has a long history of efforts to enact a long-term care financing law.

This measure is intended as the first step in the journey to culminate in the nation's first state-sponsored long-term care system. Whether economic times for the State are good or bad, there is no "right time" for enactment. Your Committees believe that too many lost years have already passed and the long-term care problem has become a long-term care crisis, heading into a long-term care disaster by the year 2020. It is the duty and responsibility of the legislature to head off this crisis. A measure such as this requires about ten years of lead time to build up adequate funding.

Your Committees wish to correct a public misconception that this measure is the panacea for long-term care. It is not. This measure is intended to help citizens bridge the gap between the initial onset of the qualifying condition, and the beginning of payments whether directly out-of-pocket, under a long-term care insurance policy, or Medicaid. The benefits would likely not cover institutional care because of the prohibitive expense, but the matter of benefits is left to the interim board of trustees to determine.

Your Committees have amended this measure by:

- (1) Deleting reference to a blue ribbon panel as the administrative entity and substituting a board of trustees appointed by the Governor with the advice and consent of the Senate;
- (2) Deleting references to tax and benefit amounts;
- (3) Establishing an interim board of trustees to be appointed by the Governor, without involvement of the Senate, to serve from July 1, 2002, to July 1, 2003, for purposes of designing a tax-based long-term care system, as described in new section -6(b) the measure;
- (4) Clarifying the fiduciary and investment obligations of the trustees;
- (5) Specifying the information to be included in the actuarial report;
- (6) Deleting the appropriation to the Department of Taxation for start-up costs, and substituting an unspecified appropriation to the Department of Budget and Finance for the interim board of trustees to make a report to the 2003 Session; and
- (7) Changing the effective date to upon approval, except for the appropriation section which shall take effect on July 1, 2002.

Your Committees request the Executive Office on Aging and the Department of Taxation to assist the interim board of trustees upon request by providing information.

Your Committees believe that the interim board of trustees should be comprised of knowledgeable and objective persons, who would strive to design a long-term care financing system that meets the broadest needs at the most reasonable amount of tax. The trustees should examine a flat fee and a graduated tax rate to compare the burden and the benefits to citizens. The trustees should also examine a range of benefits, whether home, community-based, or institutional care.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2638, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2638, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, 1 (Hogue). Excused, 3 (Buen, Kim, Matsunaga).

SCRep. 2996 (Joint) Health and Human Services and Tourism and Intergovernmental Affairs on H.B. No. 2639

The purpose of this measure is to establish the Hawaii Commission for National and Community Service within the Department of Human Services to replace the Commission created by Executive Order 94-01, and to transfer the functions and programs. Funds are appropriated to be used as state matching funds to secure federal moneys for the Commission.

Your Committees received testimony supporting this measure from the University of Hawaii, Hawaii Commission for National and Community Service, and Hawaii Government Employees Association.

Your Committees find that the current Hawaii Commission for National and Community Service has been instrumental in developing our local communities through community service and volunteer participation as a means of community and State problem-solving.

Your Committees have amended this measure in the following ways:

- (1) Establishing the Commission within the University of Hawaii rather than the Department of Human Services;
- (2) Deleting the transfer of "appropriations" and "maps" "used" or "held" by the Commission;
- (3) Leaving blank the dollar amount of the appropriation;
- (4) Changing the expending agency to the University of Hawaii; and
- (5) Making technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2639, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2639, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Buen, Inouye).

SCRep. 2997 Transportation, Military Affairs, and Government Operations on H.B. No. 187

The purpose of this measure is to provide that the State's reconstructed vehicle laws do not apply to reconstructed vehicles in a county with a population of less than 500,000 persons if that county has adopted its own reconstructed vehicle ordinance.

Your Committee received testimony in opposition to this measure from the Hawaii Automobile Dealers' Association.

Your Committee finds that the amendments in this measure will give the neighbor islands more independence and discretion to determine how best to license and register reconstructed vehicles if they choose to do so.

However, your Committee also finds that there are some safety concerns raised by this measure, and has amended this measure by changing its effective date to January 1, 2050, for purposes of further discussion on this issue.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 187, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 187, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Fukunaga, Kanno, Tam).

SCRep. 2998 (Joint) Agriculture and Economic Development and Technology on H.B. No. 1976

The purpose of this measure is to authorize the issuance of special purpose revenue bonds to assist Gay & Robinson, Inc., a Hawaii Corporation, in purchasing the sugar and molasses terminal facility at Nawiliwili on the island of Kauai.

Testimony supporting this measure was received from the Hawaii Farm Bureau Federation, Kauai County Farm Bureau, Hawaii Agriculture Research Center, Hawaiian Sugar and Transportation Cooperative, and Gay & Robinson, Inc.

The Department of Budget and Finance submitted testimony citing concerns regarding this measure.

Your Committees find that sugar production continues to represent a significant segment of Hawaii's agriculture industry. Gay & Robinson, Inc., is the only remaining sugar producer on the island of Kauai employing hundreds of residents and contributing to the state economy. The planned agricultural use of the sugar and molasses terminal facility at Nawiliwili, Kauai, evidences the strength of the sugar production industry and the State should continue to nurture its development.

Since the introduction of this measure, Gay & Robinson, Inc. (G&R), and the Hawaiian Sugar & Transportation Cooperative (HS&TC) have structured an agreement that will allow for the most productive and cost-effective use of the sugar and molasses terminal facility. HS&TC has agreed to purchase the terminal facility from G&R, with a lease back provision. Your Committees believe that this is an acceptable arrangement that will further support the agriculture industry in Hawaii.

Therefore, your Committees have amended this measure by:

- (1) Revising the purpose section to reflect the new agreement;
- (2) Changing the issuance of special purpose revenue bonds from an issuance for a processing enterprise to an issuance for an industrial enterprise pursuant to part V, chapter 39A, Hawaii Revised Statutes; and
- (3) Specifying that the special purpose revenue bonds are issued to assist HS&TC, rather than G&R, in purchasing the sugar and molasses terminal facility at Nawiliwili, Kauai.

As affirmed by the records of votes of the members of your Committees on Agriculture and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1976, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1976, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 5 (Ihara, Kawamoto, Kim, Matsuura, Taniguchi).

SCRep. 2999 Agriculture on H.B. No. 2631

The purposes of this measure are to:

- (1) Clarify the meat products for which grade standards may be developed and for which grading services may be offered;
- (2) Remove the responsibility for the meat grading program from the animal industry division of the Department of Agriculture; and
- (3) Clarify and simplify the language of the law.

Testimony supporting this measure was received from the Department of Agriculture.

Your Committee finds that the United States Department of Agriculture (USDA) removed the full-time meat grader from Hawaii due to lack of demand for services and the inability to cover costs with the fees charged. A cooperative agreement was entered into with the USDA in early 2000, and a Quality Assurance Division staff member was trained to conduct the meat grading to make this service available. The regulatory clarifications provided by this measure will help guide the activities of the staff member.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2631, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kawamoto, Matsuura, Hogue).

SCRep. 3000 Economic Development and Technology on H.B. No. 683

The purpose of this measure is to establish administrative penalties and authorize the recovery of administrative fines, damages, fees, and costs for violations of state parks statutes and rules under Chapter 184, Hawaii Revised Statutes.

Your Committee received testimony in support of this measure from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds those violations of Chapter 184, Hawaii Revised Statutes, and the state parks rules are handled by the courts as criminal procedures. However, some violations deal with civil matters and could be more effectively addressed through administrative proceedings. This measure provides the penalties and authorization to help address these issues swiftly, and ease the burden on the courts of processing minor violations.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 683, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ihara, Kim, Taniguchi).

SCRep. 3001 Economic Development and Technology on H.B. No. 1740

The purpose of this measure is to make call centers that provide disease management services eligible for Hawaii's Enterprise Zone tax incentives by expanding the definition of "call center" to include "disease management services".

Your Committee received testimony supporting this measure from the Department of Business, Economic Development, and Tourism, a Maui County Councilmember, American Healthways, and Hawaii Nurses' Association.

Your Committee finds that the expansion of the "call center" definition clearly supports the purpose and intent of the Hawaii Enterprise Zone Partnership program by providing economic incentives to organizations for job creation and business expansion. Additionally, disease management services that have the potential to increase the quality and reduce the cost of health care in Hawaii are needed in rural communities, many of which have been designated as Enterprise Zones.

Your Committee notes that among physicians, nurses, etc., the State does not favor any health care provider over another in the delivery of disease management services.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1740, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ihara, Kim, Taniguchi).

SCRep. 3002 (Joint) Economic Development and Technology and Transportation, Military Affairs, and Government Operations on H.B. No. 2351

The purpose of this measure is to require vacancies on an access organization's board be filled by recommendation of the board; provided that appointment to the board shall be preceded by a public hearing held by the Department of Commerce and Consumer Affairs within two weeks of the board's initial recommendation.

Testimony supporting this measure was received from the Kokua Council and two individuals. Testimony opposing this measure was received from the Department of Commerce and Consumer Affairs, Olelo Community Television, Ho'ike on Kauai, Akaku: Maui Community Television, and Kauai Chapter League of Women Voters. Comments on this measure were received from five individuals.

Your Committees find that representation on an access organization's board should aspire to be well-balanced, diverse, in possession of the necessary expertise, and broadly representative of the local community. Although this measure represents a sincere attempt to accomplish those objectives, your Committees believe that the Senate version of this measure provides a better approach.

Therefore, your Committees have amended this measure by replacing its contents with the Senate version, S.B. No. 2255, S.D. 1, which:

- (1) Provides that an access organization shall not have members on its board that are appointed by the Director of Commerce and Consumer Affairs;
- (2) Requires in any future contract with an access organization, that the Department of Commerce and Consumer Affairs require the public access organization to comply with chapters 92 (Public Agency Meetings and Records) and 92F (Uniform Information Practices Act) of the Hawaii Revised Statutes; and
- (3) Deems void any portion of a contract or agreement between the State and access organizations that require members of the organization's board to be appointed by the State.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2351, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2351, H.D. 1, S.D. 1, and be referred to the Committees on Commerce, Consumer Protection and Housing and Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Ihara, Kanno, Kim, Menor, Taniguchi, Hemmings).

SCRep. 3003 Economic Development and Technology on H.B. No. 2453

The purpose of this measure is to allow the Hawaii Capital Loan Program to adjust the loan interest rate on the first of each month rather than biannually so that the rate may better reflect the most current financial market.

Your Committee received testimony in support of this measure from the Director of Business, Economic Development, and Tourism.

Your Committee finds that in 2001, there were several prime interest rate reductions between July 1 and December 31. Under existing statute, the Hawaii Capital Loan Program was unable to lower its lending rate to follow the market, and as such, borrowers closing loans during that period paid a higher rate for loans, based on the rate in effect at July 1. This measure would allow borrowers to close loans based on the most current monthly prime interest rate.

Your Committee has amended this measure by changing the word "bill" to "Act" and by amending the effective date to July 1, 2050, to promote further discussion and development of the details of this measure.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2453, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ihara, Kim, Taniguchi).

SCRep. 3004 Economic Development and Technology on H.B. No. 2454

The purposes of this measure are to:

- (1) Change the method of calculating the number of employees needed to meet the annual hiring requirements of the Hawaii Enterprise Zone Program (EZ) in response to unanticipated layoffs or terminations caused by the September 11, 2001, incidents; and
- (2) Eliminate the use tax exemption for EZ-qualified firms.

Your Committee received testimony in support of the measure from the Department of Business, Economic Development, and Tourism.

Your Committee finds that proactive measures need to be taken to support Hawaii's economy in the wake of the September 11, 2001, terrorist attacks. This measure would minimize business failures and lay-offs in Hawaii by making it easier for EZ firms to qualify for EZ hiring requirements. This measure would also eliminate the EZ exemption from the use tax. This is desirable because this incentive encourages participating EZ firms to purchase supplies and equipment subject to the use tax from out-of-state rather than local vendors.

Your Committee has amended this measure by:

- (1) Inserting a defective date of July 1, 2050, to ensure continued discussion on this important issue; and
- (2) Making technical nonsubstantive amendments to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2454, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2454, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ihara, Kim, Taniguchi).

SCRep. 3005 Commerce, Consumer Protection and Housing on H.B. No. 1716

The purpose of this measure is to require the parties to a mediation of a dispute between apartment owners and the association of apartment owners to be wholly responsible for their respective individual costs associated with participating in mediation, unless they agree otherwise. Joint costs shall be shared equally.

Testimony supporting this measure was received from the Hawaii Independent Condominium & Cooperative Owners, Hawaiiana Management Company, Ltd., and six individuals. Testimony citing concerns with this measure was received from the Hawaii Legislative Action Committee of the Community Associations Institute.

Your Committee finds that Hawaii's laws relating to condominium property regimes provides an adequate framework to resolve disputes between apartment owners and the respective association of apartment owners. The dispute resolution process is intended to be fair and just between the parties. This measure ensures that the costs of mediation shall be shared fairly among the parties participating unless agreed to otherwise.

Your Committee has amended this measure by replacing its contents with the Senate version, S.B. No. 2300, S.D. 1, which clarifies that each party shall be wholly responsible for its own costs of participating in mediation; unless at the end of the mediation process, both parties agree that one party shall pay all or a specified portion of the mediation costs.

In addition, this measure, as amended, takes effect on July 1, 2050, with the intent of encouraging additional discussion on the provisions of this measure as it continues through the legislative process.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing 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 Second Reading in the form attached hereto as H.B. No. 1716, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, English).

SCRep. 3006 (Joint/Majority) Commerce, Consumer Protection and Housing and Health and Human Services on H.B. No. 1761

The purpose of this measure is to require health insurers to submit rate filings for approval by the Insurance Commissioner to ensure that health insurance rates are not excessive, inadequate, or unfairly discriminatory.

Your Committees received testimony in support of this measure from the following: Insurance Commissioner, State Actuary, Department of Labor and Industrial Relations, Mental Health Association in Hawaii, NAMI Oahu, Hawaii State Teachers Association, Kokua Council, Hawaii State AFL-CIO, Benefit Plan Consultants (HI), Inc., and thirteen individuals.

Testimony in opposition to the measure was received from the following: Pharmaceutical Research and Manufacturers of America, Legislative Information Services of Hawaii, Healthcare Association of Hawaii, Hawaii Medical Association, Hawaii Management Alliance Association, Hawaii Business Roundtable, Building Industry Association of Hawaii, Kaiser Permanente, Hawaii Medical Service Association, Hawaii Pacific Health, Kanoelehua Industrial Area Association, and four individuals.

The following testifiers either supported the measure in part, offered comments, or proposed amendments: Board of Pharmacy, Office of Information Practices, Chamber of Commerce of Hawaii, Mediation Center of the Pacific, American Council of Life Insurers, and American Family Life Assurance Company of Columbus.

Currently, in Hawaii, health insurers set premium rates free from regulation or oversight and limited only by market forces. While opponents of this measure have argued that other health insurers are free to enter and compete in Hawaii's private insurance market and that the State should let the market determine what consumers pay for health insurance, this argument ignores the fact that in Hawaii one health plan controls almost ninety per cent of the private fee-for-service market, and that its largest competitor dominates the clinic-based HMO market. Further, within the last five years, four health insurers have exited the Hawaii market. Without significant competition, Hawaii's consumers have little choice but to pay the rates set by the major health plans or go without essential health care services.

For some, this means accepting substantial premium increases in order to protect the health and welfare of their families. Recent rate increases for members of one of the State's largest unions ranged from almost fifteen per cent to over thirty-four per cent. For many of Hawaii's working class, gains in wage increases are offset by increases in health premiums.

While health plans have argued that premium rates are the lowest in the nation, the facts do not bear this out. A 1999 medical expenditure survey by the Kaiser Family Foundation showed that out of forty-seven states and the District of Columbia, fourteen states had average annual premiums lower than or equal to Hawaii's average annual premiums. This figure would probably be higher if health care plans in the other states were typically organized as not-for-profit mutuals and enjoyed the same type of tax treatment and other benefits accorded health plans in Hawaii.

Health plans in this State are organized as nonprofits and while they pay a reduced health plan fee, they pay no State taxes, pay reduced federal taxes, and have no shareholders. The State's largest mutual health plan paid State health plan fees of almost \$400,000 in fiscal year 2000-2001, but was exempt from premium taxes that would have resulted in an assessment close to \$50,000,000. Further, health insurers are exempted from most of the requirements imposed on insurance companies in Hawaii, including investment requirements, agent licensing, and rate filing.

Hawaii's health insurers collected over \$2,000,000,000 in revenues in 2000. Without the ability to place the ratemaking process in sunshine, the State is unable to determine whether these revenues are the result of premium rates that are excessive or biased, or reasonable in relation to the benefits provided, or whether there are biases in ratemaking. This measure would allow the Commissioner to examine a health insurer's ratemaking methodologies and calculations by requiring health plans to make rate filings, as is done in other lines of insurance, and would disallow excessive, inadequate, or unfairly discriminatory rates. In addition, this measure would require a health plan to return excess reserves to its enrollees or apply these amounts to effectuate rate reductions. Violators would be subject to monetary penalties or license suspension.

Your Committees find that rate review in other lines of insurance has resulted in lower premiums for consumers. Rate oversight in the areas of motor vehicle insurance and workers' compensation, respectively, has saved Hawaii's consumers over \$300,000,000 since 1997, and Hawaii's businesses more than \$1,000,000,000 since 1995.

Your Committees are not convinced, as asserted by opponents of this measure, that rate oversight would cause insurers to leave the market. Further, your Committees do not find that the Commissioner currently has the ability to examine the ratemaking process based on financial audits of health plans. These exams are conducted to assess an insurer's financial strength and do not involve an analysis of the insurer's ratemaking methodologies. Your Committees further find that health insurers have been reluctant to disclose information that would allow an analysis of their ratemaking, claiming that such information is proprietary in nature.

Your Committees find that health insurance rate oversight can be implemented with minimal cost to the State and the industry. While the Insurance Division will need to retain a health actuary on a contract basis, as it does in other areas of rate oversight, other additional personnel or resources will not be required.

Finally, your Committees note that over seventy-four per cent of uninsured adults report that they lack health insurance because of the cost. This measure would enable the Commissioner to examine health insurers' rates to determine whether the lack of affordable health care is due to excessive rates or other factors and to address the cost drivers that affect rates. Your Committees believe that Hawaii should join the forty-eight other states that protect its consumers against rising health care rates through rate oversight.

Your Committees have amended this measure by replacing its contents with the language of a similar measure, S.B. No. 2302, S.D. 2. As amended, this measure:

- (1) Excludes life and disability insurers from the definition of "managed care plan" since these entities offer financial products, rather than health insurance, and additionally, are already regulated under chapter 431, Hawaii Revised Statutes;
- (2) Has an effective date of July 1, 2050, rather than July 1, 2099; and
- (3) Contains, technical, nonsubstantive, or stylistic differences from the measure, as received.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1761, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1761, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, 1 (Hogue). Excused, 2 (Matsunaga, Tam).

SCRep. 3007 Commerce, Consumer Protection and Housing on H.B. No. 1778

The purpose of this measure is to recodify the laws relating to financial services loan companies.

Testimony in support of this measure was received from the Commissioner of Financial Institutions (Commissioner) and the Hawaii Financial Services Association.

This measure repeals article 9 of the code of financial institutions relating to financial services loan companies (FSLCs) and replaces it with two new articles relating to depository FSLCs and nondepository FSLCs, respectively. The proposed new laws, among other things:

- (1) Provide depository FSLCs with greater flexibility in their operations, similar to that enjoyed by banks, savings banks, and savings and loan associations;
- (2) Establish a 24% usury ceiling on loans made by depository FSLCs, the same as that applicable to banks, savings banks, and savings and loan associations, and a 31.66% annual percentage rate ceiling on certain simple interest loans made by nondepository FSLCs;
- (3) Repeal the authority of FSLCs to make precomputed loans, but grandfather in existing precomputed loans;
- (4) Limit or prohibit certain fees and charges that may be assessed against consumers; and
- (5) Establish recordkeeping and reporting requirements for nondepository FSLCs.

Your Committee has amended this measure by deleting its contents and inserting S.B. No. 2294, S.D. 2, which differs from the House version in the following respects:

- (1) The articles are renumbered from 9 to 9A for depository FSLCS and from 9A to 9B for nondepository FSLCS, for clarity;
- (2) Quotation marks are placed on the words "finance charge" and "annual percentage rate" in the interest rate section of article 9A and 9B;
- (3) A subsection (c) is added to new section 412B-100, to clarify that the power and authority of nondepository financial services loan companies existing on July 1, 2003, shall not be limited or restricted by the enactment of this measure;
- (4) The term "precomputed" is added to modify "loan" in subsection (d) of new section 412:9B-100 of the House version; and
- (5) Technical, nonsubstantive differences.

Your Committee notes that both versions have the same effective date of July 1, 2050, in order for the affected parties to continue their discussion to come to a consensus on proposed language changes. The amendments made by your Committee to the House version were those deemed necessary by the Commissioner.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1778, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1778, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3008 Commerce, Consumer Protection and Housing on H.B. No. 2307

The purpose of this measure is to amend the uniform electronic transactions law to provide that certified signatures of record satisfy the requirement of notarization.

Testimony in support of this measure was received from the Judiciary.

Act 282, Session Laws of Hawaii 2000, enacted chapter 489E, Hawaii Revised Statutes, the uniform electronic transaction Act (UETA) to facilitate electronic commerce in the State. The UETA establishes the legal validity of electronic records, signatures, and contracts, and provides that if a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied through an electronic signature of the person authorized to perform such acts.

This measure further facilitates electronic commerce in the State by expanding the scope of the UETA to establish the validity of electronic documents containing certification or a seal. Under this measure, agencies, such as the Judiciary, will be able to provide more efficient and timely service to consumers who request certified or sealed copies of documents, by providing the requested documents through electronic means, rather than by mail.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2307, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3009 Commerce, Consumer Protection and Housing on H.B. No. 2443

The purpose of this measure is to establish a mechanism by which the Bureau of Conveyances may differentiate between legitimate and frivolous financing statements.

Testimony in support of the measure was received from the Attorney General, Department of Land and Natural Resources, and Hawaii's Commission to Promote Uniform Legislation.

Instruments filed at the Land Court or the Bureau of Conveyances that purport to affect property interests or title, but which have no basis in law or fact, have a disruptive effect on legitimate property interests and titles, are costly and time-consuming to expunge, and may interfere with a property owner's ability to transfer title or obtain title insurance and financing.

Act 241, Session Laws of Hawaii 2000, repealed the requirement under Article 9 of the Uniform Commercial Code that a financing statement contain the debtor's signature, thereby eliminating the most effective means of determining the validity of this type of document. To address this problem, this measure enables a party in interest in fixtures or personal property covered by a financing statement to request that the registrar of the Bureau of Conveyances demand from a secured party a copy of the security agreement that purportedly authorized the filing of the financing statement. If the secured party does not answer the demand by the registrar within thirty days, the financing statement is deemed unauthorized.

Your Committee has amended this measure by substantially replacing its contents with the contents of a similar measure, S.B. 2701, S.D. 1. As amended, this measure:

- (1) Provides that a person named as the debtor in a financing statement, rather than a party in interest, may request a determination of the validity of a financing statement;
- (2) Authorizes the assessment of a reasonable processing fee for this service; and
- (3) Amends the title of chapter 507D, Hawaii Revised Statutes, to include a reference to frivolous financing statements.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2443, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2443, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3010 Commerce, Consumer Protection and Housing on H.B. No. 2445

The purpose of this measure is to expand affordable housing opportunities for the elderly in public housing and state assisted private housing.

The Housing and Community Development Corporation of Hawaii (HCDCH), Department of Hawaiian Home Lands, and Catholic Charities Elderly Services testified in support of this measure.

Current HCDCH elder housing requirements establish the minimum age requirement for residents at sixty-two years. This requirement precludes the qualification of some couples where one person is at least sixty-two years old, but the person's spouse or partner is not. The restriction also affects a project owner's ability to fill vacancies.

This measure expands housing opportunities for elderly couples by defining an elderly household as one in which at least one member is sixty-two years old and remaining household members are at least fifty-five years old at the time of application for housing. This measure also authorizes the residency of a live-in aide in elderly housing, so long as the elder being assisted continues to reside in the housing project.

Your Committee has amended this measure by substantially replacing its contents with the language of a similar measure, S.B. No. 2703, S.D. 2, and by incorporating amendments proposed by HCDCH. As amended, this measure provides that an elderly household may include the elder's spouse or partner if the latter has reached the age of majority. The amended measure also reflects preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2445, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2445, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, English).

SCRep. 3011 Commerce, Consumer Protection and Housing on H.B. No. 2450

The purpose of this measure is to encourage the development of affordable housing by waiving the Housing and Community Development Corporation of Hawaii's (HCDCH) three-year buyback provision until December 31, 2004.

Your Committee received testimony in support of this measure from the HCDCH.

Your Committee finds that when the original buyback provision was implemented, it was a tool that was used to prevent speculation and to preserve housing affordability. Our current housing market conditions and weakened economy reduces any opportunity for

speculation. By waiving the three-year buyback provision until December 31, 2004, developers of affordable housing projects will be able to compete on a level playing field. By providing an equal market place, more jobs and affordable housing opportunities will emerge.

Your Committee has amended this measure by substituting the contents of S.B. No. 2708, S.D. 1, a substantively similar measure which contains a provision adding that the ten-year buyback requirement is reenacted on December 31, 2004, when the three-year buyback provision waiver ceases, as well as technical, nonsubstantive stylistic differences.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2450, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2450, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, English).

SCRep. 3012 Commerce, Consumer Protection and Housing on H.B. No. 2465

The purpose of this measure is to merge the Insurance Regulation Fund into the Compliance Resolution Fund.

Testimony supporting this measure was received from the Department of Commerce and Consumer Affairs and the State Insurance Commissioner.

Your Committee finds that the merger of the Insurance Regulation Fund into the Compliance Resolution Fund will provide greater flexibility and efficiency in the administration of departmental funds while not affecting the Department of Commerce and Consumer Affairs' regulatory role, authority, or responsibilities.

Your Committee has amended this measure by replacing its contents with the Senate version, S.B. No. 2723, S.D. 1, which makes technical, nonsubstantive amendments to reflect preferred drafting style, and does not attempt to amend section 431-2:216(a), Hawaii Revised Statutes, twice in the same manner.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2465, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2465, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3013 Commerce, Consumer Protection and Housing on H.B. No. 2466

The purposes of this measure are to:

- (1) Reduce regulatory requirements for limited-equity housing cooperatives;
- (2) Revise the licensure requirements for out-of-state real estate licensees who have previously met equivalent prelicensing requirements by authorizing the Real Estate Commission to enter into formal license reciprocity or recognition agreements; and
- (3) Streamline regulatory requirements for condominium managing agents.

Your Committee received testimony in support of the measure from the Real Estate Commission and Hawaii Association of Realtors.

Your Committee finds that the changes proposed in this measure will reduce regulatory burdens on businesses, the general public, and State government. It will also enhance the public's ability to understand the laws, which will lead to greater consumer protection.

Your Committee has amended the measure by:

- (1) Making technical nonsubstantive changes to reflect preferred drafting style and correctly reflect the language in the Hawaii Revised Statutes; and
- (2) Adding an effective date of July 1, 2050, to ensure a continuation of the discussion on this important issue.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2466, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2466, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3014 Commerce, Consumer Protection and Housing on H.B. No. 2468

The purpose of this measure is to authorize the hiring of consultants to assist the Department of Commerce and Consumer Affairs (DCCA) in reviewing cemetery and pre-need funeral authority license applications and in other regulatory matters.

Testimony in support of this measure was received from the DCCA, Dodo Mortuary, Inc., and Hawaii Funeral Directors Association.

The cemetery and pre-need funeral industry once mostly involved family-owned businesses, but over the years has grown to include multi-million dollar corporate operations. As the industry has expanded and become more complex, it has become necessary for regulatory authorities to have certain expertise and skills to provide effective industry oversight.

While the DCCA is authorized to contract with private consultants, this authority is limited to hiring a consultant to conduct a post-licensing audit of a cemetery or pre-need funeral authority's trust funds. Your Committee finds that the department may require additional expertise in pre-licensing and other post-licensing matters in order to adequately protect the interests of consumers. Therefore, this measure establishes the department's authority to retain private consultants, including attorneys, auditors, accountants, investigators, and examiners, and provides that the costs of hiring a consultant shall be paid by the licensee whose application or activities required the retention of the consultant.

Your Committee has amended this measure by changing the effective date to July 1, 2050, to continue the discussion. It is your Committee's understanding that the interested parties are trying to come to a consensus on the language.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2468, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2468, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3015 Commerce, Consumer Protection and Housing on H.B. No. 2473

The purpose of this measure is to clarify and update the State's securities laws.

The Commissioner of Securities (Commissioner) testified in support of this measure.

This measure:

- (1) Provides that foreign securities approved for margin by the Board of Governors of the Federal Reserve System are exempt from certain requirements relating to filing, registration, and advertising;
- (2) Re-establishes the Commissioner's authority to exempt transactions from the above requirements pursuant to rule, to rectify an inadvertent repeal of this authority by Act 16, Session Laws of Hawaii 2000, and additionally, makes other clarifications in the exempt transactions law;
- (3) Repeals the unnecessary requirement that investment advisers obtain errors and omission coverage, thereby making Hawaii's law consistent with the laws of the other states; and
- (4) Repeals specific bonding requirements for investment advisers to allow the establishment of these requirements by administrative rule.

Your Committee finds that these changes will facilitate securities transactions in this State and the oversight of these transactions by the Commissioner.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2473, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3016 (Majority) Commerce, Consumer Protection and Housing on H.B. No. 2485

The purpose of this measure is to repeal the central service assessment exemptions for the Compliance Resolution Fund (CRF) and the Insurance Regulation Fund (IRF).

The Insurance Commissioner testified in support of this measure.

All State special funds, unless specifically exempted, are subject to an assessment to help defray the costs of related administrative services. Currently, the CRF and IRF are both exempted from this assessment. This measure repeals these exemptions.

Your Committee made technical, nonsubstantive amendments to this measure to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2485, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, 1 (Hogue). Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 3017 Commerce, Consumer Protection and Housing on H.B. No. 2655

The purpose of this measure is to require the confidential treatment of nonpublic information of captive insurance companies.

Your Committee received testimony in support of this measure from the Insurance Commissioner (Commissioner), Hawaii Captive Insurance Council, and Bank of Hawaii. The Office of Information Practices opposed the measure.

Presently, only nonpublic information of a financial nature that is disclosed by a captive insurance company to the Commissioner is required to be held confidentially. However, captive applicants and licensees are required to submit to the Commissioner other nonpublic information such as personal information relating to a captive's directors and officers, including social security and passport numbers.

This measure extends the confidentiality requirement to all nonpublic information of a captive insurer. Your Committee finds that this requirement will ensure that business-sensitive and personal information remains confidential, unless disclosure is deemed necessary by the Commissioner, and that the information provided to the State will be utilized for regulatory purposes only and will not be subject to disclosure to competitors.

Your Committee has amended this measure to:

- (1) Clarify that the Commissioner may disclose, without prior notice, a captive's nonpublic information to the regulatory agencies of other jurisdictions, rather than only to the insurance departments of other states; and
- (2) Provide for a delayed effective date of July 1, 2050.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2655, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2655, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 3018 (Joint/Majority) Commerce, Consumer Protection and Housing and Health and Human Services on H.B. No. 2834

The purpose of this measure is to establish a discount pharmaceutical drug program for all state residents.

Your Committees received testimony in support of this measure from the following: Office of the Lieutenant Governor, Insurance Commissioner, Department of Health, Executive Office on Aging, Hawaii State Teachers Association, Hawaii State AFL-CIO, AARP Hawaii, Hawaii Catholic Conference, Hawaii Government Employees Association, Hawaii Alliance for Retired Americans, Policy Advisory Board for Elder Affairs, Kokua Council, Healthcare Association of Hawaii, The Medicine Bank, Unity House, Inc., Longs Drugs, ILWU Local 142, Hawaii State Council of Senior Citizens, and three individuals.

The Pharmaceutical Research and Manufacturers of America opposed the measure. The Board of Pharmacy and Office of Information Practices opposed specific provisions in the measure.

In statewide hearings convened last year and in hearings on this and similar measures, your Committees received compelling and often poignant testimony time and time again from or about Hawaii residents without prescription drug coverage who cannot afford to buy the medicines they need. Many uninsured are forced to choose between paying for medicine and other basic necessities such as food and shelter. Others undermedicate themselves to make their medicines last longer, at the expense of their health. Although your Committees learned that the elderly are among the hardest hit by the high cost of drugs, it also heard that younger adults with disabling or terminal illnesses face similar problems. Statewide, it is estimated that 228,000 Hawaii residents lack drug coverage.

The statistical evidence shows that drug prices will continue to rise, thereby making the affordability issue even more critical. According to the AARP Public Policy Institute, prescription drug prices rose at a rate over one and a half times the rate of general inflation between 1995 and 2000, prescription drug spending per American is expected to rise at an average rate of eleven and two tenths per cent in the next ten years, and prescription drugs account for the single largest component of out-of-pocket expenses for older Medicare beneficiaries.

While consumers find it increasingly difficult to afford the medicines they need, the pharmaceutical industry continues to enjoy substantial profits. Research by the Henry J. Kaiser Family Foundation shows that the drug industry, which spends more than any other industry on consumer advertising in the United States, is also the most profitable. More than eighteen per cent of the industry's revenue is profit, compared to only four and a half per cent for all Fortune 500 firms in 2000. While drug companies attempt to justify high drug prices on the costs of research and development, the Foundation reports that only fourteen per cent of revenues are spent on research and development. Additionally, taxpayer dollars help to finance these activities.

Currently, no state or federal program addresses the problem of drug affordability for the majority of the uninsured. Medicare does not provide drug coverage to the over seventy thousand Hawaii seniors and disabled for whom it provides basic health coverage. Discount programs offered by some drug companies have strict income and asset limits and are aimed at the indigent population. Although legislation at the national level has been considered, including Medicare reform, the states cannot afford to wait for relief from the federal government, and as of June 2001, twenty-nine states have established some version of a state pharmacy assistance program.

This measure establishes a pharmaceutical discount program open to all state residents called the Hawaii Rx program, which is modeled on a program currently operating in the state of Maine. The program would make prescription drugs available to program participants at discounted prices by using the State's purchasing power to negotiate rebates from drug manufacturers and reimbursing pharmacies that sell these drugs at discounted prices. The proposed program does not contain price control measures, a component of the Maine program that resulted in legal challenges, but does require all manufacturers who dispense drugs in this State to disclose their marketing costs in order to assist the State in its administration of the program.

The proposed program stands to benefit all of its participants. Manufacturers who negotiate rebates will benefit from volume sales to the State and will not be subject to prior authorization requirements. Participating pharmacists will gain the patronage of persons seeking discounted prices and will be reimbursed for discounted sales. Most importantly, thousands of Hawaii residents who presently lack drug coverage will be able to purchase pharmaceuticals at affordable prices and to obtain the medicines needed to prevent illness, alleviate pain, control disease, and prolong life.

Upon careful consideration, your Committees have amended this measure by replacing its contents with the language of a similar measure, S.B. No. 2520, S.D. 2. As amended, this measure:

- (1) Makes the Department of Human Services, rather the Department of Health, the responsible administrative agency;
- (2) Establishes the terms of prescription drug advisory commission members at four, rather than three years, consistent with the requirements of section 26-34, Hawaii Revised Statutes;
- (3) Does not provide for a special account within the Hawaii Rx Program special fund, and clarifies permissible fund receivables and expenditures;
- (4) Has an effective date of July 1, 2050; and
- (5) Contains technical, nonsubstantive differences from the measure, as received, that reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2834, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2834, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, 1 (Hogue). Excused, 2 (Chumbley, English).

SCRep. 3019 Water, Land, Energy, and Environment on H.B. No. 870

The purpose of this measure is to clarify that obtaining a loan shall not be a prerequisite to modifying or extending the term of a public land lease.

The Department of Land and Natural Resources testified against this measure.

Your Committee agrees that the change proposed in this measure is not prudent public policy.

Your Committee has amended this measure to delete its contents and insert the language from S.B. No. 2803, S.D. 1, previously heard by this Committee. As amended, this measure allows for the direct negotiation of leases or master leases on industrial parks developed under a joint venture or development agreement.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 870, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 870, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 3020 (Joint) Agriculture and Water, Land, Energy, and Environment on H.B. No. 2212

The purpose of this measure is to establish a Hawaii invasive species council to coordinate state activities to fight invasive species.

Your Committees received testimony supporting this measure from the Department of Land and Natural Resources, University of Hawaii at Manoa, Hawaii Coordinating Group on Alien Pest Species, Pineapple Growers Association of Hawaii, Nature Conservancy of Hawaii, and one individual.

Your Committees find that Hawaii's agriculture industry is experiencing tremendous growth. However, alien invasive species are causing substantial economic and environmental damage. In the past, combating alien invasive species has consisted of a hodgepodge of uncoordinated efforts by different agencies and the results have been less than adequate. A central agency to coordinate state efforts to control invasive species is necessary.

Although this measure creates a central agency, your Committees believe the Senate version, S.B. No. 2971, S.D. 2, which is essentially similar, provides a better approach. Therefore, your Committees have amended this measure by replacing its contents with the Senate version. As amended, this measure, among other things:

- (1) Establishes an administrator/coordinator position for invasive species within the Research Corporation of the University of Hawaii to coordinate state efforts to combat invasive species;
- (2) Provides that the administrator/coordinator be appointed by the governor subject to confirmation by the Senate;
- (3) Authorizes the administrator/coordinator to appoint a local advisory body to advise and assist the administrator/coordinator;
- (4) Authorizes the administrator/coordinator to appoint a lead agency for specific invasive species;
- (5) Authorizes the Departments of Agriculture, Health, and Land and Natural Resources to enter public or private premises, vessels, or aircraft within the State to examine, control, or eradicate invasive species; and
- (6) Designates the administrator/coordinator as the head of the emergency environmental workforce established by Act 4, Third Special Session, Session Laws of Hawaii 2001.

Your Committees find that this measure, as amended, establishes a single entity that can coordinate interagency efforts to manage and control invasive species efficiently, effectively, and successfully.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2212, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2212, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 7 (English, Ihara, Kawamoto, Matsunaga, Matsuura, Hemmings, Hogue).

SCRep. 3021 (Joint) Hawaiian Affairs and Water, Land, Energy, and Environment on H.B. No. 2249

The purpose of this measure is to authorize the Department of Land and Natural Resources to utilize its powers of eminent domain to acquire lands adjacent to the Mo`okini Heiau to provide public access and for its protection.

The Department of Land and Natural Resources testified in opposition to the measure.

Your Committees find that Act 166, Session Laws of Hawaii 1992, now codified as section 6E-38.5, Hawaii Revised Statutes (Act 166), sought to preserve and protect a cluster of historical sites in North Kohala, on the island of Hawaii. The sites include the Mo`okini Luakini, Kamehameha birthsite, Kukuipahu Heiau, and the historical sites at Mahukona. The Kohala Historical Sites State Monument is a collection of those sites. The monument was also designated for educational and cultural purposes to be enjoyed by the public. The Department of Land and Natural Resources administers the monument.

When Act 166 was enacted, the Mo`okini Luakini, Kamehameha birthsite, and Kukuipahu Heiau were already owned by the State. Act 166 further mandated that the following real property be included to ensure the unimpaired preservation of the visual, cultural, and historical aspect of the monument:

- (1) Historical sites at Mahukona; and
- (2) Any additional land surrounding all of the monument sites to preserve and protect them with adequate buffers and provide public access, including but not limited to those lands running along the coast between Huinamaka and Kalaelimukoko and those lands mauka of the Mo`okini Heiau encompassing the area formerly used for the housing of the Mo`okini priests and family gravesites.

The additional real property was to be acquired by the State through gifts or land exchanges and designated by the Board of Land and Natural Resources as part of the monument upon acquisition.

In the years following Act 166, the State made unsuccessful attempts to acquire the lands adjacent to the monument from the private owner through either a purchase or land exchange. These adjacent lands are necessary to provide public access to the monument as specified in Act 166.

In 1979, the Mo`okini Luakini Corporation was established as a nonprofit entity to promote, develop, and preserve the Mo`okini Heiau. Through the years, the Mo`okini Luakini Corporation has been dedicated to preserving the Mo`okini Heiau for educational and cultural purposes. Your Committees find that Mo`okini Luakini Corporation is the most qualified organization to protect and care for the Mo`okini Heiau.

Your Committees also find that the purchase of the lands adjacent to the monument is necessary to provide public access to the Kohala Historical Sites State Monument, including the Mo`okini Heiau. Your Committees further find that the State's acquisition of this land will protect the area by providing adequate buffers as authorized by Act 166.

In its deliberations, your Committees received testimony that raised concerns over a number of issues. These include:

- (1) How best to ensure adequate public access to the historical sites;
- (2) Whether there exists clear title to the lands, since testimony indicated that there are descendants of the original owners of the land who seek to regain control of the lands encompassing the historical sites;
- (3) What constitutes adequate buffers around each historical site; and
- (4) The need to accurately describe exactly which lands are to be condemned.

Although your Committees recognize that these concerns need to be addressed, your Committees understand that in order to do so, this measure must move forward in the legislative process as a vehicle to promote such discussion. As such, your Committees recommend that the measure move forward in its original form until such time that suitable amendments may be developed.

Your Committees have amended the measure by changing the effective date to July 1, 2050.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2249, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2249, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 5. Noes, none. Excused, 5 (Hanabusa, Ihara, Matsunaga, Nakata, Hemmings).

SCRep. 3022 (Joint) Hawaiian Affairs and Transportation, Military Affairs, and Government Operations on H.B. No. 2298

The purpose of this measure is to clarify the filing of nomination papers to be a candidate for the Board of Trustees of the Office of Hawaiian Affairs (OHA).

Testimony in support of the measure was received from the Office of Elections.

Your Committees find that under existing law, candidates for the Board of Trustees of OHA must file their nomination papers sixty days prior to the general election (roughly early September). This measure would conform the filing deadline for OHA candidates with the July filing deadline complied with by all candidates for federal, state, or county elective offices.

Your Committees believe that conforming the OHA candidate filing deadline with the filing deadline for other offices will minimize confusion on when to file nomination papers for particular elective offices.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2298, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Buen, Hanabusa, Kanno, Tam, Hemmings).

SCRep. 3023 Water, Land, Energy, and Environment on H.B. No. 2455

The purpose of this measure is to establish a brownfields clean-up revolving loan fund to provide low interest loans for the clean-up of contaminated brownfields sites.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism Office of Planning, Department of Health, and Chamber of Commerce of Hawaii.

Your Committee finds that this measure would contribute to a cleaner environment while advancing economic development opportunities in Hawaii. Your Committee has amended this measure to make technical amendments to reflect the preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2455, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2455, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Nakata).

SCRep. 3024 Water, Land, Energy, and Environment on H.B. No. 2549

The purpose of this measure is to allow lessees of public lands to extend their leases to the extent necessary to amortize the cost of major improvements to demised premises.

Testimony in support of this measure was received from the Department of Land and Natural Resources, Hawaii Farm Bureau Federation, and Hawaii Agriculture Research Center.

After consideration of this measure, your Committee has deleted its contents and replaced them with the language in S.B. No. 2242, S.D. 1, previously heard in this Committee. S.B. No. 2242, S.D. 1, added further lease extension provisions to:

- (1) Allow an extension or modification of the lease due to significant economic hardship under specified conditions; and
- (2) Subject the approval of an extension to comparable use, a total lease limit of fifty-five years, rental at not less than the preceding term, and additional terms and conditions under rules of the Board.

Your Committee further amended the measure to limit an extension to five years, and to clarify in the provision relating to economic hardship caused by taking of land, that the board must find that the lessee will not be adequately compensated.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2549, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (English, Ihara, Nakata).

SCRep. 3025 (Joint) Hawaiian Affairs and Water, Land, Energy, and Environment on H.B. No. 2659

The purpose of this measure is to protect caves as unique cultural and natural resources of the State of Hawaii by:

- (1) Limiting or prohibiting certain uses and activities within these caves;
- (2) Making theft of funerary objects, theft in the first degree; and
- (3) Allowing the Department of Land and Natural Resources (DLNR) to keep the location of a cave undisclosed.

Testimony in support of the measure was received from the Office of Information Practices and a member of the Maui County Council. The Department of Transportation and the Office of Hawaiian Affairs supported the measure with amendments. The DLNR and the Hawaii Leeward Planning Conference testified that they preferred the Senate version (S.B. No. 2898, S.D. 2) of the proposed cave protection law.

Your Committees find that this measure is the first step in protecting an often hidden, fragile natural and cultural resource. While there is general support for the importance of such a step, implementation and enforcement will require considerable effort on the part of many parties.

Your Committees are supportive of this measure and have amended it by:

- (1) Adding a definition of "construction context";
- (2) Clarifying that prohibitions shall not apply to caves encountered during normal construction context;
- (3) Requiring persons or entities seeking to qualify for noncommercial entry into caves to prove that the fees charged by the person or entity are strictly to cover costs;
- (4) Including public agencies in the definition of "owner";
- (5) Referencing, rather than reiterating, the definition of "person" contained in section 1-19, Hawaii Revised Statutes;
- (6) Authorizing the siting of septic systems to be installed near caves if certain standards are met;
- (7) Clarifying that the measure is not meant to prohibit activities conducted above a cave;

- (8) Grandfathering lawfully authorized commercial cave visiting operations; provided that the operators file, within sixty days of the measure's enactment, a declaration of its intent to continue cave visiting operations and to comply with all applicable laws;
- (9) Prohibiting the establishment of any new cave visiting operations until such time that rules governing such activities are established by the DLNR;
- (10) Requiring that written permission of the landowner be obtained prior to accessing a cave;
- (11) Requiring burial discoveries be reported as required under section 6E-43.6, Hawaii Revised Statutes;
- (12) Providing that the owner of the cave has the final say over regarding whether the cave's location is to be kept confidential;
- (13) Making the imposition of the fine for the taking or destruction of a cave resource specimen permissive rather than mandatory;
- (14) Deleting provisions relating to the taking of funerary objects; and
- (15) Making numerous technical, nonsubstantive amendments for the purposes of clarity and style.

Although your Committees received oral testimony from a representative of the Consumers Lawyers of Hawaii voicing concern over the potential conflict between the waiver of liability provisions contained in this measure and Chapter 520, Hawaii Revised Statutes, your Committees believe that there is sufficient time and opportunity left in the legislative process to ameliorate such concerns.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2659, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2659, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 5. Noes, none. Excused, 5 (Hanabusa, Ihara, Matsunaga, Nakata, Hemmings).

SCRep. 3026 (Joint) Water, Land, Energy, and Environment and Agriculture on H.B. No. 2662

The purposes of this measure are to establish standards and criteria and a process for identification of important agricultural lands, to provide a one-time process to reclassify lands of low agricultural resource value to the rural land use district, and to amend the permissible uses within the rural land use district.

Testimony in support of this measure was received from the Department of Agriculture, Department of Business, Economic Development, and Tourism, and Land Use Commission. The City and County of Honolulu Department of Planning and Permitting, Land Use Research Foundation of Hawaii, Hawaii Leeward Planning Conference, The Estate of James Campbell, Grove Farm Company, Hawaii Reserves, Inc., Hawaii's Thousand Friends, and Sierra Club Hawai'i Chapter testified in opposition. The County of Hawaii Planning Department, Life of the Land, and two individuals submitted comments.

Your Committees find that growth in Hawaii's agricultural sector requires concerted efforts to reduce barriers to farming and to provide additional opportunities to those in the many sectors of the agricultural industry. Your Committees commend the considerable work and planning that has already been achieved in order to promote agricultural development and the protection of agricultural lands in an era when the industry is changing so greatly.

Your Committees remain concerned, however, about the processes and procedures as outlined in this measure. Your Committees have amended this measure to replace its contents with those of S.B. No. 2007, S.D. 1. As amended, this measure:

- (1) Authorizes the counties to permit home occupations in the agricultural district, under certain conditions, without requiring a special permit;
- (2) Authorizes the counties to adopt criteria and standards for home occupations; and
- (3) Defines "home occupation".

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2662, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2662, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Hanabusa, Ihara, Kawamoto, Matsunaga, Hemmings).

SCRep. 3027 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on H.B. No. 2002

The purpose of this measure is to authorize the Department of Land and Natural Resources to issue new leases to the existing lessees of certain properties at Wailua, Lihue, Kauai.

Testimony in support of this measure was received from Kauai Beachfront Hotel, LLC. The Department of Land and Natural Resources (DLNR) testified in opposition.

Your Committees have heard that DLNR and the lessees are currently in discussions to resolve the disposition of the leases in question, and that a proposed resolution will be submitted to the Board of Land and Natural Resources in April.

Your Committees understand that this measure may be unnecessary at that point, but will allow it to proceed in the event legislation is required.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2002, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 6 (Ihara, Kawamoto, Matsunaga, Matsuura, Nakata, Sakamoto).

SCRep. 3028 (Joint/Majority) Water, Land, Energy, and Environment and Health and Human Services on H.B. No. 2764

The purposes of this measure are to change the percentage of the conveyance tax designated to the natural area reserve fund from twenty-five per cent to twelve and one half per cent, to appropriate \$1,000,000 for homeless assistance, and to require the Housing and Community Development Corporation of Hawaii to submit a report to the Legislature.

Testimony in support of this measure was received from the Housing and Community Development Corporation of Hawaii (HCDC), Hawaii Catholic Conference, Catholic Charities, Affordable Housing and Homeless Alliance, and two individuals. The Department of Land and Natural Resources, County of Maui Mayor and Department of Water Supply, The Nature Conservancy of Hawai'i, Sierra Club Hawai'i Chapter, Hawaii Society of American Foresters, Earthjustice, and Maui Pineapple Company, Ltd., testified in opposition. The Tax Foundation of Hawaii submitted comments.

Your Committees are fully appreciative of the problems facing the homeless in Hawaii, particularly after the tragedy of September 11, and the resulting increases in job losses and homelessness. Your Committees find, however, that the decrease in revenue to the natural area reserve fund that would result from this measure would have a devastating effect on a department that has borne severe budget cuts for the last decade.

Your Committees have heard one hopeful note in the many testimonies received – that the high number of home sales in Hawaii over the past year should bring an increase in conveyance tax revenues. With this in mind, your Committees have amended this measure to:

- (1) Keep the share of the conveyance tax paid into the natural area reserve fund at twenty-five per cent;
- (2) Transfer \$1,000,000 from the portion of the conveyance tax that would be paid into the general fund to the HCDC's homeless assistance program identification BED224;
- (3) Require the HCDC to include an assessment of the \$1,000,000 from the conveyance tax in its report on homeless assistance;
- (4) Clarify the appropriation language to reference program identification BED224; and
- (5) Make a technical, nonsubstantive amendment to reflect the preferred drafting style.

Your Committees wish to add that any future appropriations for the homeless should include a matching requirement from the counties, for this is a problem that can only be resolved if all branches of government contribute a portion of the resources necessary to take care of those Hawaii residents who have fallen on hard times.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2764, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2764, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, 1 (Hogue). Excused, 4 (Chun, Ihara, Matsunaga, Hemmings).

SCRep. 3029 (Joint) Health and Human Services and Judiciary on H.B. No. 1751

The purpose of this measure is to appropriate \$1 for the sex offender treatment program.

Testimony in support of this measure was received from Department of Public Safety, Hawaii Paroling Authority, and Honolulu Prosecuting Attorney.

This measure addresses a shortfall in funding for sex offender treatment for persons under parole. Often parolees are unable to pay for treatment with their own funds, and often treatment is a required condition of parole. Without the provision of treatment parole could be denied, resulting in prison overcrowding.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1751, H.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (English, Hanabusa, Ihara, Slom).

SCRep. 3030 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on H.B. No. 2207

The purpose of this measure is to create the offense of health insurance fraud arising from acts or omissions related to health insurance claims.

Testimony in support of this measure was submitted by Hawaii Medical Service Association (HMSA) and NAMI Oahu. Testimony in opposition to this measure was submitted by the Healthcare Association of Hawaii, Hawaii Medical Association, and the Office of the Public Defender. The State Insurance Commissioner and the American Council of Life Insurance submitted comments on this measure.

Your Committees find that this measure is intended to deter fraudulent health insurance claims by creating a civil cause of action for insurers to recover payments or benefits obtained through fraudulent acts or omissions by an insured or a provider. Your Committees further find that this measure targets not only insured individuals making such fraudulent claims but also includes health care providers who substantiate or allow such fraudulent claims to be filed.

Upon further consideration, your Committees have amended this measure by:

- (1) Deleting all references to specific criminal penalties;
- (2) Changing the effective date to upon its approval; 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 Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2207, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2207, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 4 (English, Fukunaga, Kim, Matsunaga).

SCRep. 3031 (Joint/Majority) Health and Human Services and Judiciary on H.B. No. 2429

The purpose of this measure, as received by your Committees, is to ensure compliance with and enforcement of the cigarette tax stamp laws by making the tax stamp law permanent and expanding the enforcement authority of the Department of the Attorney General and the Department of Taxation.

Your Committees developed and heard a proposed S.D. 1, that included the following provisions:

- (1) Seeking compliance with the terms of the tobacco settlement statutes through payment into the escrow fund by any manufacturer of tobacco products, whether or not they were parties to the settlement agreement;
- (2) Imposing more stringent state laws on smoking in restaurants, bars, and county and state controlled athletic facilities; and
- (3) Banning sales of cigarettes from vending machines.

Testimony was submitted on the proposed S.D. 1 by the Department of the Attorney General, the Department of Health, the Department of Taxation, the Hawai'i Nurses' Association, American Cancer Society, Hawai'i Restaurant Association, Coalition for Tobacco Free Hawai'i, University of Hawaii John A. Burns School of medicine, two physicians, and a private citizen. The testimony supported the intent of the S.D. 1, but most testifiers preferred the H.D. 1 version of this measure.

Your Committees find that efforts to enforce the cigarette tax stamp laws will be greatly supported by making the law permanent and allowing the various enforcement agencies wider authority to inspect the operations and premises of entities involved in cigarette sales. Your Committees, after consideration of the testimony presented on the S.D. 1 agree to support the H.D. 1 version of this measure without additional amendments.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2429, H.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 5. Noes, 2 (Hogue, Slom). Excused, 5 (Buen, English, Fukunaga, Hanabusa, Ihara).

SCRep. 3032 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Education on H.B. No. 1730

The purpose of this measure is to raise the drivers education fund underwriters fee from \$2 to \$3.50 a year on each motor vehicle, and to allocate the additional amount to the Department of Transportation and the Department of Education.

Your Committees received testimony in support of the measure from the Department of Transportation, the Department of Education, the Driver Education Coordinator of Roosevelt High School, the Hawaii Association of Safety-Traffic Educators, Keiki Injury Prevention Coalition, and Mothers Against Drunk Driving. Your Committees received testimony in opposition to the measure from the Hawaii Insurers Council. The Department of Commerce and Consumer Affairs submitted comments.

Your Committees find that demands for the Department of Education's driver education program have greatly increased since January 1, 2001, the effective date of Act 175, Session Laws of Hawaii 1999.

The Department of Education needs additional resources to be able to increase the number of students served by the driver education program. The additional funds will be used to certify and pay additional driver education teachers, and purchase driver education automobiles and classroom instructional materials. Therefore, your Committees support increasing the underwriters fee.

Your Committees amended this measure by replacing its contents with the contents of S.B. No. 2325, S.D. 1, a similar Senate measure. The Senate measure eliminates the purpose section, increases the underwriters fee from \$2 to \$3, and allocates the increase entirely to the Department of Education.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1730, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1730, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, 3 (Chumbley, English, Hogue). Excused, 6 (Buen, Fukunaga, Ige, Kanno, Matsunaga, Tam).

SCRep. 3033 (Joint) Transportation, Military Affairs, and Government Operations and Education on H.B. No. 1731

The purpose of this measure is to transfer administration of the drivers education fund underwriters fee from the University of Hawaii (UH) community colleges to the Department of Transportation (DOT).

Your Committees received testimony in support of this measure from the DOT and from the UH. The Department of Commerce and Consumer Affairs submitted comments.

Your Committees find that since the DOT has already taken over administration of the motorcycle education program from the UH, the funding for the program must be transferred to the DOT as well. Therefore, your Committees support the intent of this measure.

Your Committees amended this measure to create a new special fund to be known as the motorcycle operators education special fund to be administered by the DOT, into which the drivers education underwriters fees shall be placed. Your Committees also inserted a provision to appropriate funds from the newly created special fund.

In addition, your Committees amended this measure to amend section 286-108.4, Hawaii Revised Statutes, to provide for automatic state certification of motorcycle education programs conducted by the United States armed services. Your Committees find that the military programs are comprehensive and provide excellent motorcycle operator training.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1731, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1731, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 6 (Buen, Kanno, Matsunaga, Tam, Hemmings, Hogue).

SCRep. 3034 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2158

The purpose of this measure is to exempt law enforcement officers operating authorized emergency vehicles from commercial drivers licensing provisions.

Testimony in support of this measure was submitted by the Department of Transportation and City and County of Honolulu Police Department.

Your Committees find that this measure complies with federal motor carrier safety administration regulations exempting from commercial driver licensing requirements those individuals who operate motor vehicles for the purposes of preserving life and property

and emergency government functions. Your Committees further find that this measure will allow the City and County of Honolulu to expand their cadre of available law enforcement officers to operate emergency vehicles on a 24-hour, seven day a week basis.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2158, H.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Buen, English, Kanno, Matsuura, Menor, Taniguchi).

SCRep. 3035 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on H.B. No. 2224

The purpose of this measure is to require state and county agencies having contracts, programs, and services affecting the parental preference law, to report annually to the legislature on the effect of implementation of that law.

Testimony in support of this measure was received from Parents and Children Together, the Hawaii Coalition for Dads, and The Institute for Family Enrichment.

Section 577-7.5, Hawaii Revised Statutes (HRS), relating to eliminating parental preferences in government contracts, programs, and services, was enacted by Act 301, Session Laws of Hawaii (SLH) 2001, and will become effective July 1, 2002.

Your Committees believe that the legislature should be informed of the progress in implementing Act 301, SLH. Your Committees realize that the mandates of the law could be difficult to implement in the short term, but should be feasible in the long term over a period of time for an internal administrative system to evolve. Furthermore, the law itself is necessarily based on a somewhat subjective interpretation of the impact of a government contract, program, or service on child-rearing.

Your Committees find that the reporting requirement contained in this measure is the best means of evaluating Act 301, SLH 2001. It is not the intent of your Committees to impose needless administrative reporting requirements on government agencies. Your Committees request that all affected agencies comply with the reporting requirements with a view to promote family integration through proper child-rearing as affected by government contracts, programs, and services.

Your Committees amended this measure by replacing its contents with the contents of S.B. No. 2526, S.D. 1, which includes the judiciary among the agencies that must report to the legislature. In addition, your Committees further amended this measure to delete the requirement that reporting agencies detail every contract, service, or program affected. Your Committees believe that the affected agencies can provide a more general report regarding implementation of the program.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2224, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2224, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, Ihara, Matsuura, Nakata, Tam, Hemmings).

SCRep. 3036 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2301

The purposes of this measure are to clarify that a respondent who refuses to be tested or a minor respondent shall not be issued a conditional permit, to clarify the administrative hearing procedure, and to provide police officers with the option of informing the arrestee of revocation sanctions under section 291E-41 or 291E-65, Hawaii Revised Statutes (HRS).

Testimony in support of the intent of this measure was received from the Department of Transportation, Judiciary, City and County of Honolulu Department of Prosecuting Attorney, and Honolulu Police Department.

Your Committee has considered the provisions of this measure and prefers the language in S.B. No 2628, S.D. 1, previously heard in this Committee. As amended this measure also:

- (1) Amends the definition of "repeat intoxicated driver" under section 291E-1, HRS; and
- (2) Removes the phrase "Notwithstanding any other law to the contrary" from, and correctly formats, the provision prohibiting the issuance of conditional permits to respondents whose license is expired, suspended or revoked, or who refused a breath, blood, or urine test.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2301, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2301, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Buen, English, Kanno, Matsuura, Menor, Taniguchi).

SCRep. 3037 (Joint) Transportation, Military Affairs, and Government Operations and Labor on H.B. No. 2478

The purpose of this measure is to exempt and exclude employees of the Hawaii National Guard Youth Challenge Academy from civil service and collective bargaining.

Testimony in support of this measure was submitted by the Department of Defense.

Your Committees find that the master cooperative youth agreement between the State and federal governments, which governs the conduct of the youth challenge academy, identifies the number of positions the program can staff and the pay ceiling for each position. These ceilings correspond to the federal pay scales. This bill will give the program the flexibility to develop a pay table that complies with the agreement requirements and will ensure pay equity among all employees.

Your Committees further find that this measure adds a new exemption category for youth challenge academy employees. Since its inception, the employees of the youth challenge academy have been exempt because the program was considered a pilot program. However, Congress established this program as permanent, thus our statutes need to be accordingly adjusted.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2478, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chumbley, Fukunaga, Hanabusa, Ihara, Matsuura, Tam).

SCRep. 3038 (Joint) Transportation, Military Affairs, and Government Operations and Judiciary on H.B. No. 2479

The purpose of this measure is to clarify the protections and immunities afforded private agencies and entities engaged in civil defense functions.

Testimony in support of this measure was submitted by the Department of Defense, the Department of Business, Economic Development, and Tourism, the City and County of Honolulu Police Department, and Hawaiian Electric Company.

Your Committees recognize that, in addition to federal, state, and county agencies and the military, there are private agencies or entities that are key participants in the civil defense system to ensure the State is prepared for any type of disaster or emergency.

Present law provides that the State and its political subdivisions engaged in civil defense functions are not liable for the death of or injury to persons or for damage to property. Your Committees find that providing private agencies and entities that assist the public in times of disasters with immunity from liability will encourage them to provide tourists and the general public with private shelters in times of disasters or civil defense.

Your Committees amended this measure to provide the same level of civil and criminal immunity for members of the United States armed forces who assist during a civil emergency. Your Committees believe that the State should do everything possible to encourage participation by these trained forces whenever possible.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2479, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2479, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, Ihara, Matsuura, Nakata, Tam, Hemmings).

SCRep. 3039 (Joint) Transportation, Military Affairs, and Government Operations and Labor on H.B. No. 2527

The purpose of this measure is to delete the maximum allowable intervals between state inspections of boilers, pressure systems, and elevators.

Testimony in support of this measure was received from the Department of Labor and Industrial Relations (DLIR).

Your Committees find that the DLIR performs an invaluable public function by ensuring that potentially dangerous equipment that is commonly used by members of the public is regularly inspected by trained inspectors.

Particularly with respect to elevators, your Committees find that regular inspections by the State are absolutely necessary. The State must make every effort to protect the public safety. While boiler and pressure system inspections are also important, the general public has less contact with those systems, and your Committees find that DLIR should have the flexibility to set the intervals for inspections of those systems through administrative rules.

Your Committees have amended this measure by:

- (1) Restoring the mandatory inspection intervals for elevators and kindred equipment, but not for boilers and pressure systems;

- (2) Specifying that elevators and kindred equipment be inspected not more than at one-year intervals rather than eight months; and
- (3) Making technical changes for clarity and style, and to correct statutory language.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2527, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2527, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chumbley, Fukunaga, Hanabusa, Ihara, Matsuura, Tam).

SCRep. 3040 Transportation, Military Affairs, and Government Operations on H.B. No. 2840

The purpose of this measure is to establish a core government functions advisory commission to ensure that state resources are devoted to core government functions pursuant to the Hawaii state plan and functional plans and to recommend how to improve core government functions.

Testimony opposing this measure was received from the HGEA-AFSCME, Local 152, AFL-CIO.

Your Committee finds that state government has certain core functions, duties, and obligations to its citizens. These have already been outlined in the Hawaii state plan and functional plans. With the recent economic downturns in the state, national, and international economies, governments should examine and reassess their effectiveness and efficiency in fulfilling their core government functions. This measure provides the necessary focused effort to conduct such a review and is a first step toward improving state government.

Your Committee has amended this measure by:

- (1) Deleting the language requiring the legislature to vote to accept or reject proposed legislation without amendment from the core government functions advisory commission;
- (2) Adding to the members of the commission the respective chairs of the Senate Standing Committee on Transportation, Military Affairs, and Government Operations and the House of Representatives Standing Committee on Legislative Management; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2840, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2840, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Menor, Taniguchi).

SCRep. 3041 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on H.B. No. 2843

The purposes of this measure as referred to your Committees were to provide for automatic recount of votes in elections with a margin of victory below a specified percentage, and to move the primary election date to the second Saturday in August.

Your Committees received testimony in support of this measure from the Office of Elections, the League of Women Voters of Hawaii, and Common Cause Hawaii.

Your Committees agree that close election contests should be subject to automatic vote recount, in order to ensure that the proper candidate has indeed won. Therefore, your Committees support the intent of the provisions of this measure that provide for recount of votes in close contests.

Your Committees have amended this measure by replacing its contents with the contents of S.B. No. 3086, S.D. 2, a related Senate measure. The primary purposes of S.B. No. 3086, S.D. 2 are:

- (1) To require special elections to be conducted solely by mail;
- (2) To provide for an automatic recount in close election contests;
- (3) To change to an as-yet unspecified amount, the maximum allowable campaign contributions that can be made by persons and entities;
- (4) To require the names of candidates on each official party primary ballot to be printed on separate ballots;
- (5) To require persons holding public office to forfeit the office held upon conviction rather than date of sentencing; and

- (6) To appropriate funds for the Office of Elections to effectuate the purposes of this measure.

Your Committees further amended this measure to delete the provisions regarding maximum allowable campaign contributions. That issue is addressed comprehensively in separate legislation before the Legislature this session, and your Committees believe that the issues of campaign contributions and election procedure should be addressed in separate measures.

Your Committees also amended the recount provisions to delete the requirement that the recounts be conducted manually. The Office of Elections testified that manual recounts are extremely time consuming, and since your Committees have decided not to advance the date of the primary election, this amendment is prudent.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2843, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2843, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 6 (Buen, English, Hanabusa, Ihara, Matsuura, Taniguchi).

SCRep. 3042 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on H.B. No. 2844

The primary purposes of this measure are:

- (1) To prohibit banks, corporations, and labor organizations from contributing to candidates for political office except through a separate segregated fund established for that purpose;
- (2) To place a limit of \$25,000 on total aggregate annual political contributions by a person or entity; and
- (3) To prohibit contractors from contributing to candidates for offices that are responsible for awarding government contracts.

Your Committees received testimony in support of this measure from the League of Women Voters of Hawaii and Common Cause Hawaii. The Campaign Spending Commission submitted comments.

Your Committees remain dedicated to accommodating the desire of the public for fairness in the campaign spending laws. Your Committees are most concerned about large entities that can afford to make large contributions that could be interpreted as influencing the elected official. Even the appearance of impropriety is too much to tolerate. This measure is intended to correct the imbalances and inequities in the current law.

Your Committees find that this measure will bring Hawaii State election laws in line with federal election laws. Therefore, like its Senate companion measure, your Committees support the basic intent of this measure.

Your Committees have amended this measure in several ways. First, your Committees replaced the contents of this measure with the contents of S.B. No. 2431, S.D. 2, to reflect the Senate's position.

The Senate version of this measure differs from the House version substantively in that the Senate version repeals existing law limiting political fundraisers.

In addition, your Committees amended this measure to delete the requirement that corporations only contribute to a political candidate through a separate segregated fund. As amended, corporations may participate in the political process in the same manner in which they currently participate.

Your Committees also amended this measure to limit the restriction on contractor contributions. As amended, contractors are only prohibited from contributing to candidates for executive offices at the State and city levels or any other office having authority to award contracts on behalf of the State. For example, your Committees intend contractors to be prohibited from contributing to candidates for Governor, Lieutenant Governor, Mayor, the Chair of the Office of Hawaiian Affairs, and members of the Board of Education, or any other office with the authority to contract on behalf of the State. Your Committees find that these officials are the most susceptible to undue influence.

In order to continue discussion, the effective date is July 1, 2050.

Finally, your Committees amended the section making report falsification a Class C Felony. As amended, only falsification of a required report by an amount greater than \$50,000 shall constitute a Class C Felony; all other violations shall remain misdemeanors.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2844, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2844, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 14. Noes, none. Excused, 5 (English, Hanabusa, Ihara, Matsuura, Taniguchi).

SCRep. 3043 (Joint) Transportation, Military Affairs, and Government Operations, Tourism and Intergovernmental Affairs and Judiciary on H.B. No. 2167

The purpose of this measure is to repeal the existing photo traffic demonstration project and replace it with a new photo traffic demonstration project that addresses several of the concerns raised regarding the existing program.

Testimony in support of this measure was received from the Honolulu City and County Department of the Prosecuting Attorney, Keiki Injury Prevention Coalition, and seventeen concerned citizens.

Testimony in opposition to this measure was received from the Department of Transportation (DOT), the Insurance Division of the Department of Commerce and Consumer Affairs, State Farm, Hawaii Independent Insurance Agents Association, the Hawaii Insurer's Council, and sixty concerned citizens. Except for DOT and the insurance companies and associations, all testifiers in opposition to this measure oppose any sort of photo traffic enforcement program.

The photo traffic enforcement program was authorized by Act 234, Session Laws of Hawaii 1998, Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000. Through these three Acts the Legislature mandated that the DOT contract with a private vendor to implement a photo traffic enforcement program to deter speeders, red light runners, and motorists who illegally cross longitudinal lane markings.

The DOT contracted with a private vendor, ACS, and the photo speed imaging system went into effect in January, 2002. The photo red light system and photo technology systems are not yet in place. Immediately there was a tremendous public outcry by persons both opposed to and in support of the program.

In February, Hawaii's courts began hearing challenges to speeding tickets issued by the photo traffic enforcement system. In addition to issues that have raised the public's ire, there has also proven to be some difficulties in enforcing tickets issued via the system.

Your Committees have amended this measure, therefore, by replacing its contents with the contents of S.B. No. 2077, S.D. 1, the Senate measure that repeals the entire program and does not enact a new program. Not only does this amendment reinforce the Senate's position going into conference, but a majority of the members of your Committees support repeal of the program.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2167, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2167, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 8 (Buen, Chun, Ihara, Matsuura, Nakata, Sakamoto, Tam, Hemmings).

SCRep. 3044 (Joint) Tourism and Intergovernmental Affairs and Water, Land, Energy, and Environment on H.B. No. 536

The purpose of this measure is to allow the counties to continue administering special management area permits and shoreline setback variances in community development districts where no community development plan is in effect.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism Office of Planning, Hawaii Community Development Authority (HCDA), City and County of Honolulu Department of Planning and Permitting, County of Hawaii Planning Department, and Hawaii Leeward Planning Conference.

Your Committees find this measure will correct an unintended consequence of the law governing special management area and shoreline setback variances within community development districts.

Your Committees have amended this measure at the request of the County of Hawaii, with the concurrence of the HCDA, to repeal the Hamakua Community Development District statute, as there is no longer a need to include Hamakua under the jurisdiction of the HCDA.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Water, Land, Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 536, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 536, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 6 (Ihara, Kawamoto, Matsunaga, Matsuura, Nakata, Sakamoto).

SCRep. 3045 (Joint) Tourism and Intergovernmental Affairs and Economic Development and Technology on H.B. No. 2251

The purpose of this measure as received is to repeal redundant and obsolete statutes relating to tourism.

Prior to the hearing, your Committees circulated a proposed S.D. 1, which deleted the provisions of the bill and replaced them with the language in S.B. No. 2350, S.D. 2, to:

- (1) Cap transient accommodations tax (TAT) revenues deposited to the tourism special fund at \$50,000,000 annually;
- (2) Require the Hawaii Tourism Authority (HTA) to direct at least \$1,000,000 of that amount to the support of natural resources;
- (3) Deposit ninety per cent of any TAT revenues over \$50,000,000 in the state parks special fund and ten per cent in the Hawaii statewide trail and access program, up to \$2,000,000 annually and require expenditures in response to master plan developed with HTA; and
- (4) Designate any excess over \$52,000,000 to the general fund.

Testimony in support of the proposed measure was received from the Department of Land and Natural Resources, Hawaii's Thousand Friends, Sierra Club Hawai'i Chapter, and Trust for Public Land. The Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, Hawaii Hotel Association, Maui Hotel Association, Hawaii Activities and Tour Association, Waikiki Improvement Association, Chamber of Commerce of Hawaii, Hawaii Business Roundtable, Paradise Cruise Ltd., and Poipu Beach Resort Association testified in opposition.

Your Committees find that Hawaii's natural resources are one of the most important factors that draw visitors to the islands, and that some portion of the moneys to maintain these resources should come from the TAT that is paid primarily by visitors.

Your Committees understand the concerns raised regarding the proposed cap on the amount authorized for the HTA, but note that all state programs are anticipating budget cuts in the coming year, and that many vital services statewide will be curtailed or cut completely as a result.

Your Committees have expressed some concerns regarding the lack of priorities planning on the part of the Department of Land and Natural Resources (DLNR) for maintenance of Hawaii's parks and trails. Your Committees wish to emphasize that the expenditure of the TAT moneys by DLNR shall be in response to a master plan developed in coordination with the HTA, and urge the two agencies to complete this process as quickly as possible.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2251, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2251, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Buen, Ihara, Inouye, Matsuura, Taniguchi).

SCRep. 3046 (Joint) Education and Labor on H.B. No. 2165

The purpose of this measure is to clarify that the Hawaii Teacher Standards Board (HTSB) retains sole jurisdiction over teacher license issuance and revocation.

Testimony in support of the measure was submitted by the Office of the Lieutenant Governor, the Department of Education, HTSB. A private citizen testified in opposition to the measure.

Specifically, the measure clarifies that:

- (1) The Hawaii Teacher Standards Board has jurisdiction over all matters concerning the issuance and revocation of teacher licenses; and
- (2) The Department of Education has jurisdiction over all matters concerning the issuance and revocation of certificates issued to individuals who are not required to obtain a teacher license.

In addition, the measure requires the Department of Education and the Department of Human Resources Development to facilitate the establishment, rather than transfer, of positions as required by the Hawaii Teacher Standards Board in order to allow the board to hire its own staff.

Your Committees have amended this measure by:

- (1) Replacing the sum appropriated for fiscal year 2002-2003 to conduct the new functions of the Hawaii Teacher Standards Board with an unspecified amount;
- (2) Deleting a provision allowing the Hawaii Teacher Standards Board to grant extensions of credentials on a case-by-case basis until June 30, 2002;
- (3) Deleting references to "credentials" and "credentialing" in section 4 (relating to section 302A-803, Hawaii Revised Statutes) in order to ensure consistency with section 13 of Act 312, Session Laws of Hawaii 2001;

- (4) Changing its effective date from upon approval to July 1, 2002, in order to coordinate the application of this measure with the application of section 13 of Act 312, Session Laws of Hawaii 2001; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2165, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2165, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Chumbley, English, Hanabusa, Ihara, Matsuura, Tam).

SCRep. 3047 Economic Development and Technology on H.B. No. 2449

The purpose of this measure is to assist small businesses by modifying the provisions of the Hawaii Small Business Regulatory Flexibility Act. In particular, this measure:

- (1) Amends the definition of "small business" to mean enterprises with fewer than 100 rather than 200 employees;
- (2) Allows the small business regulatory review board to make nominations to fill board vacancies;
- (3) Allows the majority of the board to elect the chairperson;
- (4) Deletes the provision for a small business defender; and
- (5) Extends the Act's sunset date to June 30, 2004.

Your Committee received testimony in favor of this measure from the Director of Business, Economic Development, and Tourism, Chair of the Small Business Regulatory Review Board, the Chamber of Commerce of Hawaii, the Hawaii Business League, National Federation of Independent Business, and Shea & Co., CPAs.

Your Committee finds that passage of the Small Business Regulatory Flexibility Act culminated four years of hard work and received national acclaim from the U.S. Small Business Administration. Therefore, it is important that we extend the Act, rather than allow it to sunset on June 30th, 2002.

Your Committee has amended this measure in the following ways:

- (1) Making the Act permanent by removing the sunset date;
- (2) Requiring the small business regulatory review board to submit an annual report to the legislature; and
- (3) Deleting the repeal of provision for a small business defender.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2449, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2449, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Ihara, Kim, Taniguchi).

SCRep. 3048 Economic Development and Technology on H.B. No. 2576

The purpose of this measure is to clarify the application of certain high technology tax incentives, by:

- (1) Amending the definition of "performing arts products" as it relates to commercial television and film products for sale or license to require at least 50% of the postproduction work be performed in Hawaii;
- (2) Adding a definition of "postproduction work";
- (3) Amending the definition of "qualified research" as it relates to computer software to mean "the development and design of unique and specific code to create computer software applications and design databases for sale or license"; and
- (4) Providing for the recapture of the high technology business investment tax credit if a business is transferred and, if the credit is claimed, precluding other state income tax credits for the same investment.

Your Committee received testimony in support of this measure from the Executive Assistant to the Governor and Special Advisor for Technology Development, the Department of Taxation, Kauai County Office of Economic Development, Hoana Technologies, Oceanit, Pacific Focus Inc., Hawaii Technology Trade Association, Worldwide Energy Group, Inc., and High Technology Development Corporation. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that Act 178, Session Laws of Hawaii 1999, and Act 297, Session Laws of Hawaii 2000, established various tax incentives to encourage the development of high technology businesses in the State. These acts provided investment and research credits as well as income exclusions providing tax relief to high tech businesses and individuals associated with high tech businesses. This measure refines these incentives in an effort to make them more understandable and useable.

Your Committee has amended this measure in the following ways:

- (1) Eliminating the requirement that at least 50% postproduction work to be performed in Hawaii and replacing it with other activities that will support the growth and development of Hawaii's film industry;
- (2) Amending section 206M-3(a) to include the acceptance and expenditure of gifts, grants, or funds from various federal agencies;
- (3) Including definitions of "nonfossil fuel energy" and "nonfossil fuel energy-related technology";
- (4) Adding an appropriation for marketing the high technology tax incentives;
- (5) Amending the effective date to July 1, 2050, to promote further discussion and development of this measure; and
- (6) Making technical, nonsubstantive changes for purposes of clarity, conformity, and style.

Your Committee notes that the amendments suggested by the Executive Assistant to the Governor and Special Advisor for Technology Development were not adopted because the Executive Assistant/Special Advisor's written testimony was unclear and the Executive Assistant/Special Advisor was not present to answer your Committee's questions to clarify the amendments.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2576, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2576, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ihara, Kim, Taniguchi).

SCRep. 3049 (Joint) Labor, Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2329

The purpose of this measure is to clarify Act 90, Session Laws of Hawaii 2001, which authorized the Governor and executives of other jurisdictions to use the managed competition process to provide government services more efficiently by:

- (1) Defining the term "managed competition" as the process by which the State or a county and a private contractor competes to provide government services; and
- (2) Correcting a reference to the Office of Collective Bargaining and Managed Competition in section 89A-2, Hawaii Revised Statutes.

The Hawaii Government Employees Association commented on the measure.

Your Committees find that Act 90, Session Laws of Hawaii 2001 (Act 90), authorized the Governor and executives of other jurisdictions to use a managed competition process as a management tool to provide government services more efficiently. However, Act 90 neglected to define the term "managed competition".

The measure defines this term to mean the process by which the county and a private contractor compete to provide government services.

The measure also updates section 89A-2, Hawaii Revised Statutes, by correcting the reference to the Office of Collective Bargaining to its new name, the Office of Collective Bargaining and Managed Competition.

Your Committees believe that the measure will enable the State and the counties to implement Act 90 to the overall benefit of the citizens of the State.

As affirmed by the records of votes of the members of your Committees on Labor and Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2329, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 12. Noes, none. Excused, 6 (Chumbley, English, Hanabusa, Ihara, Kanno, Menor).

SCRep. 3050 Labor on H.B. No. 2481

The purpose of this measure is to exempt from civil service, Department of Education employees who distribute, collect, and count meal tickets during school meal periods on a less than half-time basis.

The Department of Education testified in support of this measure.

The measure also changes references to "lunch periods" to "meal periods", since breakfast and other meals are served in many schools.

Your Committee finds that public schools need a number of part-time persons to assist the school at different times of the day with regard to the counting of meal tickets. The work cannot be done by a single, full-time employee because of the time interval between meals and other scheduling factors. Your Committee also finds that turnover in these positions is very high, therefore, flexibility in hiring is essential. This measure will provide the Department of Education with the flexibility necessary to meet the needs of each school's lunch program.

Your Committee notes that providing this exemption mirrors the exemptions already provided under law to employees engaged in the supervision of students during lunch periods and in the cleaning of classrooms after hours.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2481, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Kawamoto, Sakamoto).

SCRep. 3051 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2302

The purpose of this measure is to allow judges the discretion to conditionally issue or renew driver's licenses or permits other than commercial driver's licenses of individuals who will be fired from work or have no transportation to work without a license.

Your Committees received testimony in support of the measure from the Judiciary.

Your Committees find that current licensing law creates a catch-22 situation with respect to the many individuals who presently cannot renew their driver's licenses because they have outstanding traffic fines, but cannot pay their traffic fines because they cannot renew their driver's licenses to get to work, especially on the neighbor islands, where there is often no viable public transportation. This measure would allow judges the discretion to ameliorate that difficulty, which would be of particular benefit to such vulnerable segments of the population as:

- (1) Low income working individuals;
- (2) Parolees who accumulated numerous traffic violations prior to their incarceration and who are now trying to obtain gainful employment; and
- (3) Former drug abusers who accumulated numerous traffic violations prior to entering into drug rehabilitation and are now trying to lead a productive and sober life.

Your Committees have amended the measure by inserting a defective date of July 1, 2050, to ensure continuation of discussion on this important issue.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2302, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2302, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Buen, English, Kanno, Matsuura, Taniguchi).

SCRep. 3052 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2420

The primary purposes of this measure are:

- (1) To amend chapters 103 and 103D, Hawaii Revised Statutes (HRS), to clarify and consolidate certain provisions in those chapters;
- (2) To establish a new online bidding process;
- (3) To repeal chapter 102, HRS, relating to concessions, and to apply chapter 103D, HRS, to concessions contracts;
- (4) To increase the small purchase procurement exception dollar ceilings from \$25,000 to \$100,000;

- (5) To give the awarding procurement officer the discretion to determine when bid security is required; and
- (6) To appropriate funds to the Procurement Office to effectuate the purposes of this measure.

Testimony in support of this measure was submitted by the State Procurement Office, the Department of Human Services, the Honolulu City and County Department of Budget and Fiscal Services, and the Board of Water Supply.

Testimony in opposition to this measure was submitted by Hertz, Avis, three members of Greeters of Hawaii, Island Shoppers, Inc., Alamo, Honolulu Publishing Company, Ltd., Dollar Rent-A-Car, ANC Rental Corporation, DFS Galleria, National Car Rental, the Airport Concessions Committee, the State Committee of Blind Vendors, the Hawaii Association of the Blind, Catrala-Hawaii, and a concerned citizen. The American Institute of Architects submitted comments.

Every organization and person testifying in opposition to this measure was opposed to repealing chapter 102, HRS, thereby subjecting concessions to the procurement provisions of chapter 103D, HRS.

Your Committees find that the remainder of the amendments contained in this measure are prudent.

Therefore, your Committees amended this measure to delete the section that proposed to repeal chapter 102, HRS, and related provisions. Your Committees also made numerous technical, nonsubstantive amendments to this measure for style, clarity, and accuracy.

Your Committees also amended this measure to increase the small purchase procurement exception dollar ceilings for public school repair and maintenance projects to \$250,000.

Your Committees also amended this measure to establish a procurement preference for state residents.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2420, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2420, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Buen, English, Kanno, Matsuura, Taniguchi).

SCRep. 3053 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 2565

The purpose of this measure is to require the reporting of inventories of explosives under the control of manufacturers, dealers, and users, and provides for penalties for those who do not comply.

Your Committees received testimony in support of the measure from the Department of Public Safety, Attorney General, and Legislative Information Services of Hawaii.

Your Committees find that after September 11, 2001, the State was not able to readily respond to federal requests concerning the locations of explosive materials in the islands. In light of the potential for explosives to fall into the wrong hands, the Department of Public Safety recommends that the manufacturers, dealers, and users be required to submit quarterly reports reflecting the inventories on hand. H.B. No. 2565, as originally drafted, negatively impacted licensed persons with reasonable amounts of fireworks and those using explosive materials for sporting and recreational reasons. H.B. No. 2565, H.D. 2, exempts these activities from reporting requirements. The measure also allows the Department of Labor and Industrial Relations to require the counties to provide a complete inventory and locations of consumer fireworks and articles pyrotechnic in the possession of any retailer licensed under chapter 132D, Hawaii Revised Statutes.

Your Committees have amended the measure by replacing its contents with those of S.B. 2823, S.D. 1, which differs from H.B. No. 2565, H.D.2, in that it:

- (1) Deletes a subsection allowing the Department of Labor and Industrial Relations to require the counties to provide a complete inventory and locations of consumer fireworks and articles pyrotechnic in the possession of any retailer licensed under chapter 132D, Hawaii Revised Statutes;
- (2) Deletes definitions for "articles pyrotechnic" and "consumer fireworks" as references to both were only made in the deleted subsection mentioned in paragraph (1) above; and
- (3) Makes technical nonsubstantive differences that more accurately reflect preferred drafting style.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2565, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2565, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Buen, English, Kanno, Matsuura, Taniguchi).

SCRep. 3054 Commerce, Consumer Protection and Housing on H.B. No. 1777

The purpose of this measure is to limit the applicability of the contested case hearing requirement for public utility rate increases to increases in basic service rates.

Verizon Hawaii testified in support, while the Public Utilities Commission (PUC), Consumer Advocate, and Life of the Land testified in opposition to this measure. Oceanic Communications submitted comments on the measure.

Under this measure, the PUC would have the option, but not the duty, to consider a public utility's request for a proposed rate or fee increase in a contested case proceeding, unless the request was for an increase in basic service rates.

Your Committee finds that the public's right to notice and an opportunity to be heard on utility rates or fees that may affect them should not be curtailed, and that this measure would diminish the due process protections currently afforded ratepayers under the law. Further, your Committee finds that the term "basic service rate" is ambiguous and equivocal, except as it is used in the telecommunications industry. Therefore, establishing a contested case requirement only for increases in basic service rates would create uncertainty in the law with respect to other public utilities, such as electric, gas, private water systems, and wastewater systems. Finally, your Committee notes that where the parties to a proceeding are in agreement that a rate increase is warranted, they may stipulate to waive their right to a contested case hearing. The Consumer Advocate is a party to the stipulation and the stipulation is approved pursuant to a public hearing.

Your Committee has amended this measure by replacing its contents with language that amends section 269-16.9, Hawaii Revised Statutes. As amended, this measure clarifies that the PUC, upon motion, notice, and hearing, may exempt a telecommunications provider from the public hearing and contested case requirements in rate-related matters.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1777, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1777, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Kim, Matsunaga).

SCRep. 3055 (Joint) Water, Land, Energy, and Environment and Commerce, Consumer Protection and Housing on H.B. No. 2836

The purpose of this measure is to implement recommendations of the energy efficiency policy task force, including establishment of a renewable energy technologies tax credit and an energy efficiency review commission.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Energy Efficiency Policy Task Force, Hawaiian Electric Company, Inc., The Gas Company, Hawaii Renewable Energy Alliance, Hawaii Solar Energy Association, Powerlight Solar Electric Systems, R&R Solar Supply, BIA-Hawaii, and Sierra Club Hawai'i Chapter. The Tax Department testified in opposition. The Public Utilities Commission and Tax Foundation of Hawaii submitted comments.

Your Committees find that the Energy Efficiency Policy Task Force was established by Act 163, Session Laws of Hawaii 1998, to explore and make recommendations to the legislature on the most cost-effective means of supporting increased energy efficiency and sustainability in Hawaii. This measure is the result of the work of the task force, and your Committees commend task force members for their dedication and commitment. In particular, your Committees cite the pragmatic approaches recommended by the task force to increase overall energy efficiency in what has been described as a "grass roots" manner that will provide substantial benefits to the residents of Hawaii as well.

Your Committees have amended this measure, incorporating further recommendations by the task force, to:

- (1) Delete establishment of a policy review commission and require the energy resources coordinator to ensure continuing review and evaluation;
- (2) Clarify that any federal energy tax credits and any utility rebates shall be deducted from the cost of the qualifying system and its installation before applying the state tax credit;
- (3) Require the Department of Taxation to report to the legislature no later than nine months after the close of the previous taxable calendar year;
- (4) Delete the repeal date; and
- (5) Make technical amendments to correct statute references.

Your Committees also note that the task force may have additional amendments to the definitions of "renewable energy technology system" and "solar or wind energy system" and will pursue these changes with the Committee on Ways and Means.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B.

No. 2836, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2836, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Chun, Ihara, Matsunaga, Tam, Hemmings).

SCRep. 3056 (Joint) Water, Land, Energy, and Environment and Commerce, Consumer Protection and Housing on H.B. No. 2837

The purposes of this measure are to require the Auditor to contract with an independent consultant to conduct a statewide energy audit, to establish scope of the audit, and to appropriate an unspecified amount from the public utilities special fund for fiscal year 2002-2003.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Consumer Advocate, County of Hawaii Department of Research and Development, County of Maui Energy Office, Hawaii Renewable Energy Alliance, Sierra Club Hawai'i Chapter, and Life of the Land. The Public Utilities Commission and Hawaiian Electric Company, Inc., submitted comments.

Your Committees find that there is general support for such an audit, given the complexities and the changing nature of energy production and use in Hawaii. Your Committees have heard a number of concerns raised regarding the scope and the cost of such an audit, and believe these are valid concerns in such an important undertaking.

Your Committees have also heard that the National Conference of State Legislatures (NCSL), of which the State is a member, has established the Energy Project, which offers state legislatures assistance focused on this subject matter. The NCSL Energy Project has completed or is in the process of conducting energy audits for Montana and Rhode Island and would be available to conduct an audit for Hawaii at a reasonable cost and within the time period specified by this measure.

Your Committees believe that the expertise and experience NCSL could bring to such an audit would be valuable from both a state perspective and within a national context.

Your Committees have amended this measure to:

- (1) Require the Auditor to contract with the NCSL to conduct the audit;
- (2) Appropriate \$50,000 from general funds for the audit;
- (3) Delay the effective date for the purposes of further discussion; and
- (4) Make technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2837, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2837, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 4 (Chumbley, Chun, Ihara, Hemmings).

SCRep. 3057 Commerce, Consumer Protection and Housing on H.B. No. 2854

The purpose of this measure is to clarify the examination requirements for licensure as a certified public accountant.

Testimony in support of this measure was received from the Board of Accountancy; Hawaii Society of Certified Public Accountants; Hawaii Association of Public Accountants; Torkildson, Katz, Fonseca, Jaffe, Moore and Hetherington (Torkildson); and three individuals. Testimony in opposition was received from Price Waterhouse Coopers.

Your Committee first notes that H.B. No. 2854 made many changes to chapter 466, Hawaii Revised Statutes, relating to public accountancy. However, H.B. No. 2854, H.D. 1, contained amendments to only two sections, which were apparently agreed upon by the affected parties but the amendments in the bill do not reflect the amendments desired by the interested parties. Your Committee cites the testimony of Torkildson, "Everyone agreed, and still agrees, that this bill should address only the requirements for taking the CPA exam."

Your Committee has amended the bill to limit the amendments to section 466-5.5, Hawaii Revised Statutes, which will allow a candidate with 120 hours of education under section 466-5, Hawaii Revised Statutes, to take the CPA examination while retaining the 150 hour education requirement for licensure.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2854, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2854, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, none.

SCRep. 3058 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Commerce, Consumer Protection and Housing on H.B. No. 1722

The purpose of this measure as introduced was to reduce the motor vehicle safety inspection requirement for heavy commercial vehicles to once a year.

Prior to the hearing on this measure, your Committees prepared a Proposed S.D. 1 to incorporate provisions designed to provide economic relief to airport concessionaires, as discussed below.

Testimony in support of the original measure was submitted by the Department of Transportation (DOT), Hawaiian Electric Company, and Hawaii Transportation Association.

Oral testimony in support of the Proposed S.D. 1 was offered by Catrala Hawaii. The DOT submitted testimony in opposition to the Proposed S.D. 1.

As an initial matter, your Committees find that the companies operating heavy commercial vehicles regularly inspect those vehicles, and that State inspection more than once a year is unnecessary. Therefore, your Committees support the provisions contained in this measure as introduced.

In addition, in the Proposed S.D. 1 version of this measure your Committees:

- (1) Amended chapter 102, Hawaii Revised Statutes (HRS), to insert a requirement that a "force majeure" provision be included in every contract between the State and a concessionaire, whereby neither party to the contract shall be liable for breaches caused by events wholly beyond the control of the breaching party;
- (2) Amended section 102-2, HRS, to authorize the DOT to issue revocable permits for up to two years in times of natural disaster or other adverse economic circumstances;
- (3) Amended section 102-10, HRS, to provide a permanent mechanism to provide economic relief to concessionaires during periods of severe decline in business, and to provide the terms of contract termination when such circumstances arise; and
- (4) Amended section 171-13, HRS, to provide that when a concessions contract is canceled in times of severe economic crisis, the concessionaire will not be barred from bidding on projects for five years, as would otherwise have been the case.

Your Committees find that the current economic crisis continues, and due to the severe decline in air arrivals and departures, coupled with tighter security measures at airports, concessionaires are hurting as much or more than any other sector of the business community. Your Committees support these measures both to provide relief during the current crisis, and to provide a statutory mechanism for providing relief in the future if similar circumstances arise.

Finally, your Committees amended this measure to change the effective date to July 1, 2050, and to repeal the June 30, 2002, sunset date of Act 332, Session Laws of Hawaii 1993 (Act 332), which authorizes the establishment of the air carrier commission.

Although the Air Carrier Commission authorized by Act 332 was never established, your Committees believe that it is prudent to repeal the sunset date of that Act so that the Commission can be convened if federal enabling legislation is enacted. Therefore, your Committees support the intent of this amendment.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Commerce, Consumer Protection and Housing that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1722, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1722, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, 1 (Hogue). Excused, 5 (English, Kanno, Kim, Taniguchi, Hemmings).

SCRep. 3059 (Joint) Transportation, Military Affairs, and Government Operations and Economic Development and Technology on H.B. No. 2542

The purpose of this measure is to increase the moorage fees at a specific per cent beginning July 1, 2002, with annual percentage increases until July 1, 2006, and by department rule beginning July 1, 2007. In addition, this measure authorizes that commercial gross revenue based fees may be increased not to exceed a maximum of three per cent of gross revenues.

Testimony supporting this measure was received from the Department of Land and Natural Resources, Ocean Tourism Coalition, Aqua Lung Pacific, Trilogy Corporation, Activities Owners Association of Hawaii, and twenty-three individuals. Opposing testimony was received from four individuals. Comments on this measure were received from five individuals.

Your Committee finds that moorage fees have remained a contentious issue. The Department of Land and Natural Resources has made repeated attempts to establish fair fee structures that are satisfactory to the stakeholders while at the same time compliant with

applicable rules and regulations. Your Committee finds that the moorage fee structures imposed by this measure are unambiguous and fair.

Your Committee has amended this measure by:

- (1) Prescribing that moorage fees in effect on January 1, 2002, shall not be increased;
- (2) Exempting from any increase moorage fees for recreational vessels; and
- (3) Clarifying that the fee increases provided in this measure for commercial vessels shall be mandatory after January 1, 2003.

In addition, your Committee reiterates the commitment of the Board of Land and Natural Resources expressed in December of 2001 that the Department would not increase moorage fees without legislative hearings.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2542, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2542, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Ihara, Kanno, Kim, Menor, Taniguchi, Hemmings).

SCRep. 3060 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Labor on H.B. No. 2821

The purpose of this measure is to abolish deputy positions within state departments.

Testimony in support of this measure was received from the Department of Education. The Departments of Land and Natural Resources, Labor and Industrial Relations, Human Services, and Budget and Finance submitted testimony in opposition.

Your Committees find that this measure is necessary as a cost-saving measure.

Your Committees amended this measure by:

- (1) Allowing deputies whose salaries are funded by special funds;
- (2) Requiring Senate confirmation of all deputies;
- (3) Prohibiting state departments from employing public relations personnel;
- (4) Converting the deputy for water resource management position to an executive officer position;
- (5) Authorizing the Board of Education to set the salaries of all superintendents;
- (6) Delaying the effective date until December 31, 2050; and
- (7) Making several technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2821, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2821, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, 3 (Chumbley, Fukunaga, Inouye). Excused, 5 (Hanabusa, Ihara, Kanno, Matsuura, Menor).

SCRep. 3061 (Joint) Education and Labor on H.B. No. 2352

The purpose of this measure is to require the Department of Education to conduct a comprehensive occupational validation study of its educational officers

Your Committees received testimony in support from the Department of Health. Your Committees received testimony in opposition from the Hawaii Government Employees Association. Your Committees received comments from the Department of Education.

Your Committees find that the Department of Education has been remiss in its obligation to provide the Legislature with a report on the salary structure of educational officers within the department prior to the 2002 regular session, as required by Act 188, Session Laws of Hawaii, 2001. Therefore, some further means of requiring the department to comply must be created. However, with regards to the contents of the study the measure remains too detailed and prescriptive, does not adequately involve all of the stakeholders in the educational field, and fails to look at the issue holistically, considering the department as an overall organizational entity.

Your Committees have amended the measure by:

- (1) Calling for a comprehensive comparative salary analysis of all personnel in management and administration, including educational officers, as an overall organizational entity, instead of a comprehensive occupational validation study of all educational officers;
- (2) Creating a task force composed of all of the stakeholders in the educational field; and
- (3) Eliminating the detailed and prescriptive elements called for within the study, to give the task force greater flexibility.

As affirmed by the records of votes of the members of your Committees on Education and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2352, H.D. 1, S.D. 1, as amended herein, recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as H.B. No. 2352, H.D. 1, S.D. 2.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 8 (English, Hanabusa, Ige, Ihara, Kanno, Matsunaga, Matsuura, Menor).

SCRep. 3062 (Majority) Education on H.B. No. 2752

The purpose of this measure is to authorize the licensing authority to suspend, deny, or refuse to renew, reinstate, or restore the license of any person who has defaulted or breached any obligation under a student loan, student loan repayment contract, or scholarship contract.

Your Committee received testimony in support of the measure from the State Representative of District No. 14, Department of Education, Department of Commerce and Consumer Affairs, University of Hawaii, and Hawaii Credit Counseling Service. Your Committee received comments on the measure from the Hawaii Nurses' Association.

Your Committee finds that this measure would provide an additional mechanism for recovering defaulted student loans, encouraging student loan repayment, and deterring potential defaulters. As student loans are administered as revolving funds, timely repayments would facilitate replenishment of funds for the issuance of loans to new borrowers as well. Your Committee further finds that the Department of Commerce and Consumer Affairs may adopt rules as necessary to implement this measure.

Your Committee has amended the measure by changing the effective date to July 1, 2050, and by adding a provision stipulating that the measure shall not apply to an individual against whom a court order is entered in connection with the default or breach in the nature of a garnishment process or other form of court-ordered repayment.

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. 2752, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2752, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, 1 (Hogue). Excused, 2 (English, Menor).

SCRep. 3063 (Majority) Health and Human Services on H.B. No. 1901

The purpose of this measure is to allow mandatory human-immunodeficiency virus (HIV) testing of persons charged with sexual offenses.

Testimony in support of this measure was submitted by the Department of the Prosecuting Attorney for the City and County of Honolulu, Police Department of the City and County of Honolulu, Hawai'i Nurses' Association, and Sex Abuse Treatment Center. Testimony in opposition to this measure was submitted by the Governor's Committee on HIV/AIDS, Office of the Public Defender, American Civil Liberties Union of Hawai'i, Life Foundation, and AIDS Community Care Action Team.

Your Committee finds that individuals who are survivors of sexual offenses are concerned about and at risk for contraction of sexually transmitted diseases, including HIV. Your Committee further finds that existing law provides for victims to request, and the court to mandate, HIV testing of convicted sex offenders. However, due to the potential life-threatening illnesses that can derive from HIV infection, early detection and treatment for survivors is recommended by health care providers and advocates for survivors of sexual assault. Your Committee, however, agrees with concerns raised in testimony about using different terms when referring to a victim and complainant, and in allowing the court to consider the sexual and drug use history of a person who has only been charged with an offense. Your Committee, therefore, requests that the Committee on Judiciary further review and consider these concerns. Your Committee also agrees that the integrity of the law regarding confidentiality of HIV test results needs to be preserved as much as possible.

Thus, upon further consideration, your Committee has amended this measure by:

- (1) Changing the term "complainant" to "victim" in all proposed new language and retaining the term "victim" within existing law;
- (2) Allowing a person charged with a sexual offense to voluntarily submit to take an HIV test, upon the request of the victim;
- (3) Deleting the provision allowing the court to consider previous sex partners and intravenous drug use in determining whether to order a person charged with a sexual offense to take an HIV test;

- (4) Adding a provision to section 325-16.5(b), Hawaii Revised Statutes, relating to request for testing of a sex offender by the victim, to include voluntary disclosure by the charged person as an exception to the requirement that HIV test results shall remain confidential; 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 Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1901, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1901, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 2 (Fukunaga, Hogue). Excused, 1 (English).

SCRep. 3064 Health and Human Services on H.B. No. 2709

The purpose of this measure is to establish accountability for funds received and expended by the hospital and medical facilities special fund.

Testimony in support of the intent of this measure was submitted by the Department of Health.

Your Committee finds that the hospital and medical facilities special fund was originally established to offset expenses of Department of Health (DOH) programs involving hospital and medical facility inspections and educational training programs for staff. Your Committee further finds that this DOH program has evolved into the Office of Health Care Assurance, and thus funds are needed to support activities more focused on educational rather than regulatory activities.

Your Committee also heard H.B. 1072, related to establishing a separate Maui Regional Health Systems corporation. Testimony in support of this measure was submitted by the Office of the Mayor for Maui County, the Maui County Medical Society, Hawaii Medical Association, Maui Economic Opportunity, Lahaina-Honolua Senior Citizens Club, West Maui Taxpayers Association, two Maui physicians, and a Maui county resident. Testimony in opposition to this measure was submitted by the Department of Health, the Hawaii Health Systems Corporation (HHSC), the HHSC Board chair and officers, Maui County Hospital Region, members of the Maui, Kauai, West Hawaii, East Hawaii, and Oahu regional management advisory committees, Kona Community Hospital, Hilo Medical Center, Mahelona Memorial Hospital, West Kauai Medical Center, Maluhia Long-Term Care Health Center, Kohala Hospital, Hawaii Island Radiation Oncology, Inc., Clinical Laboratories of Hawaii, United Public Workers, and Hawaii Government Employees Association.

Your Committee finds that the Maui Memorial Medical Center (MMMC) is the profit-center for the Hawaii Health Systems Corporation, but the MMMC does not reap the benefits of these profits through direct reinvestment back into their facilities and personnel. Your Committee further finds that a pilot project to allow a Maui Regional Health Systems Corporation would test the viability of regional or county health care systems, while still allowing the Hawaii Health Systems Corporation to maintain authority for the management and operations of the remaining health-care facilities.

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

- (1) Inserting the contents of H.B. 1072, with modifications to allow the establishment of county or regional health systems corporations comprising any of the current HHSC facilities, and requesting HHSC to report to the 2003 legislature on the establishment of any county or regional health systems corporations;
- (2) Inserting an appropriation of \$49,000,000 to assist in the spin-off and start-up costs of these county or regional health systems corporations;
- (3) Requiring deposit into the general fund of fines collected for violations of the adult residential care home licensing law (section 321-15.6, Hawaii Revised Statutes), rather than all administrative penalties collected under section 321-20, Hawaii Revised Statutes;
- (4) Inserting authorizations for general obligation bonds in the amount of \$38,000,000 for Maui Memorial Medical Center, and \$20,000,000 for Hilo Medical Center; 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 Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2709, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Fukunaga).

SCRep. 3065 (Majority) Health and Human Services on H.B. No. 2741

The purpose of this measure is to discourage cigarette smoking by raising the cigarette excise tax from five cents to six cents for each cigarette.

Your Committee received testimony in support of this measure from the American Heart Association, Hawaii Medical Association, Waianae Coast Comprehensive Health Center, American Lung Association of Hawaii, American Cancer Society, Neighbor Island Coalition Coordinator, Na Lei Wili Area Health Education, Coalition For A Tobacco Free Hawaii, and one individual. Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii, as well as testimony opposing this measure from the Hawaii Food Industry Association and four individuals.

Your Committee finds that it is well accepted that cigarette smoking is a public health hazard that claims the lives of thousands and costs the country billions of dollars each year. To combat the recruitment of new smokers, it is important to reduce youth smoking. Your Committee believes that a tax increase weakens the purchasing power of minors to purchase cigarettes, thus reducing consumption by minors.

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

- (1) Deleting the amount of excise tax on cigarettes and tobacco products that is imposed on wholesalers or dealers; 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 Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2741, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2741, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 1 (Hogue). Excused, 1 (English).

SCRep. 3066 Tourism and Intergovernmental Affairs on H.B. No. 2195

The purpose of this measure as received is to limit to department head salary level, the amount used for employees retirement system calculations of the average final compensation for the executive director of the Hawaii Tourism Authority, retroactive January 18, 2002.

Prior to the hearing, your Committee circulated a proposed S.D. 1, which deleted the provisions of the bill and would require Senate confirmation of the executive director, cap the executive director's salary at fifteen per cent of the three per cent administrative costs, and clarify the authority's role in the appointment of the position.

Testimony in support of the proposed measure was received from three individuals. The Chair of the Hawaii Tourism Authority (HTA) and the Hawaii Hotel Association testified in opposition. One individual submitted comments.

Your Committee finds that the choice of executive director for an agency with the fiduciary responsibilities of the HTA is critically important to the success of the organization. Your Committee has heard that despite several months of effort, the HTA may still be months away from choosing a successor to the previous executive director. Moreover, the Auditor's Report No. 02-04, Management Audit of the Hawaii Tourism Authority, February 2002, found "management problems at the Hawaii Tourism Authority are both troubling and alarming," and noted "inadequate guidance and support" from the previous executive director in its conclusions.

Your Committee has also discussed concerns regarding potential private sector contributions to the executive director's compensation package, with regards to potential conflicts of interest.

Your Committee fully appreciates the HTA's desire to attract an exemplary individual to this position, but does not believe the amendments in the proposed S.D. 1 will hamper that achievement. Your Committee has further amended the proposed language to prohibit private sector contributions to the compensation package.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2195, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2195, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Buen, Inouye, Matsuura).

SCRep. 3067 (Joint) Water, Land, Energy, and Environment and Hawaiian Affairs on S.C.R. No. 36

The purpose of this measure is to support the acquisition by the National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki'ilaie Village for Expansion Of Pu'uhonua O Honaunau National Historical Park.

Your Committees have heard that recently the Trust for Public Land (TPL) purchased a 238-acre tract in the Ki'ilaie ahupua`a that lies adjacent to the southern boundary of the Pu'uhonua O Honaunau National Historical Park to prevent its subdivision and development for residential use. TPL is now working with members of Congress to assist the National Park Service in obtaining authorization and funding to acquire this property for addition to the park.

Your Committees are strongly supportive of the acquisitions in this measure, in order to preserve and protect the critical cultural and natural resources.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 36 and recommend its adoption.

Signed by the Chairs on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 5 (Hanabusa, Ihara, Matsunaga, Nakata, Hemmings).

SCRep. 3068 (Joint) Water, Land, Energy, and Environment and Hawaiian Affairs on S.R. No. 16

The purpose of this measure is to support the acquisition by the National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki`ilae Village for Expansion Of Pu`uhonua O Honaunau National Historical Park.

Your Committees have heard that recently the Trust for Public Land (TPL) purchased a 238-acre tract in the Ki`ilae ahupua`a that lies adjacent to the southern boundary of the Pu`uhonua O Honaunau National Historical Park to prevent its subdivision and development for residential use. TPL is now working with members of Congress to assist the National Park Service in obtaining authorization and funding to acquire this property for addition to the park.

Your Committees are strongly supportive of the acquisitions in this measure, in order to preserve and protect the critical cultural and natural resources.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 16 and recommend its adoption.

Signed by the Chairs on behalf of the Committees.
Ayes, 5. Noes, none. Excused, 5 (Hanabusa, Ihara, Matsunaga, Nakata, Hemmings).

SCRep. 3069 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on H.B. No. 2723

The purpose of this measure is to require the counties to establish a food waste recycling program as part of their integrated solid waste planning.

Testimony in support of the intent of this measure was received from the Department of Health, Eco-Feed, Inc., Hawaii Hotel Association, Sierra Club Hawai`i Chapter, and one individual. McDonalds Restaurants in Hawaii submitted comments.

Your Committees find that more recycling of food waste would contribute greatly to meeting the State's recycling goals, while providing business opportunities for the recycling industry. The City and County of Honolulu has an active food waste recycling program, and such a program would benefit the neighbor island counties in their efforts to cope with decreasing landfill capacity.

Your Committees have amended this measure to delete its contents and insert the language from S.B. No. 2909, S.D. 1, heard previously in these Committees. As amended, this measure establishes a new food waste part in Chapter 46, Hawaii Revised Statutes; including applicability and exceptions, cooperation with other establishments, suspension of requirements, rules, inspections, reporting requirements, donations of food, violations and penalties, authorization for the counties to assess a charge, and county request for an exemption.

Your Committees note the amendments also specifically address the question of whether such a program is an unfunded mandate, as raised earlier by a Deputy Attorney General.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2723, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2723, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 6 (Ihara, Kawamoto, Matsunaga, Matsuura, Nakata, Sakamoto).

SCRep. 3070 Judiciary on H.B. No. 1011

The purpose of this measure is to clarify the voting requirements at the polls for a voter with a physical disability.

Your Committee received testimony in support of this measure from the Office of Elections, Disability and Communications Access Board (Board), League of Women Voters, and an individual.

Your Committee finds that current statutory language requires precinct officials to determine an individual is physically disabled before rendering the individual any assistance. This measure would relieve precinct officials of the onerous burden of making quasi-medical determinations that may be beyond the scope of their professional qualifications.

On the recommendation of the Board, your Committee has amended this measure by deleting its contents and inserting S.B. No. 2552, S.D. 1, a similar measure which only amends subsection (a) of section 11-139, Hawaii Revised Statutes, to:

- (1) Delete reference to blindness, disability, and inability to read or write;
- (2) Delete reference to precinct officials being satisfied that a physical disability exists;
- (3) Delete reference to a voter with a physical disability finding it unduly burdensome to enter the polling place, and inserts a voter needing assistance; and
- (4) On the recommendation of the Office of Elections, add that a ballot may be handed to a voter needing assistance within the polling place parking lot as well as within 100 feet of the parking lot.

Your Committee believes that the Senate draft accomplishes the same goals as the House draft but in a more sensitive and convenient manner.

As affirmed by the record of votes of 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. 1011, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1011, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Ihara, Kokubun, Nakata).

SCRep. 3071 Judiciary on H.B. No. 1764

The purpose of this measure is to allow certain convicted persons who have been pardoned to own, possess, or control firearms and ammunition.

Testimony in support of this measure was received from the Libertarian Party of Hawaii and two individuals. Testimony in opposition was received from one individual.

Your Committee views this measure as restoring a convicted person's rights upon pardon, similar to restoring the rights of a convicted felon to hold public office or to vote under section 831-5, Hawaii Revised Statutes, upon discharge after completion of the 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 H.B. No. 1764, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3072 Judiciary on H.B. No. 2120

The purpose of this measure is to enact the Uniform Child-Custody Jurisdiction and Enforcement Act of 1997 (UCCJEA).

Testimony in support of this measure was received from the Judiciary, Domestic Violence Clearinghouse and Legal Hotline (Clearinghouse), Uniform Law Commissioners, and Hawaii State Coalition Against Domestic Violence. The Legislative Reference Bureau (LRB) submitted comments.

The UCCJEA replaces the Uniform Child Custody Jurisdiction Act of 1968, codified as chapter 583, Hawaii Revised Statutes. This measure:

- (1) Eliminates the differences between the 1968 enactment and the federal Parental Kidnapping Prevention Act;
- (2) Enhances home state custody continuing exclusive jurisdiction;
- (3) Authorizes enforcement proceedings in a state other than the state issuing the custody order;
- (4) Authorizes prosecutors to locate the child and enforce custody orders; and
- (5) Provides uniformity among the states, which is necessary for a mobile population.

This measure is intended to address the common situation today whereby a mobile population has resulted in jurisdictional conflicts among states which often work to the detriment of enforcing child custody orders. This measure would allow one state to modify and enforce another state's order, under certain circumstances. According to testimony, this measure has important implications in domestic violence situations that often result from child custody disputes.

Your Committee has amended this measure by deleting its contents and inserting S.B. No. 2523, S.D. 1, which differs with the House version in the following respects:

- (1) Clarifies the definition of "record" to allow the court greater flexibility in operations;

- (2) Requires the court to hold the hearing on the petition after not less than 48 hours notice to the respondent, rather than on the first judicial day possible because of the scheduling difficulties for the court; and
- (3) Deletes the saving clause, on the grounds that it is not part of the uniform law and should be left to the courts to determine.

On the recommendation of the LRB, reference to publishing the commentaries has been deleted, because of copyright concerns and the questionable authority of the LRB to make changes to the commentaries.

As affirmed by the record of votes of 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. 2120, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2120, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3073 Judiciary on H.B. No. 2613

The purpose of this measure is to amend, reenact, or repeal various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii to correct errors and references, clarify language, and delete obsolete or unnecessary provisions.

Testimony in support of this measure was received from the Board of Land and Natural Resources. Comments were provided by the Legislative Reference Bureau (LRB).

This measure was prepared by the LRB pursuant to statutory authority under chapter 23G, Hawaii Revised Statutes, relating to statute revision. All amendments are of a purely technical nature and contain no substantive changes 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. 2613, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3074 Transportation, Military Affairs, and Government Operations on S.C.R. No. 9

The purpose of this measure is to extend the reporting date of the Task Force to Improve the Efficiency of Law Enforcement and Public Safety Agencies from November 1, 2001, to November 2, 2002.

Testimony in support of this measure was received from the Department of Public Safety (PSD).

Your Committee finds that during the 2001 legislative session the Legislature passed S.C.R. No. 90, S.D. 1, H.D. 1, requesting the PSD to convene a task force of law enforcement and public safety agencies for the purpose of exploring and assessing ideas and methods to make law enforcement agencies more proactive, efficient, effective, and responsive to public safety concerns and issues.

Your Committee further finds that the Task Force has been working toward its goal in earnest, but that it was unable to meet its November, 2001, reporting date. Your Committee supports this measure to extend that reporting date for an additional year.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 9 and recommends that it be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3075 Transportation, Military Affairs, and Government Operations on S.C.R. No. 55

The purpose of this measure is to request the City and County of Honolulu to accelerate its implementation of the Honolulu Bicycle Master Plan initiated under city ordinance 94-39, in order to encourage residents to cycle.

Testimony in support of this measure was submitted by Hawaii Medical Services Association and More People on Bikes.

Your Committee finds that cycling is an excellent means to achieve physical fitness, as well as an effective means of transportation without reliance upon fossil fuels. Your Committee finds that the State should encourage its citizens to cycle.

Your Committee further finds that the Honolulu Bicycle Master Plan will increase the popularity of cycling in Hawaii through education on safe bike handling and route choosing, among other things. Therefore, your Committee supports implementation of the Master Plan as soon as possible.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 55 and recommends that it be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3076 Transportation, Military Affairs, and Government Operations on S.R. No. 30

The purpose of this measure is to request the City and County of Honolulu to accelerate its implementation of the Honolulu Bicycle Master Plan initiated under city ordinance 94-39, in order to encourage residents to cycle.

Testimony in support of this measure was submitted by Hawaii Medical Services Association and More People on Bikes.

Your Committee finds that cycling is an excellent means to achieve physical fitness, as well as an effective means of transportation without reliance upon fossil fuels. Your Committee finds that the State should encourage its citizens to cycle.

Your Committee further finds that the Honolulu Bicycle Master Plan will increase the popularity of cycling in Hawaii through education on safe bike handling and route choosing, among other things. Therefore, your Committee supports implementation of the Master Plan as soon as possible.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 30 and recommends that it be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3077 Transportation, Military Affairs, and Government Operations on S.C.R. No. 43

The purpose of this measure is to encourage state agencies to do everything possible to foster competition and new entrants in the interisland air transportation market.

Testimony in support of this measure was received from the Hawaii Tourism Authority and Citizens for Competitive Air Travel. The Department of Transportation provided comments.

In December, 2001, Hawaii's two interisland air carriers, Hawaiian Airlines and Aloha Airlines, announced plans to merge into a single entity. Immediately the public became concerned that the frequency of interisland flights would decrease, fares would increase, workers would be terminated, and the overall level of service would decline.

The State and federal Attorneys General undertook a comprehensive antitrust review of the proposed merger. In addition, many lawmakers opposed the merger, and sought appropriate legislative action in response. This measure was introduced in response to these public concerns.

In March, 2002, Hawaiian Airlines and Aloha Airlines terminated their merger plans, but your Committee still supports this measure. One reason is that competition in any market inherently benefits consumers in a capitalist society.

In addition, there is still some doubt as to the financial stability of Hawaii's existing interisland air carriers, and there is no guarantee that they will both stay in business. Also, the two entities may revive their merger plan at a later date.

Based on these concerns, your Committee supports this measure and encourages every state agency, particularly the DOT, to do everything possible to foster competition and new entrants in the interisland air transportation market.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 43 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3078 Transportation, Military Affairs, and Government Operations on S.R. No. 24

The purpose of this measure is to encourage state agencies to do everything possible to foster competition and new entrants in the interisland air transportation market.

Testimony in support of this measure was received from the Hawaii Tourism Authority and Citizens for Competitive Air Travel. The Department of Transportation provided comments.

In December, 2001, Hawaii's two interisland air carriers, Hawaiian Airlines and Aloha Airlines, announced plans to merge into a single entity. Immediately the public became concerned that the frequency of interisland flights would decrease, fares would increase, workers would be terminated, and the overall level of service would decline.

The State and federal Attorneys General undertook a comprehensive antitrust review of the proposed merger. In addition, many lawmakers opposed the merger, and sought appropriate legislative action in response. This measure was introduced in response to these public concerns.

In March, 2002, Hawaiian Airlines and Aloha Airlines terminated their merger plans, but your Committee still supports this measure. One reason is that competition in any market inherently benefits consumers in a capitalist society.

In addition, there is still some doubt as to the financial stability of Hawaii's existing interisland air carriers, and there is no guarantee that they will both stay in business. Also, the two entities may revive their merger plan at a later date.

Based on these concerns, your Committee supports this measure and encourages every state agency, particularly the DOT, to do everything possible to foster competition and new entrants in the interisland air transportation market.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 24 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3079 Transportation, Military Affairs, and Government Operations on S.C.R. No. 45

The purpose of this measure is to request the United States federal government to provide full veterans' benefits to Filipino veterans of the United States armed forces.

Testimony in support of this measure was received from the Office of Veterans' Services.

Your Committee finds that those brave men and women who fought for America and the ideals of freedom and democracy deserve our utmost honor and respect. Without their fearless efforts, United States citizens would not enjoy many of the freedoms and liberties that are taken for granted today.

Your Committee further finds that among our military heroes are many veterans of Filipino descent. Many of these veterans have not received the full benefits packages awarded to other American veterans.

Your Committee supports this measure and believes that the United States has a moral obligation to support every man and woman who fought for our country.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3080 Transportation, Military Affairs, and Government Operations on S.R. No. 26

The purpose of this measure is to request the United States federal government to provide full veterans' benefits to Filipino veterans of the United States armed forces.

Testimony in support of this measure was received from the Office of Veterans' Services.

Your Committee finds that those brave men and women who fought for America and the ideals of freedom and democracy deserve our utmost honor and respect. Without their fearless efforts, United States citizens would not enjoy many of the freedoms and liberties that are taken for granted today.

Your Committee further finds that among our military heroes are many veterans of Filipino descent. Many of these veterans have not received the full benefits packages awarded to other American veterans.

Your Committee supports this measure and believes that the United States has a moral obligation to support every man and woman who fought for our country.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 26 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3081 (Joint) Judiciary and Transportation, Military Affairs, and Government Operations on H.B. No. 1542

The purpose of this measure is to delete provisions in the Hawaii Revised Statutes regarding elections that violate voting and civil rights of persons with disabilities.

Your Committees received testimony in support of this measure from the Office of Elections, the State Planning Council on Developmental Disabilities, the ARC in Hawaii, and the Disability and Communications Access Board.

Your Committees find that all Americans enjoy the fundamental right to vote under the federal Voting Rights Act and related federal laws that protect the rights of persons with disabilities. Your Committees find that this measure will conform Hawaii voter registration law with federal law.

Equally important, this measure recognizes the rights and dignity of persons with developmental disabilities. Your Committees believe that persons with these disabilities have the same basic legal, civil, and human rights as every other member of our society, including the fundamental right to vote.

As affirmed by the records of votes of the members of your Committees on Judiciary and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1542, H.D. 1, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 7 (Buen, Chun, Ihara, Matsuura, Nakata, Tam, Hemmings).

SCRep. 3082 Commerce, Consumer Protection and Housing on Gov. Msg. No. 237

Recommending that the Senate advise and consent to the nominations of the following:

PUBLIC UTILITIES COMMISSION

WAYNE H. KIMURA, for separate terms to expire June 30, 2002, and June 30, 2008, respectively, and JANET E. KAWELO, for a term to expire June 30, 2006,

Your Committee notes that nominee Kawelo's middle initial was incorrectly reported in this Governor's Message and that the nominee's name should read "Janet E. Kawelo".

Your Committee received testimony in support of both nominations from the Chairperson of the Public Utilities Commission (PUC), Lieutenant Governor, Attorney General, Director of Budget and Finance, Director of Human Resources Development, Director of Human Services, Director of Taxation, Director of Transportation, Deputy Director of Land and Natural Resources (DLNR), Deputy Director of Accounting and General Services, and three individuals.

The nomination of Wayne H. Kimura was also supported by the Director of Commerce and Consumer Protection, State Comptroller, Stadium Authority, Building Industry Association of Hawaii, Orrick, Herrington and Sutcliffe LLP, and seven individuals. Janet E. Kawelo's nomination was additionally supported by the Chairperson of the Board of Land and Natural Resources, Title Guaranty of Hawaii, Inc., Ocean Tourism Coalition, Trilogy Excursions, and three individuals.

Nominee Wayne H. Kimura has an extensive history of public service, having worked in both the executive and legislative branches of government. His professional experience includes working as a budget analyst/researcher for the Senate Ways and Means Committee, program budget analyst for the former Department of Social Services and Housing, Acting Program Budget Analysis Administrator for the Department of Budget and Finance, Acting Business Services Officer in the Lieutenant Governor's office, and as a planning and policy analyst in the Governor's office. More recently, Mr. Kimura served as Deputy Director of the Department of Budget and Finance and State Comptroller.

Nominee Janet E. Kawelo has a distinguished record of government and private sector experience. For fourteen years, she was a research officer in the Economic Research Division of First Hawaiian Bank. Using her expertise in economics, Ms. Kawelo helped the Senate Committee on Ways and Means draft and implement two constitutional amendments aimed at containing government spending via an expenditure ceiling. For eight years, the nominee worked as a researcher in the Lieutenant Governor's Office, then served as Head Researcher for the Governor. More recently, the nominee served as Deputy Director of DLNR.

Both nominees are currently serving as interim PUC Commissioners. Your Committee learned that during the past few months that the nominees have served on the Commission, they have carried out their responsibilities in a careful, thoughtful, and conscientious manner and have given their serious and undivided attention to educating themselves on complex regulatory issues.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Matsunaga, Tam).

SCRep. 3083 (Joint) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on H.B. No. 1768

The purpose of this measure is to allow custom-made motorcycles to be registered with the Department of Motor Vehicles by:

- (1) Clarifying the definition of "vehicle identification number;" and
- (2) Allowing the county director of finance to identify and register a reconstructed vehicle by assigning it an identification number other than the federal vehicle identification number.

Your Committees received testimony in support of the measure from the Department of Transportation and eight motorcycle enthusiasts. The Honolulu County Police Department submitted testimony in opposition to the measure. The Honolulu City and County Department of Customer Services and State Farm Insurance submitted comments.

Your Committees find that the problem of registering aftermarket or custom frame motorcycles persists, primarily due to the fact that such custom machines lack a federal vehicle identification number (federal VIN). Your Committees find that in such cases, it makes sense to allow the county director of finance to assign a vehicle identification number (VIN) to facilitate registration of the cycle.

Your Committees have amended the measure to exempt motorcycles from the state reconstruction code (which applies only in the City and County Honolulu) so that the registration and inspection requirements are uniform for motorcycles in every county.

In addition, your Committees amended the measure to clarify the authority of county finance directors to assign VIN's. As amended, a county finance director may only assign a VIN to a reconstructed vehicle, special interest vehicle, or motorcycle.

In the specific case of assigning VINs to motorcycles with after market frames, a county director of finance may register a motorcycle with an after market frame, using the vehicle identification number of the frame as issued by the incomplete vehicle manufacturer of the frame. A bill of sale and Manufacturers Statement of Origin for the frame, engine, and transmission must be presented and retained as a part of the permanent county registration records. Should a Manufacturers Statement of Origin not be available for the engine and transmission due to the use of a used or reconstructed engine, transmission, or both, then a bill of sale or other proof of ownership, satisfactory to the director of finance must be presented.

Your Committees find that limiting the "vehicle identification number" to the federal VIN prevents many custom motorcycles from being registered. Allowing the county directors of finance to issue VIN's would solve this unfair situation.

Finally, technical, nonsubstantive amendments were made.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1768, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1768, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Buen, English, Kanno, Matsuura, Menor, Taniguchi).

SCRep. 3084 (Joint) Transportation, Military Affairs, and Government Operations, Economic Development and Technology and Tourism and Intergovernmental Affairs on S.C.R. No. 12

The purpose of this measure, as introduced, was to request the Congress of the United States to repeal the Passenger Services Act of 1886.

Prior to the hearing on this measure, your Committees prepared a Proposed S.D. 1 version of this measure which replaced the contents of this measure with the contents of S.R. No. 41, which directs the Department of Business, Economic Development, and Tourism (DBEDT) to develop a master plan for the Honolulu Waterfront.

Your Committees received testimony in support of the proposed S.D. 1 version of this measure from the University of Hawaii Professional Assembly and from a private individual.

Your Committees find that a master plan for the Honolulu Waterfront, which considers socio-economic opportunities, is highly desirable, and therefore support this measure.

Your Committees have further amended the Proposed S.D. 1 version of this measure to include participation by the DOT. Your Committees find that the transportation, operational, and infrastructure requirements must be incorporated into the plan, and thus DOT's expertise is required.

Your Committees also amended this measure further by requiring DBEDT to report annually to the Legislature regarding implementation of the master plan, rather than just once prior to the 2003 Regular Session. Your Committees find that the master plan will likely take years to implement, and the Legislature should be kept abreast of its progress.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Economic Development and Technology and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 12, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 12, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 7 (English, Ihara, Kanno, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 3085 Agriculture on S.C.R. No. 110

The purpose of this measure is to request the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, to work with the University of Hawaii, College of Tropical Agriculture and Human Resources, Hawaii Department of Agriculture, Hawaii Agricultural Research Center, and Hawaii Farm Bureau Federation to develop and implement a plan for the eradication of pest fruit flies from the State of Hawaii.

Testimony supporting this measure was received from the Department of Agriculture and Hawaii Farm Bureau Federation.

Your Committee finds that agricultural pests cause both environmental and economic damage. Fruit flies, in particular, taint Hawaii's produce and are hindering the growth of Hawaii's agricultural industry and its expansion into national and international markets. This measure properly urges the relevant authorities and stakeholders to collaborate in the development and implementation of methods to eradicate pest fruit flies in Hawaii.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 110 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Matsuura, Hogue).

SCRep. 3086 Agriculture on S.R. No. 60

The purpose of this measure is to request the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, to work with the University of Hawaii, College of Tropical Agriculture and Human Resources, Hawaii Department of Agriculture, Hawaii Agricultural Research Center, and Hawaii Farm Bureau Federation to develop and implement a plan for the eradication of pest fruit flies from the State of Hawaii.

Testimony supporting this measure was received from the Department of Agriculture and Hawaii Farm Bureau Federation.

Your Committee finds that agricultural pests cause both environmental and economic damage. Fruit flies, in particular, taint Hawaii's produce and are hindering the growth of Hawaii's agricultural industry and its expansion into national and international markets. This measure properly urges the relevant authorities and stakeholders to collaborate in the development and implementation of methods to eradicate pest fruit flies in Hawaii.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 60 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Matsuura, Hogue).

SCRep. 3087 Agriculture on S.R. No. 28

The purpose of this measure is to declare that all agricultural lands and their components are considered an essential industry and important contributor to Hawaii's economy and to state that it is the intent of the Senate to provide for the creation of permanent agricultural areas.

Testimony in support of this measure was received from the Department of Agriculture, Hawaii Farm Bureau Federation, Hawaii Crop Improvement Association, Pineapple Growers Association of Hawaii, Waialua Farmers Cooperative, North Shore Farms, Hawaii's Thousands Friends, and one individual.

Your Committee finds that implementing an equitable statewide program of protecting important agricultural resources for legitimate agricultural use is critical to further the growth of the industry in Hawaii. Your Committee has heard that these and related issues are currently under discussion by the Ag Coalition, a consortium of Hawaii's farmers, landowners, and other agricultural interests, and show promise of developing creative, workable approaches to Hawaii's agricultural land use issues.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 28 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Hanabusa, Kawamoto).

SCRep. 3088 Health and Human Services on S.C.R. No. 60

The purpose of this measure is to request the Department of Health, in conjunction with the Hawaii Psychiatric Association and Hawaii Psychological Association, to develop a strategic plan to coordinate residential treatment services for adolescents with substance abuse and mental disorders and to develop program guidelines that will maximize resources between the Alcohol and Drug Abuse Division and the Child and Adolescent Mental Health Division in order to better serve the adolescent population.

Testimony in support of this measure was received from the Department of Health, Hawaii Youth Services Network, a Maui County Council Member, Hawaii Psychiatric Medical Association, and Hawaii Psychological Association.

Your Committee finds that the majority of adolescents with substance abuse problems have co-existing mental health issues. Long-term success for these young persons is more likely if a coordinated approach addresses both substance abuse and mental health needs.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 60 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3089 Health and Human Services on S.C.R. No. 65

The purpose of this measure is to support Congressional enactment of Medicare coverage of oral anti-cancer drugs.

Your Committee received testimony in support of the measure from a Maui County Council member, National Patient Advocate Foundation, and American Cancer Society.

Your Committee finds that, although there has been strong bipartisan support in Congress to pass legislation requiring Medicare to cover oral anti-cancer medications, an urgent push is needed from the states. If Congress intended for patients to receive treatment for cancer there is no reason not to include oral treatments, especially as it has been estimated that within the next ten years 25% of cancer drug therapy will be administered orally.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 65 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3090 Health and Human Services on S.C.R. No. 71

The purpose of this measure is to recognize the serious inequities in the health prevention and treatment of women, and calls for the elimination of these inequities to improve the health status of women in the State.

Testimony supporting this measure was received from the Department of Health, a Maui County Council Member, and an individual.

Your Committee finds that women's health is often different in diagnosing and treatment than in men, including major areas of specialty such as breast cancer, reproductive medicine, and osteoporosis-bone loss. Women are much more likely to provide health care to family members, make health care decisions, and spend two of every three health care dollars. Additionally, women outnumber men three to one in long-term care facilities.

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

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3091 Health and Human Services on S.R. No. 33

The purpose of this measure is to recognize the serious inequities in the health prevention and treatment of women, and calls for the elimination of these inequities to improve the health status of women in the State.

Testimony supporting this measure was received from the Department of Health, a Maui County Council Member, and an individual.

Your Committee finds that women's health is often different in diagnosing and treatment than in men, including major areas of specialty such as breast cancer, reproductive medicine, and osteoporosis-bone loss. Women are much more likely to provide health care to family members, make health care decisions, and spend two of every three health care dollars. Additionally, women outnumber men three to one in long-term care facilities.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3092 Health and Human Services on S.C.R. No. 75

The purpose of this measure is to request the Patient Safety Task Force of the Healthcare Association of Hawaii to report to the Legislature on its efforts to reduce medical errors.

Testimony supporting this measure was received from the Healthcare Association of Hawaii.

Your Committee finds that deaths caused by medical errors are occurring at unacceptable annual rates. There must be additional vigilance in the provision of medical services to ensure the safety of patients and to reduce the number of tragic unnecessary deaths. Your Committee recognizes that the reduction of medical errors is not a simple task because of the complexity of health care organizations. Regardless, these medical errors need to be addressed directly and eliminated. With the creation of the Patient Safety Task Force, your Committee is optimistic that their work will improve the health and safety of the public. By requesting that they submit a progress report to the Legislature, this issue continues to be a priority and the public remains informed.

Your Committee has amended this measure by changing the time when the report is due to twenty days prior to the convening of the Regular Session of 2003.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 75, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 75, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3093 Health and Human Services on S.C.R. No. 102

The purpose of this measure is to request a review of the health care needs of west Maui residents by the State Health Planning and Development Agency.

Your Committee received testimony in support of the measure from a Maui County Council member.

Your Committee finds that most of the concerns analyzed in the 1995 Department of Accounting and General Services study entitled, "West Maui Acute Care Feasibility Study" continue to hold true today, including utilization of services, falling reimbursement rates, and challenging medical staffing availability on Maui, which warrants a further study. Your Committee further finds that there has been renewed interest in West Maui health care needs as evidenced by letters from community members to the Maui City Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 102 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3094 Health and Human Services on S.R. No. 59

The purpose of this measure is to request a review of the health care needs of west Maui residents by the State Health Planning and Development Agency.

Your Committee received testimony in support of the measure from a Maui County Council member.

Your Committee finds that most of the concerns analyzed in the 1995 Department of Accounting and General Services study entitled, "West Maui Acute Care Feasibility Study" continue to hold true today, including utilization of services, falling reimbursement rates, and challenging medical staffing availability on Maui, which warrants a further study. Your Committee further finds that there has been renewed interest in West Maui health care needs as evidenced by letters from community members to the Maui City Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 59 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3095 Water, Land, Energy, and Environment on H.C.R. No. 88

The purpose of this measure is to declare 2003 as the "Year of the Hawaiian Forest" to provide the context to assist the Department of Land and Natural Resources in centennial recognition activities of Hawaii's forest reserve system.

Testimony in support of this measure was received from the Department of Land and Natural Resources, Hawaiian Electric Company, Inc., and three individuals.

Your Committee finds that Hawaii's forest reserve system is one of the oldest public forest management entities in the western United States and that one of the goals of this centennial celebration is to acknowledge the importance of Hawaii's forest today and for future generations.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 88, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Hemmings).

SCRep. 3096 Health and Human Services on Gov. Msg. No. 230

Recommending that the Senate advise and consent to the nominations of the following:

DISABILITY AND COMMUNICATION ACCESS BOARD

DEAN T. AOKI, HAROLD R. DECOSTA, DEAN M. GEORGIEV, STEPHEN G. LARACUENTE, CHARLES W. FLEMING, and CHRISTINA M. PILKINGTON, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Dean T. Aoki, Harold R. DeCosta, Dean M. Georgiev, Stephen G. Laracuate, Charles W. Fleming, and Christina M. Pilkington have the necessary character, experience, and qualifications to serve on the Disability and Communication Access Board.

Your Committee received testimony from the Disability and Communication Access Board in support of the nominees.

Dean T. Aoki is an architect with the University of Hawaii who is extremely knowledgeable about design standards involving access for persons with disabilities, having been the Coordinator for the Architectural Access Committee for the State of Hawaii.

Harold R. DeCosta is a consumer representative who has been selected for reappointment to the Board and who serves on the Board's Legislative Committee.

Dean M. Georgiev is a consumer representative who has been selected for reappointment to the Board, and who serves on the Board's Chair. Mr. Georgiev works in the field of assistive technology for persons with disabilities.

Stephen G. Laracuate is a consumer representative who has been selected for reappointment to the Board, and who serves on the Board's Standing Committee on Communication Access and the Special Parent Information Network Advisory Committee. Mr. Laracuate is the Vice-Principal for the Hawaii School for the Deaf and Blind.

Charles W. Fleming is a consumer representative, recently retired to Hawaii. Mr. Fleming has served in the capacity of the Americans with Disabilities Act (ADA) Coordinator for the State of California and has been extremely active on disability rights issues throughout his career.

Christina M. Pilkington is a parent representative from Kauai, and has participated on the Board's Special Parent Information Network project. Ms. Pilkington is the ADA Coordinator for the County of Kauai.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, English, Fukunaga).

SCRep. 3097 Health and Human Services on Gov. Msg. No. 233

Recommending that the Senate advise and consent to the nominations of the following:

STATEWIDE INDEPENDENT LIVING COUNCIL

ANDRICK C. TONG, DONNA M. BUHRMAN, J. COURTNEY FITZSIMMONS, RANDOLPH C. HACK, WINNIFRED AOKI, KEVIN KIMURA, ALISA MITCHENER, CHARLOTTE GEORGE SMITH, LINDA WONG, FRANCINE M.L. KENYON, and VIRGINIA M. KLINE, for terms to expire June 30, 2005,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Andrick C. Tong, Donna M. Buhman, J. Courtney Fitzsimmons, Randolph C. Hack, Winnifred Aoki, Kevin Kimura, Alisa Mitchener, Charlotte George Smith, Linda Wong, Francine M.L. Kenyon, and Virginia M. Kline have the necessary character, experience, and qualifications to serve on the Statewide Independent Living Council.

Your Committee received oral testimony from the Executive Director of the Statewide Independent Living Council in support of the nominees and a written testimony from a colleague in support of Ms. Francine Kenyon.

Andrick C. Tong holds a Masters Degree in Professional Counseling from Argosy University in Hawaii and has served as a therapist and caseworker with the State of Hawaii and the John Howard Association.

Donna M. Buhman presently serves on the Council. She holds degrees in Humanities and Nursing from the University of Texas, is retired from teaching and nursing, and has served as a mediator, respite caregiver for schizophrenic children and teens, and a home health care provider for senior citizens.

J. Courtney Fitzsimmons presently serves on the Council as a representative from the Big Island. Mr. Fitzsimmons is a woodcraftsman.

Randolph C. Hack presently serves on the Council. He holds a bachelors degree in Geography from the University of Hawaii. He has served as Executive Director of United Self-Help Hawaii and as a substitute teacher in the public schools.

Winnifred Aoki holds two degrees in education from the University of Hawaii. She is a retired Department of Education teacher, and a volunteer teachers aide and volunteer with Senior Net at Honolulu Community College.

Kevin Kimura holds a law degree from the University of Hawaii and serves as a staff attorney with the Volunteer Legal Services of Hawaii and served as a volunteer with Americorps.

Alisa Mitchener holds a bachelors degree in Fine Arts from the University of Hawaii and is presently working as a special education teacher with the Department of Education. She has served on the Mayor's Committee on People with Disabilities and as a program specialist with the State Planning Council on Developmental Disabilities.

Charlotte George Smith holds degrees in zoology and physiology from the University of Illinois and was employed with the NASA-Johnson Space Center in Houston Texas. She has served on the Maui Mayor's Committee on Persons with Disabilities as a founding member and as the Chair.

Linda Wong presently serves on the Council and holds degrees from the University of Hawaii and Kapiolani Community College. She has worked as a School Food Services Manager with the Department of Education and as a volunteer with the Pacific Head Injury Association.

Francine M.L. Kenyon holds degrees from Wesley Theological Seminary and Gallaudet University in Washington D.C. She is employed with the University of Hawaii and has served as a volunteer with the Deaf Interfaith Committee, Clergy with Physical Disabilities, and the Aloha State Association of the Deaf.

Virginia M. Kline holds a degree in business administration from Lake Forest College and is employed with the Pacific Aerospace Museum. She has also served as an Iolani Palace volunteer.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, English, Fukunaga).

SCRep. 3098 Health and Human Services on Gov. Msg. No. 238

Recommending that the Senate advise and consent to the nominations of the following:

STATEWIDE REHABILITATION COUNCIL

SANDRA LEE KOFEL, for a term to expire June 30, 2004; and

DOROTHY (NANI) FIFE, KATHLEEN DELAHANTY, and JOANNE H. KEALOHA for terms to expire June 30, 2005,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Sandra Lee Kofel, Dorothy (Nani) Fife, Kathleen Delahanty, and Joanne H. Kealoha, have the necessary character, experience, and qualifications to serve on the Statewide Rehabilitation Council.

Sandra Lee Kofel holds a bachelor's degree in Speech Pathology and Therapy from the University of Wisconsin and is Vice President for Winners at Work. She has served as a volunteer with the Kaiser High School Parent Group.

Dorothy (Nani) Fife is a current member of the Council and holds a bachelor's degree in Public Administration. She is employed with the City and County of Honolulu and has served as a volunteer with the National Federation of the Blind of Hawaii, the Library for the Blind and Physically Handicapped, and Ho'opono Advisory Board.

Kathleen Delahanty is a current member of the Council and holds a degree in psychology from Emmanuel College and has done masters work in economics at Harvard University. She is employed with the Hawaii Disability Rights Center and has served as a volunteer with the Hawaii Association of Health Underwriters and the HMSA Long Term Care Legislative Committee.

Joanne H. Kealoha is a current member of the Council and holds an MSW degree from the University of California at Los Angeles and a bachelors degree from the University of Hawaii. She is employed with the ILWU Local 142 and has served as a volunteer with Aloha United Way, Labor's Community Services Committee, and Catholic Charities Community Services.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, English, Fukunaga).

SCRep. 3099 Health and Human Services on Gov. Msg. No. 239

Recommending that the Senate advise and consent to the nomination of the following:

REPRODUCTIVE RIGHTS PROTECTION COMMITTEE

Rosemary C. Adam-Terem, Ph.D., for a term to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominee, your Committee finds that Rosemary C. Adam-Terem has the necessary character, experience, and qualifications to serve on the Reproductive Rights Protection Committee.

Rosemary C. Adam-Terem, Ph.D, presently serves on the Committee, and holds a Ph.D. in psychology from the University of Southampton England. She is employed as the coordinator for adult mental health services at the Kapiolani Medical Center for Women and Children and as a faculty member in clinical psychology at the University of Hawaii at Manoa. She is a member of the American Psychological Association and Hawaii Psychological Association.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Buen, English, Fukunaga).

SCRep. 3100 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 232

Recommending that the Senate advise and consent to the nomination of the following:

HOISTING MACHINE OPERATORS ADVISORY BOARD

ALLAN L. PARKER, for a term to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominee, your Committee finds that Mr. Parker has the necessary character, experience, and qualifications to serve on the Hoisting Machine Operators Advisory Board ("Board").

Your Committee received testimony in support of this nomination from the Department of Labor and Industrial Relations, Hidano Construction, Inc., the Hawaii Operating Engineers Industry Stabilization Fund, Operating Engineers Local Union #3, and the Iron Workers Stabilization Fund.

Your Committee finds that the nominee has served as Chair of the Board since its inception in 1999; his nomination is a reappointment for an additional term of four years.

Your Committee further finds that the nominee has nearly 30 years experience in the construction industry and presently serves as Administrator and Chief Instructor for the Operating Engineers Joint Apprenticeship Committee. The depth and breadth of his knowledge is exceptional.

In addition to his professional knowledge, your Committee is impressed with the sincerity of the testimony in support of Mr. Parker's integrity, dedication, and diligence. Your Committee Chair is personally familiar with these traits in the nominee as well.

Upon review of the statement submitted by the nominee, his testimony before your Committee, and the testimony submitted on his behalf, your Committee finds that Mr. Parker has been appointed based upon his credentials, integrity, and a desire to make Hawaii a safer place to live through his service on the Board.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Inouye, Menor, Taniguchi, Hemmings).

SCRep. 3101 Health and Human Services on S.C.R. No. 16

The purpose of this measure is to request the State Auditor to conduct a sunset review of the regulation of hypotherapists.

Your Committee received testimony in support of the measure from the Department of Commerce and Consumer Affairs, Hawaii's Aloha Chapter of the National Guild of Hypnotists, Capstone Counseling and Training Center, Hawaii Psychiatric Medical Center, and a private individual.

Your Committee finds that hypnotherapy can and does have a considerable impact on the overall mental health of a consumer utilizing the services of a hypnotherapist. Society would be better served if standards for practitioners were set, minimum required qualifications to practice standardized, and professional performance upheld.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 16 and recommends that it be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3102 Health and Human Services on S.C.R. No. 69

The purpose of this measure is to allocate funding for the Residential Alternative Community Care Program that shall be matched by federal funds.

Testimony in support of this measure was received from the Department of Human Services and a Maui County Council Member.

Your Committee finds that the funds allocated will assist the growing need for long-term care in a community-based family setting. The Residential Alternative Community Care Program provides individuals with an alternative to institutionalization, and all providers must meet stringent requirements set by the Program, the State, and the federal government with respect to the Medicaid Waiver Program.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 69 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3103 Health and Human Services on S.C.R. No. 88

The purpose of this measure is to request the Auditor to conduct an evaluation of the optometry regulatory program established under chapter 459, Hawaii Revised Statutes. In particular, the Auditor shall evaluate the proper scope of optometric practices and the prescriptive authority of optometrists.

Your Committee received testimony in support of this measure from the Board of Examiners in Optometry, Hawaii Medical Association, the Hawaii Ophthalmological Society, Windward Eye Physicians and Surgeons, and four individuals. Your Committee received testimony opposing this measure from the Hawaii Optometric Association, Vision Care Centers of Hawaii, Glenn Kunimura, O.D., Inc., Mid Pacific Eyecare, Leeward Eye Care, Inc., Eye Care Associates of Hawaii, Big Island Vision Center, and ten individuals.

Your Committee finds it is important and necessary to protect the health, safety, and welfare of optometric patients. Only recently have optometrists had prescriptive authority, which would benefit from a review. Further, advances in optometric technology give rise to various issues related to the proper scope of optometric practices.

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

- (1) Deleting all references to the Auditor conducting an evaluation of optometry regulation;
- (2) Changing the TITLE to read "Requesting a Study of Optometric Therapy Laws";
- (3) Inserting a WHEREAS clause describing the health care services provided by optometrists;
- (4) Inserting a WHEREAS clause describing the educational requirements for an Doctor of Optometry degree;
- (5) Inserting a WHEREAS clause regarding the possible restrictive nature of Chapter 459, Hawaii Revised Statutes;
- (6) Changing the BE IT RESOLVED clause to request the Legislative Reference Bureau (Bureau) to study optometric therapy laws within the fifty states, with a focus on the use of oral medications, treatment of glaucoma, and ocular pain within the scope of practice and prescriptive authority of optometrists; and
- (7) Making conforming changes to the BE IT FURTHER RESOLVED clauses requesting reporting by the Bureau and distribution of copies of the measure to the Bureau.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 88, as amended herein, and recommends that it be referred to the Committee on Commerce, Consumer Protection and Housing, in the form attached hereto as S.C.R. No. 88, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3104 (Joint/Majority) Labor and Transportation, Military Affairs, and Government Operations on S.C.R. No. 103

The purpose of this measure is to request that the State Auditor review certain contracts entered into between a government agency and a private party pursuant to Act 90, Session Laws of Hawaii 2001 ("Act 90").

Testimony in support of this measure was submitted by HGEA-AFSCME, the Save Ala Wai Coalition, and thirteen citizens. One private individual provided comments.

Your Committees find that under Act 90, a groundbreaking measure in this State, many contracts have been executed between state agencies and private entities. Since these contracts involve public funds, your Committees find that it is appropriate to have the Auditor review the contracts to see if the goals of Act 90 have been met. Therefore your Committees support this measure.

Upon careful consideration, your Committees have amended this measure as follows:

- (1) To include contracts executed by the Department of Health and the Department of Transportation within the purview of the Auditor's review;
- (2) To request the Auditor to report on the total direct and indirect costs of each contract under review, in addition to the other aspects for review outlined in this measure;
- (3) To request the Auditor to review similar legislation from other jurisdictions to determine whether another privatization approach is appropriate for Hawaii;
- (4) To urge the Administration to review each public/private contract to determine whether the goals of Act 90 have been met, and to urge the Administration to hold public hearings prior to executing any future public/private contract;
- (5) To ask the Auditor to recommend criteria for privatization contracts; and
- (6) To make a technical, nonsubstantive amendment and to make nonsubstantive amendments required due to the substantive amendments outline above.

As affirmed by the records of votes of the members of your Committees on Labor and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 103, as amended herein, recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 103, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, 1 (Slom). Excused, 8 (Chumbley, Hanabusa, Ihara, Inouye, Matsuura, Menor, Taniguchi, Hemmings).

SCRep. 3105 Health and Human Services on S.C.R. No. 140

The purpose of this measure is to request that the Legislative Reference Bureau conduct a study to determine whether the State of Hawaii is receiving a proportionate share of Medicare reimbursements.

Your Committee received testimony in support of the measure from a Maui County Council member.

Your Committee finds that the State of Hawaii may not be receiving up to \$30 million annually in federal Medicare money claims because the State is not going after reimbursements aggressively enough. If the State of Hawaii were to aggressively pursue Medicare reimbursements on appeal, the State could receive a larger share of federal Medicare moneys to offset the costs of providing care to elderly citizens who qualify for both state-funded Medicaid and Medicare.

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

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3106 Health and Human Services on S.C.R. No. 177

The purpose of this measure is to encourage Hawaii post-secondary medical and healthcare education programs to offer courses in palliative care.

Testimony in support of this measure was submitted by the Executive Office on Aging, Hawai'i Nurses' Association, Hawaii Catholic Conference, and an advanced practice registered nurse.

Your Committee finds that palliative care for persons with serious or terminal illnesses has become a more critical issue within our healthcare system as a larger sector of our population ages. Your Committee further finds that palliative care involves not only pharmaceutical remedies, but may also include massage therapy and emotional and spiritual counseling. Your Committee notes that the Executive Office on Aging through its Kokua Mau project has brought together public and private sector partners to develop curricula on end-of-life care, including palliative care.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 177 and recommends that it be referred to the Committee on Education.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (English).

SCRep. 3107 Health and Human Services on S.C.R. No. 178

The purpose of this measure is to request the Department of Commerce and Consumer Affairs to convene a working group to develop legislation establishing a Center for Nursing in Hawaii.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs, Hawai'i Nurses' Association, University of Hawaii School of Nursing and Dental Hygiene, Healthcare Association of Hawaii, and Hawaii Government Employees Association.

Your Committee finds that the supply of nurses within the nation and Hawaii continues to be unpredictable, yet the demand continues to grow due to the rapid aging of our population. Your Committee further finds that establishing a Center for Nursing will allow Hawaii to develop a state response to the nursing shortage and proactively work to retain and attract nurses so that an adequate level of nursing care is maintained within our healthcare institutions.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 178 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3108 Health and Human Services on S.R. No. 47

The purpose of this measure is to request the Department of Health, in conjunction with the Hawaii Psychiatric Association and Hawaii Psychological Association, to develop a strategic plan to coordinate residential treatment services for adolescents with substance abuse and mental disorders and to develop program guidelines that will maximize resources between the Alcohol and Drug Abuse Division and the Child and Adolescent Mental Health Division in order to better serve the adolescent population.

Testimony in support of this measure was received from the Department of Health, Hawaii Youth Services Network, a Maui County Council Member, Hawaii Psychiatric Medical Association, and Hawaii Psychological Association.

Your Committee finds that the majority of adolescents with substance abuse problems have co-existing mental health issues. Long-term success for these young persons is more likely if a coordinated approach addresses both substance abuse and mental health needs.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 47 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3109 Transportation, Military Affairs, and Government Operations on S.C.R. No. 39

The purpose of this measure, as introduced, was to request the State Auditor to review the implementation of the Performance Information Procurement System (PIPS) by the Department of Accounting and General Services (DAGS).

Prior to the hearing on this measure, your Committee circulated a Proposed S.D. 1 version that amended this measure to request DAGS to form an Advisory Committee to perform an internal audit rather than requesting an external audit by the State Auditor.

Testimony in support of the Proposed S.D. 1 version of this measure was received from DAGS, the Plumbing and Mechanical Contractors Association of Hawaii, the Hawaii Building and Construction Trades Council, AFL-CIO, BUILD-PAC Hawaii, and RSI Roofing and Building Supply. Testimony in opposition to the Proposed S.D. 1 was received from the Hawaii Construction Coalition.

Testimony in support of this measure as introduced was received from Manufacturers Agency Pacific, Roofing Solutions International, the Hawaii Construction Coalition, Unitek Installation, Inc., West Pac Hawaii, Architectural Design Associates, Hi-Tec Roofing Services, Johns Manville, and a concerned citizen.

Your Committee finds that the implementation of PIPS shall be evaluated to determine whether the system has met the goals of greater accountability, reduced costs, fewer change orders, and better overall work product. During the hearing it became evident that PIPS shall also be reviewed to determine whether state contracts under PIPS are being awarded to only a small handful of contractors.

Therefore, your Committee supports the Proposed S.D. 1 version of this measure. DAGS testified that it has already begun searching for an independent audit firm to conduct an external audit of PIPS, and plans to proceed with the independent audit as soon as possible.

Your Committee amended this measure to insert a requirement that the Advisory Committee report to the Legislature prior to the 2003 regular session regarding its findings and whether PIPS is meeting its goals of lower costs, greater accountability, fewer change orders, and better work product. Also to be included in the report is whether state contracts are equitably distributed under PIPS.

Your Committee also amended the title of this measure for accuracy.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3110 Transportation, Military Affairs, and Government Operations on S.R. No. 19

The purpose of this measure, as introduced, was to request the State Auditor to review the implementation of the Performance Information Procurement System (PIPS) by the Department of Accounting and General Services (DAGS).

Prior to the hearing on this measure, your Committee circulated a Proposed S.D. 1 version that amended this measure to request DAGS to form an Advisory Committee to perform an internal audit rather than requesting an external audit by the State Auditor.

Testimony in support of the Proposed S.D. 1 version of this measure was received from DAGS, the Plumbing and Mechanical Contractors Association of Hawaii, the Hawaii Building and Construction Trades Council, AFL-CIO, BUILD-PAC Hawaii, and RSI Roofing and Building Supply. Testimony in opposition to the Proposed S.D. 1 was received from the Hawaii Construction Coalition.

Testimony in support of this measure as introduced was received from Manufacturers Agency Pacific, Roofing Solutions International, the Hawaii Construction Coalition, Unitek Installation, Inc., West Pac Hawaii, Architectural Design Associates, Hi-Tec Roofing Services, Johns Manville, and a concerned citizen.

Your Committee finds that the implementation of PIPS shall be evaluated to determine whether the system has met the goals of greater accountability, reduced costs, fewer change orders, and better overall work product. During the hearing it became evident that PIPS shall also be reviewed to determine whether state contracts under PIPS are being awarded to only a small handful of contractors.

Therefore, your Committee supports the Proposed S.D. 1 version of this measure. DAGS testified that it has already begun searching for an independent audit firm to conduct an external audit of PIPS, and plans to proceed with the independent audit as soon as possible.

Your Committee amended this measure to insert a requirement that the Advisory Committee report to the Legislature prior to the 2003 regular session regarding its findings and whether PIPS is meeting its goals of lower costs, greater accountability, fewer change orders, and better work product. Also to be included in the report is whether state contracts are equitably distributed under PIPS.

Your Committee also amended the title of this measure for accuracy.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 19, 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. 19, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Tam, Hemmings).

SCRep. 3111 Water, Land, Energy, and Environment on S.C.R. No. 79

The purpose of this measure is to request the Auditor to conduct a program and financial audit of the Department of Land and Natural Resources Historic Preservation Division, including general operations, organizational structure, various funding opportunities, internal budgeting and fiscal controls, and status of the draft administrative rules.

Testimony in support of this measure was received from the Office of Hawaiian Affairs, O'ahu Council of Hawaiian Civic Clubs Committee on Preservation of Historic Sites and Cultural Properties, HGEA-AFSCME Local 152, AFL-CIO, Society for Hawaiian Archaeology, Cultural Surveys Hawai'i, International Archaeological Research Institute, Inc., and eight individuals. The Department of Land and Natural Resources testified in opposition. The City and County of Honolulu Department of Planning and Permitting, County of Kauai Planning Department, Castle & Cooke, Resorts, LLC, and two individuals submitted comments.

Your Committee finds considerable support for an audit to address the many concerns raised in this measure. In response, your Committee also heard that the Division has been hampered by financial and personnel cuts over the years. Your Committee recognizes the difficulties of operating with insufficient resources, however, the members believe an audit could also be an opportunity for the Division to confront the shortcomings of the past as a means for change.

Your Committee has amended this measure to add the island burial councils to the list of entities from whom the Auditor will gather and consider information.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Ways and Means, in the form attached hereto as S.C.R. No. 79, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Hemmings).

SCRep. 3112 (Joint) Hawaiian Affairs and Health and Human Services on S.C.R. No. 15

The purpose of this measure is to create a working group of representatives from Hawaiian organizations and the Department of Health to determine the pending needs of the Hawaiian community regarding the documentation needed to support Hawaiian identity with respect to bills pending in the U.S. Congress to provide federal recognition to the Hawaiian people.

Testimony supporting this measure was received from the Department of Health and the Office of Hawaiian Affairs.

Your Committees find that if and when the U.S. Congress adopts these bills, a system of enrollment for Hawaiians will be necessary to qualify them for federal recognition. This resolution initiates the process to develop such a system.

Your Committees have amended this measure by including the Department of Hawaiian Home Lands in the coalition because they have the greatest expertise in the assessment of which documents are needed and how they are to be provided to support Hawaiian identity for purposes of government benefits and programs.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 15, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 15, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, none. Excused, 4 (English, Fukunaga, Hanabusa, Hemmings).

SCRep. 3113 (Majority) Water, Land, Energy, and Environment on Gov. Msg. No. 177

Recommending that the Senate advise and consent to the nominations of the following:

COMMISSION ON WATER RESOURCE MANAGEMENT

Meredith J. Ching and Clayton W. Dela Cruz, for terms to expire June 30, 2005,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that Meredith J. Ching and Clayton W. Dela Cruz have the necessary character, experience, and qualifications to serve on the Commission on Water Resource Management.

Your Committee wishes to state that while this Governor's Message generated considerable controversy, the opposition centered primarily on the nomination process and the issue of balanced representation on the Commission, not on the qualifications or character of the nominees.

Your Committee also wishes to express its appreciation to all those who raised issues and voiced their concerns over the nominations. The debate was lengthy and has been invaluable in focusing attention on some of the major challenges facing the Commission, such as instream flow standards and Hawaiian rights, as well as pointing out shortcomings in the State Water Code that must be addressed. Throughout the hearings, the nominees expressed a personal commitment to fulfilling their responsibilities as Commissioners in a fair and balanced manner and demonstrated a willingness to consider fully the concerns raised in opposition testimony.

Meredith J. Ching, Vice President, Government & Community Relations, Alexander & Baldwin, Inc., joined the company in 1982. In addition to Alexander & Baldwin's public and community relations programs, she is responsible for development and implementation of strategies to promote optimum use of the corporation's natural resource assets. Ms. Ching holds an MBA from UCLA and an undergraduate degree in civil engineering from Stanford University. She is active in community organizations and currently is a board member of Hawaii Nature Center, The Nature Conservancy of Hawaii, and the YMCA, among others. Ms. Ching is also a board member of Land Use Research Foundation and Hawaii Resort Developers Conference.

Clayton W. Dela Cruz is Division Director of the ILWU, Local 142 Kauai Division. A lifetime resident of Kauai, he began his career as a machine operator and journeyman carpenter for Kekaha Sugar Company, Ltd., and has extensive experience working on Kekaha Sugar's Kekaha, Kikiaola, and Kokee ditch systems. Mr. Dela Cruz has served on numerous boards, including the Kekaha Community Association, County of Kauai Liquor Commission, and the Executive Board of the Kauai United Way, and currently

serves as a member of the Statewide Workforce Development Council. His "hands-on" experiences with ditch systems, and the knowledge gained through his service on various boards and commissions, will make him a valuable contributor to the Commission.

Testimony in support of Ms. Ching's nomination was received from Congressman Neil Abercrombie, the Commission on Water Resource Management, two current and two former members of the Commission, a member of the Board of Land and Natural Resources, Mayor of Kauai, four members of the Kauai County Council, County of Kauai Planning, the Department of Water Supply for the County of Kauai and the County of Hawaii, the Board of Water Supply for the City and County of Honolulu, ILWU Local 142, Pacific Resource Partnership, Hawaii Carpenters Union, Hawaii Operating Engineers Industry Stabilization Fund, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Hawaii Agriculture Research Center, Hawaii Resort Developers Conference, Hawaii Leeward Planning Conference, Land Use Research Foundation of Hawaii, Hawaii Hotel Association, Maui Hotel Association, Kauai Chamber of Commerce, Kauai Economic Development Board, Contractors Association of Kauai, Maui Chamber of Commerce, Maui Land & Pineapple Company, Inc., Castle & Cooke Hawaii, Gay & Robinson, Inc., Haleakala Ranch Company, McCandless Ranch, Molokai Ranch, The Estate of James Campbell, The Nature Conservancy of Hawaii, Hawaii Community Foundation, The Mark A. Robinson Trusts, Dowling Company, Inc., Haseko Hawaii, Inc., Princeville Resort Kauai, Pacific Management Consultants, Inc., SSFM International, Inc., and thirty-seven individuals.

Testimony in opposition was received from The League of Women Voters, Hawaii's Thousand Friends, Sierra Club Hawai'i Chapter, Maui Clean Air Coalitions, Kauai Westside Watershed Council, American Friends Service Committee, Na Moku `Aupuni o Ko`olau Hui, and forty-six individuals.

Testimony in support of Mr. Dela Cruz's nomination was received from the Commission on Water Resource Management and two current and one former Commissioner, County of Hawaii Department of Water Supply, County of Kauai Department of Water, ILWU Local 142, Gay & Robinson, Inc., Grove Farm Company, Incorporated, and one individual.

Finally, your Committee will be forwarding to the Governor, a letter expressing its concerns regarding the current composition of the Commission and the lack of representation of the environmental point of view. The letter also notes that Commissioner Richards will retire next year at the end of his second term, and urges the Commission's nominating committee to recruit qualified candidates from many different fields and perspectives in order to ensure that diversity of viewpoints shall be represented on the Commission.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
 Record of votes for Clayton W. Dela Cruz:
 Ayes, 6. Noes, none. Excused, 3 (English, Ihara, Matsunaga).
 Record of votes for Meredith J. Ching:
 Ayes, 6. Noes, 1 (Nakata). Excused, 2 (English, Ihara).

SCRep. 3114 Water, Land, Energy, and Environment on Gov. Msg. No. 186

Recommending that the Senate advise and consent to the nominations of the following:

LAND USE COMMISSION

Pravin Desai, Steven Lee Montgomery, Ph.D., and Randall F. Sakumoto, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that Pravin Desai, Steven Lee Montgomery, Ph.D., and Randall F. Sakumoto have the necessary character, experience, and qualifications to serve on the Land Use Commission.

Testimony in support of the three nominees was received from the Land Use Commission. Additional testimony in support of Steven Lee Montgomery was received from Maui Pineapple Company, Ltd., Sierra Club Hawai'i Chapter, Kawai Nui Heritage Foundation, and eight individuals. The Chamber of Commerce of Hawaii, BIA-Hawaii, and nine individuals submitted testimony in support of Randall F. Sakumoto.

Pravin Desai is President and Chief Executive Office of CDS International, and holds a degree in architecture from the University of Southern California. He has extensive experience in Hawaii, the U.S. mainland, and Asia in housing, resorts and hotels, shopping centers and shops, office buildings, and health care and educational facilities. Mr. Desai is active in numerous professional and civic organizations and has taught architecture at the University of Hawaii at Manoa. He is serving a second term on the Land Use Commission.

Steven Lee Montgomery, Ph.D., is a biological consultant in private practice, and holds degrees in entomology and biology from the University of Hawaii at Manoa and Grinnell College. He has extensive experience in the ecosystems of the main Hawaiian islands, as well as the off-shore islands. Dr. Montgomery has written and published extensively, and is a member of several community organizations. He has been honored with the 2000 Coral Reef Award from the Conservation Council of Hawai'i, as the U.S. Fish and Wildlife's Outstanding Citizen Wildlife Contributor in 1998, and as the 1997 Conservationist of the Year.

Randall F. Sakumoto is a partner with McCorrison Miller Mukai MacKinnon LLP, where he practices real estate and business law. He holds a law degree from Hastings School of Law and is a member of the American and Hawaii State Bar Associations. Mr.

Sakumoto served as a consultant to the City and County of Honolulu Department of Planning and Permitting from 1997 to 1999 in rewriting the land use ordinance to streamline the land use permit process and has extensive experience in county and state land use law.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Chun, English, Nakata).

SCRep. 3115 Commerce, Consumer Protection and Housing on H.B. No. 1842

The purpose of this measure is to redefine the scope of pharmaceutical practice to allow pharmacists to provide services in a broader range of settings.

Your Committee received testimony in support of this measure from the Department of Health, Hawaii Pharmacists Association, Kaiser Permanente, Hawaii Medical Association, Longs Drugs, Healthcare Association of Hawaii, Hawaii Medical Service Association, and two individuals. The Board of Pharmacy supported the measure with proposed amendments.

This measure recognizes the dynamic nature of the health care environment by authorizing pharmacists to practice outside of pharmacies and acute care hospitals in collaborative agreements with health care professionals, provided the pharmacist has been appropriately trained. This measure will enable pharmacists to provide drug education in more appropriate and confidential settings, reduce the risk of adverse drug reaction through early detection, help contain health care costs through improved medication use and monitoring, and promote positive medication outcomes. This measure does not provide pharmacists with prescriptive authority.

Your Committee has amended this measure to clarify the qualifications for pharmacists who administer drugs or immunizations. Your Committee also made a technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1842, 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. 1842, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3116 Commerce, Consumer Protection and Housing on H.B. No. 2056

The purpose of this measure is to establish a three-tiered licensure system for social workers that recognizes social workers with bachelor's and master's degrees and clinical social workers.

The National Association of Social Workers, Christian Science Committee on Publication for Hawaii, Clinical Social Work Society of Hawaii, and three social work students testified in support of this measure. The Department of Commerce and Consumer Affairs (DCCA) proposed an amendment to the measure.

Presently, the State's social worker licensing law only recognizes the Master's level social worker. This measure replaces the current licensing system with one that establishes three levels of licensing for social workers: the Licensed Bachelor Social Worker (LBSW), Licensed Social Worker (LSW), and Licensed Clinical Social Worker (LCSW). In addition, this measure clarifies the scope of social work practice and the licensure exemptions, and makes conforming amendments to the mental health and substance abuse treatment insurance law.

The three-tiered system of licensure proposed by this measure reflects the national model for social work licensure and brings Hawaii into line with the thirty-seven states that regulate Bachelor's level social workers and the forty-one states that regulate clinical social workers. With licensing requirements and scopes of practice specified for each level of licensure, this measure will better enable consumers to make informed choices when retaining the services of a social worker.

Your Committee has amended this measure to provide that all of its provisions that amend statutory law to reflect the new licensing scheme take effect on July 1, 2004. Your Committee also made technical, nonsubstantive changes to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2056, 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. 2056, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3117 Commerce, Consumer Protection and Housing on H.B. No. 2169

The purpose of this measure is to establish labeling requirements for roasted or instant coffees made from Hawaii-grown beans.

Your Committee received testimony in support of this measure from the Department of Agriculture, Hawaii Farm Bureau Federation, Hawaii Coffee Company, Kona Farmers Alliance, Greenwell Farms, Maui Oma Coffee Roasting Co., Coffee Creations, Inc., Hawaii Coffee Association, Petersen Marketing, Kauai Coffee Company, Ueshima Coffee Corp., Kona Coffee Council, Dragons Lair Kona Coffee Farm, and Hawaii Food Industry Association.

Your Committee finds that coffees with Hawaii geographic origins other than Kona are gaining recognition, and like coffees made from Kona-grown beans, require protection against false claims of origin. Coffee blends containing Hawaii-grown coffees are also establishing a position in the marketplace and standardized labeling for blended coffees would help to improve consumer confidence in these products.

Currently, the law establishes minimum content and labeling requirements for roasted or instant coffee produced in whole or in part from Kona coffee beans. This measure replaces those requirements with labeling standards for roasted or instant coffee made from all Hawaii-grown coffees. These "truth-in-labeling" standards require disclosure of the geographic origin and percentage of the Hawaii-grown coffee contained in roasted or instant coffee and further require that this disclosure be made in minimum size type and conspicuously displayed on the product.

This measure also clarifies prohibited labeling practices and requires roasters and manufacturers to maintain records on the volume and geographic origin of coffees purchased and sold for two years. Finally, under this measure, only existing supplies of nonconforming labels may continue to be used by manufacturers and roasters during the one year period following the Act's effective date.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2169, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3118 Commerce, Consumer Protection and Housing on H.B. No. 2467

The purpose of this measure is to conform naturopathy licensing requirements to current practices and to changes in the accreditation of naturopathy schools.

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

Prior to August, 2000, applicants for the naturopathy licensing examination were required to submit their applications to the Board of Examiners in Naturopathy, rather than to the testing agency. Subsequently, procedures were changed to allow submission of the application directly to the testing agency. This measure amends the law to conform to this practice and makes other amendments to clarify the examination requirement.

In addition, this measure amends the licensing law to conform to current accreditation practices for naturopathy schools. Presently the law requires that license applicants have graduated from a school accredited by a regional or national professional accrediting body recognized by the United States Department of Education (USDOE), a professional accrediting body being one that specializes in naturopathy. The only such accrediting body lost its recognition a year ago, therefore making it impossible for applicants to meet the educational requirement. By deleting the statutory reference to a "professional" accrediting body, this measure allows for the recognition of degrees earned from schools accredited by other USDOE-recognized regional or national accrediting bodies.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2467, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3119 Commerce, Consumer Protection and Housing on H.B. No. 1941

The purpose of this measure is to permanently exempt property carriers transporting seed corn to a processing facility from the law regulating motor carriers.

Testimony in support of this measure was received from the Department of Agriculture, Kauai County Farm Bureau, Hawaii Farm Bureau, Hawaii Crop Improvement Association, and Pioneer Hi-Bred. The Public Utilities Commission submitted comments on the measure.

Act 120, Session Laws of Hawaii 1997, exempts persons transporting seed corn to processing facilities from the State's motor carrier law until June 30, 2002. Among other things, the law regulates rates and charges for transportation, and prohibits unjust discrimination, undue preference or advantage, and unfair or destructive competitive practices. This measure makes the exemption of seed crop transporters permanent by repealing the Act's sunset date.

The value of seed production in Hawaii, including seed corn, reached \$35.4 million in 2000, an increase of sixteen per cent in one year. From 1997 to 2000, out-of-state shipments of seed corn increased from 3,000,000 pounds to 4,400,000 pounds, representing a ten per cent annual growth rate. Currently, seed crops are second only to nursery crops in the State's diversified agriculture industry.

The costs of seed crop production are two to five times higher in Hawaii than on the mainland. However, the seed crop industry has been able to enjoy unprecedented growth in Hawaii due to favorable business conditions, including the current exemption from the motor carrier law. Your Committee finds that maintaining reasonable business costs is vital to the continued growth and expansion of the seed crop industry in the State and that continuing the exemption is a factor in controlling costs. Your Committee further finds that exempting seed corn transporters from the motor carrier law is consistent with the State's exemption of carriers transporting sugar cane, unprocessed pineapple, and other agricultural products.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1941, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3120 Commerce, Consumer Protection and Housing on H.B. No. 2514

The purpose of this measure is to authorize the denial of a tattoo artist's application for license renewal.

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

Currently, the law allows the Director of Health to suspend or revoke the license of a tattoo artist for fraud, deceit, or misconduct, or for violation of DOH rules. This measure provides that, in addition, the Director may refuse to renew the license of a tattoo artist on the same grounds.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2514, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3121 Hawaiian Affairs on S.C.R. No. 173

The purpose of this measure is to request that the Governor designate the month of August, 2002, as the "Duke Paoa Kahanamoku Ho'olaulea" to commemorate the achievements of Duke Paoa Kahanamoku.

Testimony in support of the measure was received from the State Foundation on Culture and the Arts.

Your Committee finds that in his youth, Duke Paoa Kahanamoku became a master surfer, utilizing a 16-foot long wooden surfboard that weighed 114 pounds, which eventually lead to his current recognition as the "father of international surfing" and his selection to the International Surfing Hall of Fame.

Duke Paoa Kahanamoku's many other athletic accomplishments included setting United States records in the 50-yard and 100-yard freestyle swim, dominating the swimming events at the 1912 Stockholm Olympics, including setting the world record in the 100-meter freestyle; competing and winning gold, silver, and bronze medals in subsequent Olympic Games in 1920, 1924, and 1932; and being a charter member of the International Swimming Hall of Fame in 1965.

Your Committee also finds that on August 24, 2002, the 112th anniversary of his birth, the United States Postal Service will oversee the unveiling and dedication of the first date of issuance of a postage stamp bearing the likeness of Duke Paoa Kahanamoku for general circulation throughout the United States.

Your Committee believes that it is appropriate to commemorate the life of a man who for so long embodied the spirit of the Hawaiian people and their culture and who truly was an ambassador of aloha to the world.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 173 and recommends that it be referred to the Committee on Economic Development and Technology.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3122 Hawaiian Affairs on S.R. No. 108

The purpose of this measure is to request that the Governor designate the month of August, 2002, as the "Duke Paoa Kahanamoku Ho'olaulea" to commemorate the achievements of Duke Paoa Kahanamoku.

Testimony in support of the measure was received from the State Foundation on Culture and the Arts.

Your Committee finds that in his youth, Duke Paoa Kahanamoku became a master surfer, utilizing a 16-foot long wooden surfboard that weighed 114 pounds, which eventually led to his current recognition as the “father of international surfing” and his selection to the International Surfing Hall of Fame.

Duke Paoa Kahanamoku’s many other athletic accomplishments included setting United States records in the 50-yard and 100-yard freestyle swim, dominating the swimming events at the 1912 Stockholm Olympics, including setting the world record in the 100-meter freestyle; competing and winning gold, silver, and bronze medals in subsequent Olympic Games in 1920, 1924, and 1932; and being a charter member of the International Swimming Hall of Fame in 1965.

Your Committee also finds that on August 24, 2002, the 112th anniversary of his birth, the United States Postal Service will oversee the unveiling and dedication of the first date of issuance of a postage stamp bearing the likeness of Duke Paoa Kahanamoku for general circulation throughout the United States.

Your Committee believes that it is appropriate to commemorate the life of a man who for so long embodied the spirit of the Hawaiian people and their culture and who truly was an ambassador of aloha to the world.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs 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 Economic Development and Technology.

Signed by the Chair on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3123 Water, Land, Energy, and Environment on S.C.R. No. 98

The purpose of this measure is to request the Public Utilities Commission to open a new docket to examine and revise as appropriate:

- (1) Any public utility rule, standard, rate, and guideline that establishes a standby charge applicable to a non-utility distributed energy resource; and
- (2) Any customer retention discounts offered by a public utility.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Consumer Advocate, Hawaii Renewable Energy Alliance, Hess Microgen LLC, Life of the Land, and one individual. The Public Utilities Commission (PUC) testified in opposition. Hawaiian Electric Company, Inc., Kauai Electric, The Gas Company, Verizon Hawaii, and one individual submitted comments.

Your Committee finds that this measure would help in resolving the complicated issues that effect the establishment of standby charges and customer retention discounts.

Your Committee has amended this measure to:

- (1) Add a request that the PUC consider equitable ratemaking design and policies for standby charges and customer retention discounts that provide for fair cost allocation among customers; allow the utility adequate cost recovery while minimizing costs to customers; facilitate customer distributed energy resources deployment; and send proper price signals to prospective purchasers of distributed energy resources; and
- (2) Include the Department of Business, Economic Development, and Tourism to the list of parties in the docket and to the list of those receiving a certified copy of this measure.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 98, as amended herein, and recommends that it be referred to the Committee on Commerce, Consumer Protection and Housing, in the form attached hereto as S.C.R. No. 98, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Hemmings).

SCRep. 3124 Water, Land, Energy, and Environment on S.R. No. 38

The purpose of this measure is to request the Auditor to conduct a program and financial audit of the Department of Land and Natural Resources Historic Preservation Division, including general operations, organizational structure, various funding opportunities, internal budgeting and fiscal controls, and status of the draft administrative rules.

Testimony in support of this measure was received from the Office of Hawaiian Affairs, O’ahu Council of Hawaiian Civic Clubs Committee on Preservation of Historic Sites and Cultural Properties, HGEA-AFSCME Local 152, AFL-CIO, Society for Hawaiian Archaeology, Cultural Surveys Hawai’i, International Archaeological Research Institute, Inc., and eight individuals. The Department of Land and Natural Resources testified in opposition. The City and County of Honolulu Department of Planning and Permitting, County of Kauai Planning Department, Castle & Cooke, Resorts, LLC, and two individuals submitted comments.

Your Committee finds considerable support for an audit to address the many concerns raised in this measure. In response, your Committee also heard that the Division has been hampered by financial and personnel cuts over the years. Your Committee recognizes the difficulties of operating with insufficient resources, however, the members believe an audit could also be an opportunity for the Division to confront the shortcomings of the past as a means for change.

Your Committee has amended this measure to add the island burial councils to the list of entities from whom the Auditor will gather and consider information.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Hemmings).

SCRep. 3125 Commerce, Consumer Protection and Housing on H.B. No. 1713

The purpose of this measure is to require an association of apartment owners (AOAO) that has received a request for information from an owner, to notify the owner in writing of its intent to impose fees for providing that information prior to making the assessment and to require contested fee matters to be submitted to mediation.

Your Committee received testimony in support of this measure from the Real Estate Commission, Hawaiiana Management Company, Ltd., Hawaii Independent Condominium and Cooperative Owners, and nine individuals. The Community Associations Institute opposed the measure and the Hawaii Council of Associations of Apartment Owners submitted comments thereon.

Your Committee finds that under current law, an apartment owner may be charged for information requested from an AOAO, with no prior notice of the charge. Your Committee has heard from owners who received bills for hundreds of dollars for requested information, in some cases for information that the owner believed was readily available and not of a complex nature.

This measure addresses the above problem by:

- (1) Requiring an AOAO to provide an owner who has requested information with a minimum ten days prior written notification of the fees to be assessed for providing the information;
- (2) Allowing the owner a reasonable opportunity to contest the imposition of a fee or withdraw a request; and
- (3) Requiring that unresolved fee disputes be submitted to mediation.

Your Committee has amended this measure by replacing its contents with the language of a similar measure, S.B. No. 2470, S.D. 1. As amended, this measure:

- (1) Refers to "costs", rather than "fees";
- (2) Clarifies that the prior notification requirement does not apply to cost assessments related to providing information on delinquent assessments or in connection with procedures to enforce the law of the association's governing documents; and
- (3) Deletes the provisions allowing an owner to contest a fee or withdraw a request, requiring contested fee matters to be submitted to mediation, and establishing the definition of "fee".

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1713, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1713, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, English).

SCRep. 3126 Commerce, Consumer Protection and Housing on H.B. No. 1715

The purpose of this measure is to increase the amount of time allowed for obtaining the votes necessary to approve a change to the bylaws of an association of apartment owners (AOAO).

Your Committee received testimony in support of this measure from the Real Estate Commission, Hawaiiana Management Company, Ltd., Hawaii Independent Condominium and Cooperative Owners, and six individuals.

Presently, the law requires that the requisite number of votes to approve an association's bylaw amendment must be obtained within one hundred twenty days from the mailing of the vote ballot. Your Committee finds that one hundred twenty days is an insufficient period of time in which to obtain the necessary votes. This measure proposes to extend the time period to one hundred eighty days, which several testifiers indicated is an adequate period of time, for both AOAO boards and voluntary apartment owners' committees.

Your Committee proposed and heard testimony on a Senate draft to this measure. The proposed S.D. 1 replaces the language of this measure with the language of a similar measure, S.B. No. 2471, S.D. 1, and adds provisions relating to AOA investments. More specifically, the proposed S.D. 1:

- (1) Extends the period for obtaining the bylaw amendment vote to three hundred sixty-five days, but applies this requirement only to bylaw amendments proposed by voluntary apartment owners' committees; and
- (2) Allows AOAOs greater flexibility in the investment of association funds by permitting investment in instruments other than those currently specified in the law if the alternative investments are authorized pursuant to a bylaw amendment and meet other conditions and restrictions.

Your Committee received testimony opposing the alternative investment provisions from the Hawaii Council of Associations of Apartment Owners and Hawaii Independent Condominium and Cooperative Owners, and comments from the Real Estate Commission.

Upon careful consideration, your Committee has amended the measure, as received, by:

- (1) Extending the period to obtain the votes to approve a bylaw amendment from one hundred twenty days to three hundred sixty-five days for both AOAO boards and volunteer apartment owners' committees;
- (2) Deleting the amendments to section 514A-97, Hawaii Revised Statutes, relating to AOAO investments;
- (3) Clarifying that the requirements of these amendments apply to voting ballots mailed after the Act's effective date; and
- (4) Making technical, nonsubstantive amendments for clarity and to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1715, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1715, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3127 Judiciary on H.B. No. 2315

The purpose of this measure is to clarify the law regarding refusal to provide ingress or egress to persons or vehicles lawfully seeking entry or departure into or from a specific location.

Testimony in support of this measure was received from the Honolulu Prosecuting Attorney, ILWU Local 142, and an individual.

Chapter 852, Hawaii Revised Statutes (HRS), relating to refusal to provide ingress or egress, was originally enacted by Act 9, Special Session Laws of Hawaii 1949, and was last amended by Act 9, Session Laws of Hawaii 1972. This measure clarifies the law to conform with existing style and provides a definition of "law enforcement officer", to replace the phrase "police or other peace officer".

Your Committee believes that the offense described in this measure should not be applicable when obstruction of ingress or egress involves labor disputes at places of employment. Your Committee notes that Chapter 377, HRS, provides a comprehensive scheme of labor dispute regulation, with its own prohibitions and penalties.

Your Committee has amended this measure by:

- (1) Adding a new section to chapter 852, HRS, to exempt labor disputes involving obstruction of ingress or egress at any place of employment; and
- (2) Changing the subsection and paragraph designations to conform to drafting style of statutes that are not within 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. 2315, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2315, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3128 Judiciary on H.B. No. 2817

The purposes of this measure are to clarify and to narrow somewhat the physician-patient and psychologist-client privileges and to provide a hearsay exception for certified records in the Rules of Evidence.

Testimony in support of this measure was received from the Judiciary. Testimony in opposition to this measure was submitted by the Board of Psychology within the Department of Commerce and Consumer Affairs, the Hawaii Psychiatric Medical Association, the

Hawaii Medical Association, the National Association of Social Workers, and the Hawaii Psychological Association. The Office of the Public Defender had concerns regarding this measure.

This measure's amendments were originally recommended by the Hawaii Supreme Court's Standing Committee on Rules of Evidence in its 2001 Report. Your Committee has reviewed that report and concurs with many of the amendments proposed therein.

Your Committee finds that the amendments contained in this measure that create an exception to a psychiatric evidentiary privilege when the treating psychiatrist has received information indicating that a third party is in physical danger are necessary to protect the public.

Based on concerns raised by practitioners within the psychiatric community, your Committee amended this measure so that communications between a patient and a psychiatrist remain privileged if the communications indicate potential harm to the property or financial interests of a third party.

In addition, your Committee also amended this measure to reinstate the current statutory definition of "psychologist" to apply that term to licensed persons only, as under existing law.

Finally, your Committee made several technical, nonsubstantive amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2817, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2817, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3129 Judiciary on H.B. No. 1864

The purpose of this measure is to include siblings as interested persons when the court is determining visitation rights for minor children involved in a custody dispute.

Your Committee finds that siblings should be considered persons interested in the welfare of minor children for the purposes of determining visitation in custody disputes arising from divorce, separation or other custody determinations. Your Committee further finds that siblings who are able to maintain continuing relationships with one another after they are removed from their parents' custody are better able to adjust to life circumstances.

As affirmed by the record of votes of 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. 1864, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3130 Judiciary on H.B. No. 2266

The purposes of this measure are to:

- (1) Define accreted lands;
- (2) Include accreted lands in the definition of public lands; and
- (3) Require that accreted lands shall be state lands except that a private property owner may file an accretion claim to regain title to the owner's eroded land that has been restored by accretion.

Your Committee finds that "accreted lands," or lands formed by the gradual accumulation of land on a beach or shore along the ocean by the action of natural forces, are not unusual for an island environment. What is unusual, however, is the ambiguous legal status of these new lands. This measure would claim these formations as public lands and add clarity to the property laws 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 H.B. No. 2266, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3131 Judiciary on H.B. No. 2426

The purpose of this measure is to create new offenses against children involving use of electronic devices to entice minors under age 18 with the intent to commit a felony or using electronic means to create or distribute child pornography.

Your Committee finds that the use of the Internet to entice children into meetings has become widespread and current laws do not specifically address using computers to communicate with minors for purposes of committing crimes. Your Committee further finds that to prove the crime of child pornography under the current law, the State must prove beyond a reasonable doubt that a pornographic

image is of a child who is less than sixteen years of age. Unfortunately, it is often impossible to prove the age of a child in a pornographic image, even when the child appears to be a minor, due to the technology that is used to alter images of individuals used for this purpose. Thus, this measure adopts the federal definition of child pornography and related terminology that was designed to address electronic creation and distribution of such materials.

As affirmed by the record of votes of 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. 2426, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3132 Judiciary on H.B. No. 2433

The purpose of this measure is to enable the Child Support Enforcement Agency (CSEA) to notify employers of the amount of child support automatically withheld from an employee's paycheck by way of notice, as opposed to requiring a certified court order being served on the affected employer.

This measure allows the CSEA to levy fines against individuals and entities not responding to its requests for information, and clarifies that spousal support can only be enforced when child support is being enforced and that all child support records are confidential.

Your Committee finds that this measure complies with federal statutory requirements and streamlines the child support enforcement process.

As affirmed by the record of votes of 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. 2433, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3133 Judiciary on H.B. No. 2496

The purpose of this measure is to clarify child care licensing and registration requirements and to better protect children by authorizing the Department of Human Services to inspect unlicensed locations providing child care for possible violations of the law.

Your Committee finds that the provision exempting persons caring for no more than two unrelated children from the child care licensing process was inadvertently repealed when the definition of child care facility was amended several years ago. Your Committee further finds that this measure will help to enforce regulatory restrictions on child care facilities by giving child care licensing workers the authority, which it currently lacks, to inspect the premises of those claiming such exemption when a report or complaint is made.

As affirmed by the record of votes of 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. 2496, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3134 Judiciary on H.B. No. 2507

The purpose of this measure is to repeal the requirement of registering divorces and annulments with the Department of Health.

Your Committee finds that the burden on the Department to register divorces and annulments is excessive and renders the Department less efficient in its overall duties. Additionally, the process duplicates documents kept by 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 is in accord with the intent and purpose of H.B. No. 2507, H.D. 3, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3135 Judiciary on H.B. No. 2537

The purpose of this measure is to expand the Department of Land and Natural Resources' authority:

- (1) To possess or use chemicals, electrofishing devices, explosives, and other fishing devices when no other reasonable alternative exists; and
- (2) To permit non-consumptive activities that are otherwise prohibited by law.

Your Committee finds that the Department must be statutorily able to utilize the latest technology in fishing devices to better manage the State's aquatic resources.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2537, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3136 Judiciary on H.B. No. 2550

The purpose of this measure is to authorize the commission on water resource management (CWRM) to determine appurtenant water rights.

Your Committee finds that this measure imposes additional duties upon CWRM that are consistent with CWRM's authority and purpose. In addition, your Committee believes that this measure will facilitate the determination and administration of appurtenant water rights.

As affirmed by the record of votes of 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. 2550, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3137 Commerce, Consumer Protection and Housing on H.B. No. 2832

The purpose of this measure is to clarify the requirements for the provision of condominium public reports and time share disclosure statements to purchasers, and for time share sales presentation solicitations.

The American Resort Development Association and an individual testified in support of this measure. The Time Share Administrator testified in support of the amendments relating to section 514E-2.5, Hawaii Revised Statutes.

This measure is intended to clarify ambiguities that resulted from prior amendments to the condominium and time share laws. This measure clarifies that with regards to the sale of a time share interest that takes place in the State, the purchaser must be provided with the time share disclosure statement, but not the condominium public report, and that neither document need be provided if the offer or sale of time share interest is made outside of the State.

This measure also clarifies that acquisition agents and, their employees, and independent contractors working for acquisition agents, may solicit individuals to attend a time share sales presentation, without the necessity of a real estate license. The invitations may be made from a principal place of business, branch office, other real estate place of business, or booth, and a real estate licensee need not be present on the premises.

Your Committee has amended this measure by adding the language of S.B. 2890, S.D. 2. This additional language authorizes the operation of time sharing units on property located in counties with a population of over 500,000, on which the operation of an existing hotel is a valid non-conforming use under county ordinance, where the hotel has at least sixty units, and where forty per cent of the units upon completion of sale, are available for sale or rental as residential apartments.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2832, 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. 2832, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3138 (Joint) Water, Land, Energy, and Environment and Economic Development and Technology on S.C.R. No. 20

The purpose of this measure is to authorize the lease of an easement covering a portion of submerged lands at Maunalua, Oahu, Hawaii, for maintenance of the Hawaii Kai Marina entrance channel purposes pursuant to section 171-53, Hawaii Revised Statutes.

Testimony supporting this measure was received from the Department of Land and Natural Resources and Hawaii Kai Marina Community Association.

Your Committee finds that, in 1995, the Legislature appropriated funds to dredge the entrance channel to the privately-owned Hawaii Kai Marina. However, that project was delayed due to individuals contesting the project. Consequently, the Board of Land and Natural Resources issued a Decision and Order that the Hawaii Kai Marina Association, among other things, obtain an easement from the Department of Land and Natural Resources for all future dredging and maintenance of the sandbag groin. State law requires prior legislative approval of a lease of submerged lands. This measure provides the approval necessary to allow proper maintenance of the entrance channel to the Hawaii Kai Marina.

Your Committee has amended this measure by clarifying that the approval provided in this measure is for the lease of a non-exclusive easement of submerged lands.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Economic Development and Technology that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 20, as amended herein, recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 20, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 5 (Chun, Ihara, Kim, Nakata, Taniguchi).

SCRep. 3139 Water, Land, Energy, and Environment on S.C.R. No. 96

The purpose of this measure is to request the Department of Health to develop an action plan to assess and reduce carbon dioxide emissions in consultation with other government agencies, members of the regulated community, and environmental groups.

Testimony in support of this measure was received from the Department of Health, Department of Land and Natural Resources, Hawaii Renewable Energy Alliance, Sierra Club Hawai'i Chapter, Life of the Land, and one individual. Hawaiian Electric Company, Inc., testified in opposition.

Your Committee finds that this measure will answer a number of key questions regarding carbon dioxide emissions in Hawaii, including the emission levels, financial impacts of charging a carbon fee, and how best to use any moneys collected.

Your Committee has amended this measure to add two components to the action plan:

- (1) An analysis of the effect of global warming on Hawaii, as forecast by the Intergovernmental Panel on Climate Change;
- (2) The statewide economic benefits of such a program, considering both growth in the renewable energy industry, energy efficiency industry, and forestry, and reductions of fossil fuel expenditures; and
- (3) Eliminating reference to the effect of carbon dioxide on air quality in the State.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment 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 that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 96, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (English, Ihara, Matsunaga, Hemmings).

SCRep. 3140 Commerce, Consumer Protection and Housing on S.C.R. No. 61

The purpose of this measure is to request the U.S. Congress to amend the federal Cable Act of 1992 to include a "must-carry" provision that will require cable access for Class A low power channels offering Hispanic programming to Hawaii consumers.

Testimony in support of this measure was submitted by Univision/HTV Hawaiian Television, Hawaii Hispanic Chamber of Commerce, the U.S. Hispanic Chamber of Commerce, Hola Hawaii Newspaper, and Hector Venegas Enterprises.

Your Committee finds that Hawaii television station KHLU-LP is the only Hispanic station in the entire State with all Spanish programming that is an affiliate of the Univision Network, the fifth largest U.S. television network. Your Committee further finds that Hispanics comprise nearly ten percent of our State population and a substantial number of military personnel stationed in Hawaii, who would be interested in accessing this station through our cable network. Your Committee agrees that this proposed "must-carry" amendment would expand the diversity of programming offered within the State and provide a forum for the exchange of business information that could benefit Hawaii through exposure of Hawaii products and services on the Univision network.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 61 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3141 Commerce, Consumer Protection and Housing on S.R. No. 31

The purpose of this measure is to request the U.S. Congress to amend the federal Cable Act of 1992 to include a "must-carry" provision that will require cable access for Class A low power channels offering Hispanic programming to Hawaii consumers.

Testimony in support of this measure was submitted by Univision/HTV Hawaiian Television, Hawaii Hispanic Chamber of Commerce, the U.S. Hispanic Chamber of Commerce, Hola Hawaii Newspaper, and Hector Venegas Enterprises.

Your Committee finds that Hawaii television station KHLU-LP is the only Hispanic station in the entire State with all Spanish programming that is an affiliate of the Univision Network, the fifth largest U.S. television network. Your Committee further finds that Hispanics comprise nearly ten percent of our State population and a substantial number of military personnel stationed in Hawaii, who would be interested in accessing this station through our cable network. Your Committee agrees that this proposed "must-carry" amendment would expand the diversity of programming offered within the State and provide a forum for the exchange of business information that could benefit Hawaii through exposure of Hawaii products and services on the Univision network.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 31 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3142 Commerce, Consumer Protection and Housing on S.C.R. No. 108

The purpose of this measure is to express the Legislature's support for the State's application for a federal grant to revitalize Kuhio Park Terrace.

The Housing and Community Development Corporation of Hawaii (HCDCH) and Building Industry Association of Hawaii testified in support of this measure.

Kuhio Park Terrace (KPT) is one of the State's most troubled public housing projects. Built in 1965, KPT consists of six hundred fourteen units in two sixteen-story high-rise towers and fourteen low-rise buildings. HCDCH has worked with KPT residents and community stakeholders to prepare a master plan that will transform KPT into a vibrant, supportive, and sustainable community. Costs for the total revitalization effort, which includes the \$12 million Ka Hale O Kameha'ikana Resource Center, total approximately \$88.4 million.

In 2001, HCDCH applied for a \$35 million HOPE VI grant from the United States Department of Housing and Urban Development (HUD) to help fund the revitalization project. The application was not approved and HCDCH has reapplied for the grant. This measure declares the Legislature's support for the KPT revitalization project and urges HUD to act favorably on the State's grant application.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 108 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3143 Commerce, Consumer Protection and Housing on S.R. No. 57

The purpose of this measure is to express the Senate's support for the State's application for a federal grant to revitalize Kuhio Park Terrace.

The Housing and Community Development Corporation of Hawaii (HCDCH) and Building Industry Association of Hawaii testified in support of this measure.

Kuhio Park Terrace (KPT) is one of the State's most troubled public housing projects. Built in 1965, KPT consists of six hundred fourteen units in two sixteen-story high-rise towers and fourteen low-rise buildings. HCDCH has worked with KPT residents and community stakeholders to prepare a master plan that will transform KPT into a vibrant, supportive, and sustainable community. Costs for the total revitalization effort, which includes the \$12 million Ka Hale O Kameha'ikana Resource Center, total approximately \$88.4 million.

In 2001, HCDCH applied for a \$35 million HOPE VI grant from the United States Department of Housing and Urban Development (HUD) to help fund the revitalization project. The application was not approved and HCDCH has reapplied for the grant. This measure declares the Senate's support for the KPT revitalization project and urges HUD to act favorably on the State's grant application.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 57 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (English, Matsunaga, Tam).

SCRep. 3144 Judiciary on S.C.R. No. 87

The purpose of this measure is to request the Department of Public Safety to compare the recidivism rates of inmates transferred to mainland correctional facilities with similarly situated inmates who remain incarcerated in Hawaii.

Your Committee received testimony in support of the measure from the Department of Public Safety.

Your Committee finds that the measure is a valuable mechanism with which to determine the long-term impact, if any, on Hawaii inmates who serve prison sentences out-of-state.

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. 87 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3145 (Joint) Transportation, Military Affairs, and Government Operations, Economic Development and Technology and Tourism and Intergovernmental Affairs on S.R. No. 41

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism (DBEDT) to develop a master plan for the Honolulu Waterfront.

Testimony in support of this measure was submitted by the Department of Transportation (DOT), DBEDT, the University of Hawaii Professional Assembly, ROPA Holdings, Ltd., Hawaii Operating Engineers Industry Stabilization Fund, and a concerned citizen.

Your Committees find that a master plan for the Honolulu Waterfront, which considers socio-economic opportunities, is highly desirable, and therefore supports this measure.

Your Committees have amended this measure to include participation by the DOT. Your Committees find that the transportation operational and infrastructure requirements must be incorporated into the plan, and thus DOT's expertise is required.

Your Committees also amended this measure by requiring DBEDT to report annually to the Legislature regarding implementation of the master plan, rather than just once prior to the 2003 Regular Session. Your Committees find that the master plan will likely take years to implement, and the Legislature should be kept abreast of its progress.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Economic Development and Technology and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 41, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 41, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 7 (English, Ihara, Kanno, Matsuura, Menor, Sakamoto, Taniguchi).

SCRep. 3146 Judiciary on S.C.R. No. 109

The purpose of this measure is to request that the Judiciary report its progress in collection and methods of estimation of crime victim compensation fees as required under Act 206, Session Laws of Hawaii 1998.

Your Committee received testimony supporting this measure from the Office of the Administrative Director of the Courts and the Crime Victim Compensation Commission.

Your Committee finds that Act 206 created a mandatory compensation fee to provide a funding base for the Crime Victim Compensation Commission to become fiscally self-sufficient. While the mandatory fee has provided the Commission with substantial funding since it was created, the Judiciary has not assessed and collected the mandatory fee in a substantial number of eligible cases. As a result the Commission has been prevented from making a complete transition to fiscal self-sufficiency.

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. 109 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3147 Judiciary on S.R. No. 58

The purpose of this measure is to request that the Judiciary report its progress in collection and methods of estimation of crime victim compensation fees as required under Act 206, Session Laws of Hawaii 1998.

Your Committee received testimony supporting this measure from the Office of the Administrative Director of the Courts and the Crime Victim Compensation Commission.

Your Committee finds that Act 206 created a mandatory compensation fee to provide a funding base for the Crime Victim Compensation Commission to become fiscally self-sufficient. While the mandatory fee has provided the Commission with substantial funding since it was created, the Judiciary has not assessed and collected the mandatory fee in a substantial number of eligible cases. As a result the Commission has been prevented from making a complete transition to fiscal self-sufficiency.

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. 58 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3148 Hawaiian Affairs on S.C.R. No. 67

The purpose of this measure is to urge the United States Navy to continue to clear the island of Kaho'olawe of unexploded ordnance beyond the date that the island is to be remanded to the State.

Testimony in support of the measure was received from the Kaho`olawe Island Reserve Commission. A private citizen submitted comments.

Specifically, the measure urges that:

- (1) The U.S. Navy carry out its responsibility with regard to the island of Kaho`olawe by:
 - (a) Expediting the current ordnance removal efforts in a safe and efficient manner;
 - (b) Extending the term of ordnance removal beyond November 11, 2003, the effective date of transfer of access to Kaho`olawe to the State, and continuing its obligations set forth under Title X of the Department of Defense Appropriations Act of 1994 (Public Law 103-139, U.S.C. 107 Stat. 1418) until such time as the island is cleared to the standards set in the Memorandum of Understanding with the Kaho`olawe Island Reserve Commission;
 - (c) Securing further funding from the federal government for the purposes of carrying out the obligations set forth under Title X of the Department of Defense Appropriations Act of 1994 (Public Law 103-139, U.S.C. 107 Stat. 1418); and
 - (d) Strengthening its commitment to integrate the need and recommendations of the State of Hawaii towards streamlining the clearance and long term, meaningful safe use of the Kaho`olawe Island Reserve; or
- (2) The United States provide to the State of Hawaii, the necessary and adequate funding and provisions for the continuance of the unexploded ordnance clearance and environmental restoration until such time that the obligations set forth under Title X of the Department of Defense Appropriations Act of 1994 (Public Law 103-139, U.S.C. 107 Stat. 1418) and the standards agreed upon in the Memorandum of Understanding with the State are achieved.

Your Committee finds that in 1993, Congress passed Title X of the Department of Defense Appropriations Act (Public Law 103-139, U.S.C. 107 Stat. 1418), requiring the State and Department of the Navy to enter into a Memorandum of Understanding (MOU) that established the standard of clearance and restoration for the island and authorized \$400 million over ten years for this purpose.

In the MOU between the Kaho`olawe Island Reserve Commission and the Department of the Navy, the U.S. Navy was designated as the lead agency responsible for ordnance clearance and environmental restoration on the island to the agreed upon standards until such time as it transfers control of the island to the State. That transfer date was established as November 11, 2003.

Since the signing of the MOU, the Department of the Navy has implemented a plan to remove the unexploded ordnance, but as the November 11, 2003, turnover date draws near, it becomes more and more certain that the remaining time period will not be sufficient to return the island to the previously agreed upon standards.

Your Committee also finds that since the inception of the unexploded ordnance removal program, the U.S. Navy has cleared 11,000 acres of surface ordnance, eradicated goats, and conducted soil conservation and revegetation programs that are helping to restore and revive the environment of Kaho`olawe. However, current projections by the U.S. Navy estimate less than seventy percent of the island will be surface cleared of ordnance and less than ten percent of the island will be certified as reasonably safe for intensive restoration and cultural purposes before the current turnover date.

Your Committee recognizes that action must be taken to ensure that the U.S. Navy fulfills its obligations relating to the removal of unexploded ordnance, regardless who controls access to the island.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 67 and recommends that it be referred to the Committee on Transportation, Military Affairs and Government Operations.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3149 Transportation, Military Affairs, and Government Operations on S.C.R. No. 141

The purpose of this measure is to request that the Legislative Reference Bureau (LRB) conduct a study of the effects of federal initiatives on the economy of the State of Hawaii.

The Department of Education submitted testimony in support of this measure, and LRB submitted comments.

Your Committee finds that several federal initiatives and programs have a potential impact on the economy of the State of Hawaii. The body of this measure lists numerous federal programs, many of which were initiated within the last 25 years, that could impact our economy.

Before the State can develop an official position with regard to these programs, it is important to determine their effect on our State. Therefore, your Committee supports this measure.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 141 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3150 (Joint) Hawaiian Affairs and Transportation, Military Affairs, and Government Operations on S.C.R. No. 113

The purpose of this measure is to request that that the Auditor conduct an audit of the Departments of Accounting and General Services; Business, Economic Development, and Tourism; Education; Health; Land and Natural Resources; Transportation (Airports and Harbors Divisions); the University of Hawaii; and any other agency that has ceded land leases under its jurisdiction, regarding their methodologies in verifying the amounts of ceded land revenues, with particular emphasis on the reliability and consistency of such methodologies with generally accepted accounting principles.

Testimony in support of the measure was received from the Office of Hawaiian Affairs. The Attorney General, the Department of Accounting and General Services, the Department of Land and Natural Resources, the Department of Transportation, and the University of Hawaii submitted comments.

Your Committees find that on September 21, 2001, the Hawaii Supreme Court overturned a decision made by former circuit court judge Daniel Heely that stated that the Office of Hawaiian Affairs was entitled to a portion of revenues derived under Act 304, Session Laws of Hawaii 1990. In its decision, the Hawaii Supreme Court essentially invalidated Act 304, Session Laws of Hawaii 1990, due to a provision that stated that if any provision of Act 304 was found in violation of federal law, then the entire act would be invalid. Since the Hawaii Supreme Court found that a portion of the Act violated federal law, Act 304, Session Laws of Hawaii 1990, was subsequently invalidated.

Although the Hawaii Supreme Court did strike down Act 304, it held that the fundamental obligation of the State to native Hawaiians under the Admission Act had not been diminished.

Your Committees find that in light of this responsibility, the State still has an obligation to accurately account for revenues derived from the public land trust so that until such time that the Legislature is able to legislate a final resolution to the matter of the Office of Hawaiian Affairs', and by extension, the native Hawaiian people's, share of public land trust revenues, the State will be able to accurately determine how much is owed.

Consequently, the methodologies used by the various state departments in verifying the amounts of revenue from ceded lands under their respective jurisdictions should be reliable and consistent with generally accepted accounting principles.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 113 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 5 (Hanabusa, Kanno, Menor, Tam, Hemmings).

SCRep. 3151 (Joint) Hawaiian Affairs and Transportation, Military Affairs, and Government Operations on S.R. No. 61

The purpose of this measure is to request that that the Auditor conduct an audit of the Departments of Accounting and General Services; Business, Economic Development, and Tourism; Education; Health; Land and Natural Resources; Transportation (Airports and Harbors Divisions); the University of Hawaii; and any other agency that has ceded land leases under its jurisdiction, regarding their methodologies in verifying the amounts of ceded land revenues, with particular emphasis on the reliability and consistency of such methodologies with generally accepted accounting principles.

Testimony in support of the measure was received from the Office of Hawaiian Affairs. The Attorney General, the Department of Accounting and General Services, the Department of Land and Natural Resources, the Department of Transportation, and the University of Hawaii submitted comments.

Your Committees find that on September 21, 2001, the Hawaii Supreme Court overturned a decision made by former circuit court judge Daniel Heely that stated that the Office of Hawaiian Affairs was entitled to a portion of revenues derived under Act 304, Session Laws of Hawaii 1990. In its decision, the Hawaii Supreme Court essentially invalidated Act 304, Session Laws of Hawaii 1990, due to a provision that stated that if any provision of Act 304 was found in violation of federal law, then the entire act would be invalid. Since the Hawaii Supreme Court found that a portion of the Act violated federal law, Act 304, Session Laws of Hawaii 1990, was subsequently invalidated.

Although the Hawaii Supreme Court did strike down Act 304, it held that the fundamental obligation of the State to native Hawaiians under the Admission Act had not been diminished.

Your Committees find that in light of this responsibility, the State still has an obligation to accurately account for revenues derived from the public land trust so that until such time that the Legislature is able to legislate a final resolution to the matter of the Office of Hawaiian Affairs', and by extension, the native Hawaiian people's, share of public land trust revenues, the State will be able to accurately determine how much is owed.

Consequently, the methodologies used by the various state departments in verifying the amounts of revenue from ceded lands under their respective jurisdictions should be reliable and consistent with generally accepted accounting principles.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 61 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 5 (Hanabusa, Kanno, Menor, Tam, Hemmings).

SCRep. 3152 Commerce, Consumer Protection and Housing on H.B. No. 2030

The purpose of this measure is to require immediate notification attempts by towing companies to owners whose vehicles have been towed and to provide vehicle owners with a range of payment options when paying for tow charges.

The Department of Commerce and Consumer Affairs testified in support of this measure. Oahu Auto Service, Inc., and an individual opposed the measure. The Hawaii State Towing Association submitted comments.

Currently, the law requires that towing companies notify a towed vehicle's legal and registered owners by registered or certified mail within a reasonable period following the tow, but no later than twenty days thereafter. This measure strengthens the notification requirements by additionally requiring attempted notification by telephone and facsimile within twenty-four hours of a tow and documentation of notification attempts.

Further, tow companies must presently accommodate payment by cash and by either credit card or automated teller machine. This measure requires that all three methods of payment be accommodated, with the payment method used at the option of the vehicle owner, and further, that tow companies maintain all equipment necessary to accommodate all of these payment options.

Your Committee has amended this measure by inserting therein a delayed effective date of July 1, 2050, to facilitate further review and discussion.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2030, 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. 2030, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 3153 Judiciary on H.B. No. 1727

The purpose of this measure is to allow an applicant to renew a driver's license instruction permit thirty days before its expiration date and ninety days after its expiration date. Attempts to renew after the ninety days shall be treated as an application for a new driver's license instruction permit.

Testimony in support of this measure was received from the City and County of Honolulu Department of Customer Services.

Current law does not specify a renewal period for driver's license instruction permits. The accommodation provided by this measure will increase the efficiency of the driver's license permitting process while not compromising traffic safety.

As affirmed by the record of votes of 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. 1727, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3154 Judiciary on H.B. No. 1746

The purpose of this measure is to require notices for tow away zones to be clearly visible to the driver of a vehicle approaching any marked or unmarked parking space, or within any marked or unmarked parking space, where the vehicle is subject to being towed.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs. The Legislative Information Services of Hawaii (LISH) and one individual submitted comments and another individual submitted concerns.

Your Committee finds that this measure addresses concerns about "tow traps" in which property owners and/or tow operators fail to post conspicuous signs and then tow the vehicles of unwary vehicle owners. This measure requires the posting of notices of tow away zones in such size and at such locations as may be appropriate to address "tow trap" concerns.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1746, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3155 Judiciary on H.B. No. 2006

The purposes of this measure are to:

- (1) Provide the Department of Health with greater flexibility in pursuing violations of Hawaii's lead acid batteries disposal laws;
- (2) Clarify the disposal options for used tires and notice requirements to consumers of new tires;
- (3) Cut back the motor vehicle tire surcharge provision by three years; and
- (4) Provide that tire inventory payments by the rental car industry shall be paid annually.

Testimony expressing concerns about this measure was submitted by the Rubber Manufacturers Association.

Your Committee finds that this measure promotes the responsible disposal of tires by:

- (1) Providing further incentives for the proper disposal of used tires by authorizing tire retailers to list disposal fees as a separate charge;
- (2) Allowing motor vehicle rental companies to provide a report and payment of the surcharge annually, rather than quarterly; and
- (3) Allowing motor vehicle rental companies to avoid payment of the surcharge if the number of motor vehicles they export is in excess of the number imported.

As affirmed by the record of votes of 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. 2006, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3156 Judiciary on H.B. No. 2158

The purpose of this measure is to exempt law enforcement officers operating authorized emergency vehicles from commercial driver licensing provisions.

Written testimony in support of this measure was received from the Department of Transportation and Honolulu Police Department.

Your Committee finds that this measure complies with federal motor carrier safety administration regulations exempting from commercial driver licensing requirements those individuals who operate motor vehicles for the purposes of preserving life and property and for emergency government functions.

Your Committee further finds that this measure will allow the City and County of Honolulu to expand their cadre of available law enforcement officers to operate emergency vehicles on a 24-hour, seven day a week basis.

As affirmed by the record of votes of 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. 2158, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3157 Judiciary on H.B. No. 2304

The purpose of this measure is to prohibit public disclosure of confidential information contained in juror master lists and juror qualification forms.

Your Committee received written testimony in support of this measure from the Judiciary and the Office of Information Practices.

Your Committee finds that prospective jurors are often concerned that the private information they provide on their juror selection forms will be disclosed to the parties in the case, their attorneys, and other court personnel.

Your Committee supports the intent of this measure, which will improve jurors' sense of privacy protection by limiting public disclosure of sensitive information and addressing related safety concerns.

As affirmed by the record of votes of 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. 2304, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3158 Judiciary on H.B. No. 2582

The purpose of this measure is to modify commercial driver licensing laws so they conform to new federal standards, regulations and penalties pertaining to railroad-highway grade crossings for commercial motor vehicles.

Your Committee finds that commercial driver licensing laws improve highway safety by ensuring that commercial drivers are qualified to safely operate those vehicles. Furthermore, federal Motor Carrier Safety regulations require Hawaii law regarding commercial driver licensing to conform with federal statutes no later than October 4, 2002. Your Committee supports this measure to comply with federal 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. 2582, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3159 Judiciary on H.B. No. 1749

The purpose of this measure is to require the Department of Health (DOH) to disclose the criminal history of a prospective resident applicant seeking entry into an adult residential care home (ARCH).

Testimony in support of this measure was received from Healthcare Association and four individuals. Testimony in opposition was received from the Department of Health and Hawaii Long-Term Care Association. The Attorney General provided comments.

This measure also requires that the social model of health care in ARCHs provide for aging in place, and requires the DOH to exercise discretion to allow a resident of a Type I or Type II home to remain in the home as an additional nursing facility level resident in the best interests of the resident as determined by the DOH after consultation with certain affected parties.

Your Committee finds that ARCHs serve a critical function within our state healthcare network by providing housing for individuals with physical or mental impairments who would otherwise have no stable home environment. ARCHs are appropriate settings to offer community-based long-term care to certain individuals, whose physical or mental impairments may be debilitating, but for whom a change in housing may be unnecessarily disruptive and adversely affect their physical or mental health.

Your Committee believes that the safety and well-being of the ARCH residents should be a factor in the decisions to place certain individuals within an ARCH setting.

Your Committee agrees with the concept of "aging in place", allowing older persons to find solace and comfort in familiar surroundings, as long as it serves their best interest.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1749, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3160 Judiciary on H.B. No. 1804

The purpose of this measure is to make clarifying amendments to recently enacted law relating to orders expunging certain juvenile arrest records, and to require the court to consult with the prosecuting attorney of the appropriate circuit before issuing the order.

Testimony in support of this measure was received from the Attorney General, Juvenile Justice Information Committee, and the Honolulu Prosecuting Attorney.

Section 571-88, Hawaii Revised Statutes, which was enacted in 2001, allows the family court to expunge a juvenile arrest record if the matter was not referred to the court or the prosecuting attorney, or if referred, the arrested juvenile was not adjudicated responsible or the matter was dismissed. The law required the court to consult with appropriate law enforcement agencies, and provided a separate procedure for adults seeking to expunge their juvenile arrest records.

This measure deletes the separate procedure for adults, combining it with the procedure for the minor or the minor's parent or guardian, and requires the court to consult with the prosecuting attorney of the appropriate circuit before issuing an order expunging the arrest record.

Your Committee is informed of the concerns expressed by the Committee on Health and Human Services. Your Committee believes, however, that this measure and the expungement law should be given time to be effectuated and its results studied before it is expanded to cover juvenile arrest records that do not now meet the existing criteria.

As affirmed by the record of votes of 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. 1804, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3161 Judiciary on H.B. No. 2428

The purpose of this measure is to require producers of pornography to verify that their performers are not minors, and to keep documentation of this verification.

This measure is intended to facilitate the investigation and prosecution of producers and purveyors of child pornography, by making the failure to create and maintain age verification records of sexual performers a crime. Law enforcement will be allowed to check records of producers or purveyors of pornography to ascertain whether minors were used in the creation or production of sexual performance or material. By making the failure to keep records a crime, law enforcement will not have to involve minors in their investigation.

Your Committee has amended this measure by:

- (1) Clarifying the amendatory language in section 1 to add the new sections to part II of chapter 712, Hawaii Revised Statutes, relating to offenses relating to obscenity, which contains a definition of "pornographic";
- (2) On the recommendation of the Honolulu Prosecuting Attorney, by deleting reference to "birth certificate" to prove age;
- (3) On recommendation of the Attorney General, by adding "pornographic" in reference to describing acts and materials; and
- (4) On the recommendation of the Attorney General and the Honolulu Prosecuting Attorney, deleting the definition of "sexual exploitation of a minor", because this measure does not utilize that term.

As affirmed by the record of votes of 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. 2428, 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. 2428, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3162 Judiciary on H.B. No. 2560

The purpose of this measure is to include employees of private companies working in correctional facilities in the scope of sexual offense statutes.

Testimony in support of this measure was received from the Department of Public Safety and Community Alliance on Prisons.

Your Committee finds that current Hawaii law prohibits sexual assaults against inmates in Hawaii correctional facilities, but no reference is made to correctional facilities operated by private companies. Your Committee further finds that this law could be construed to exclude acts by employees of private companies working in state correctional facilities. Your Committee agrees that this measure addresses this "loophole" in the current law by ensuring that sexual offenses committed by any correctional facility employee against inmates are prohibited, regardless of the employer's status as a public or private facility.

As affirmed by the record of votes of 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. 2560, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3163 Judiciary on H.B. No. 1778

The purpose of this measure is to recodify the laws relating to financial services loan companies.

Testimony in support of this measure was received from the Hawaii Financial Services Association. The Division of Financial Institutions submitted comments.

This measure repeals article 9 of the code of financial institutions relating to financial services loan companies (FSLCs) and replaces it with two new articles relating to depository FSLCs and nondepository FSLCs, respectively. The proposed new laws, among other things:

- (1) Provide depository FSLCs with greater flexibility in their operations, similar to that enjoyed by banks, savings banks, and savings and loan associations;
- (2) Establish a 24% usury ceiling on simple interest loans made by depository and nondepository FSLCs, the same as that applicable to banks, savings banks, and savings and loan associations, and a 31.66% annual percentage rate ceiling on certain simple interest loans made by nondepository FSLCs;
- (3) Repeal the authority of FSLCs to make precomputed loans, but grandfather in existing precomputed loans;
- (4) Limit or prohibit certain fees and charges that may be assessed against consumers; and

- (5) Establish recordkeeping and reporting requirements for nondepository FSLCs.

Your Committee finds that this recodification of the law governing FSLCs will provide greater certainty and clarity regarding the rights and responsibilities of FSLCs and that this measure maintains a balance between the needs of the industry and consumer protection.

As affirmed by the record of votes of 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. 1778, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3164 Judiciary on H.B. No. 2443

The purpose of this measure is to establish procedures for verifying the validity of financing statement filings.

Testimony in support of this measure was received from the Attorney General and Commission to Promote Uniform Legislation.

Instruments filed at the Land Court or the Bureau of Conveyances that purport to affect property interests or title, but which have no basis in law or fact, have a disruptive effect on legitimate property interests and titles, are costly and time-consuming to expunge, and may interfere with a property owner's ability to transfer title or obtain title insurance and financing.

Act 241, Session Laws of Hawaii 2000, repealed the requirement under Article 9 of the Uniform Commercial Code that a financing statement contain the debtor's signature, thereby eliminating the most effective means of determining the validity of this type of document. To address this problem, this measure enables a debtor, upon payment of a fee, to request that the registrar of the Bureau of Conveyances demand from a secured party a copy of the security agreement that purportedly authorized the filing of the financing statement. If the secured party does not answer the demand by the registrar within thirty days, the financing statement is deemed unauthorized.

As affirmed by the record of votes of 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. 2443, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3165 Judiciary on H.B. No. 2473

The purpose of this measure is to clarify and update the State's securities laws.

This measure:

- (1) Provides that foreign securities approved for margin by the Board of Governors of the Federal Reserve System are exempt from certain requirements relating to filing, registration, and advertising;
- (2) Re-establishes the Securities Commissioner's authority to exempt transactions from the above requirements pursuant to rule, to rectify an inadvertent repeal of this authority by Act 16, Session Laws of Hawaii 2000, and additionally, makes other clarifications in the exempt transactions law;
- (3) Repeals the unnecessary requirement that investment advisers obtain errors and omission coverage, thereby making Hawaii's law consistent with the laws of the other states; and
- (4) Repeals specific bonding requirements for investment advisers to allow the establishment of these requirements by administrative rule.

Your Committee finds that these changes will facilitate securities transactions in this State and the oversight of these transactions by the Securities Commissioner.

As affirmed by the record of votes of 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. 2473, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3166 Judiciary on H.B. No. 2655

The purpose of this measure is to require the confidential treatment of nonpublic information of captive insurance companies.

Presently, only nonpublic information of a financial nature that is disclosed by a captive insurance company to the Insurance Commissioner (Commissioner) is required to be held confidentially. However, captive applicants and licensees are required to submit

to the Commissioner other nonpublic information such as personal information relating to a captive's directors and officers, including social security and passport numbers.

This measure extends the confidentiality requirement to all nonpublic information of a captive insurer. Your Committee finds that this requirement will ensure that business-sensitive and personal information remains confidential, unless disclosure is deemed necessary by the Commissioner, and that the information provided to the State will be utilized for regulatory purposes only and will not be subject to disclosure to competitors.

As affirmed by the record of votes of 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. 2655, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3167 Judiciary on H.B. No. 1806

The purpose of this measure is to clarify that for offenses against property rights, the definition of "hotel" means a structure in which a majority of the tenants are roomers or boarders.

Your Committee finds that currently the law defines "hotel" as a structure in which all tenants are roomers and boarders, which is rarely the case because hotels often have retail or food service tenants as well.

As affirmed by the record of votes of 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. 1806, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3168 Judiciary on H.B. No. 1825

The purpose of this measure is to make technical amendments to Article 9 of the Uniform Commercial Code (UCC) in Chapter 490, Hawaii Revised Statutes to maintain consistency with other state UCC statutes.

Testimony in support of this measure was received from the Commission to Promote Uniform Legislation.

Your Committee finds that the revision of Article 9 was a five-year drafting project of the National Conference of Commissioners on Uniform State Laws, and because of the complexities of the project, there were some errors and ambiguities that had not been detected until after the enactment of Revised Article 9 in the various states. This measure corrects these technical errors and provides consistency in the perfection of various security interests. These amendments will maintain uniformity with Revised Article 9, which has been adopted in all other states and the District of Columbia.

As affirmed by the record of votes of 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. 1825, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3169 Judiciary on H.B. No. 2282

The purpose of this measure is to clarify the applicability of the State's Revised Uniform Arbitration Act, codified last year as Chapter 658A, Hawaii Revised Statutes (HRS).

Your Committee received testimony in support of this measure from the Hawaii Commission to Promote Uniform State Laws.

Your Committee finds that the measure addresses an omission in the Revised Uniform Arbitration Act which governs arbitration agreements made prior to the effective date of Chapter 658A, HRS, if agreed to by the parties to the agreement or to the arbitration proceeding. However, the Revised Uniform Arbitration Act is silent as to which law governs if the parties do not agree. This measure will enable the use of the provisions in the previous arbitration law, which has since been repealed, when warranted.

Your Committee believes that this technical amendment to Chapter 658A, HRS, will enhance predictability in arbitration agreements and improve the arbitration process.

As affirmed by the record of votes of 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. 2282, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Hanabusa, Ihara, Matsuura).

SCRep. 3170 Judiciary on H.B. No. 2536

The purpose of this measure is to remove the sunset provision of the Act to make permanent amendments and repeals of certain fishing laws that were temporarily enacted.

Your Committee received testimony in support of this measure from the Board of Land and Natural Resources.

Act 85, Session Laws of Hawaii 1999, authorizes the Department of Land and Natural Resources to establish administrative rules to manage the State's aquatic resources. The Department has started the process of rulemaking and wants assurance that its rulemaking authority will continue to be supported by laws such as Act 85.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2536, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2536, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3171 Judiciary on H.B. No. 1999

The purpose of this measure is to repeal the sunset provision of the law allowing the carrying of unconcealed pistols and revolvers for hunting.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources (DLNR), Hawaii Rifle Association, Hawaii Citizens' Rights PAC, Libertarian Party of Hawaii, and an individual. Testimony in opposition was received from one individual.

Act 254, Session Laws of Hawaii (SLH) 1997, relating to hunting, enacted an amendment to section 134-5, Hawaii Revised Statutes, to allow a person to carry unconcealed and use a lawfully acquired pistol or revolver while actually engaged in hunting game animals, if the weapon and ammunition are acceptable for hunting in accordance with DLNR rules and the person is a licensed hunter. The repeal date was June 30, 2000, which was extended to June 30, 2002, by Act 96, SLH 2000. The purpose of the sunset date was to provide a trial period and to allow the DLNR time to implement rules. According to testimony of the DLNR, it has adopted rules and has not had any safety incidences to date. The DLNR also noted that handgun hunting is legal in 48 other states.

Your Committee has amended this measure to correct an error in the amendatory language in section 1, which would render the measure defective unless corrected.

As affirmed by the record of votes of 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. 1999, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1999, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Hanabusa, Matsuura).

SCRep. 3172 (Joint) Water, Land, Energy, and Environment and Judiciary on H.B. No. 2552

The purposes of this measure are to expand the definition of a "landowner" who can enter into safe harbor agreements and habitat conservation plans, and to subject Board of Land and Natural Resources approval of any habitat conservation plan or safe harbor agreement for public lands to legislative disapproval.

Testimony in support of the intent of this measure was received from the Department of Business, Economic Development, and Tourism, Department of Land and Natural Resources, Department of Transportation, Land Use Research Foundation of Hawaii, The Nature Conservancy of Hawaii, The Estate of James Campbell, Hawaii Leeward Planning Conference, The Gentry Companies, and Haseko Homes, Inc. The Sierra Club Hawai'i Chapter and Earthjustice testified in opposition.

Your Committees find that the intent of this measure is to provide critical tools for endangered species management through a habitat conservation plan or safe harbor agreement for public lands. Under current law, the process already includes extensive public outreach and review safeguards.

Your Committees have amended this measure to reflect the language in S.B. No. 2810, S.D. 2, previously heard in this Committee, by:

- (1) Further amending the definition of "landowner" to include the phrase "when acting with the fee owner's consent";
- (2) Clarifying that confidentiality provisions for habitat conservation plans or safe harbor agreements are applicable for private lands; and
- (3) Deleting the amendments requiring legislative oversight of any BLNR decision on a habitat conservation plan or safe harbor agreement for public lands.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2552, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2552, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 6 (Chun, English, Hanabusa, Matsunaga, Matsuura, Hemmings).

SCRep. 3173 Ways and Means on H.B. No. 2568

The purposes of this measure are to:

- (1) Subject sales of products or services between affiliated companies or persons where consideration is not indicative of fair market value to the imposition of State taxes measured by the actual fair market value of the sale;
- (2) Authorize the Department of Taxation to continuously levy upon salary or wages to enforce the payment of taxes;
- (3) Provide that any person who honors a tax levy by surrendering the property or rights to property of a delinquent taxpayer shall be discharged from any liability to any person (in addition to the delinquent taxpayer) arising from the surrender or payment; and
- (4) Broaden the class of persons liable for deducting and paying withholding taxes to include persons responsible within corporate entities and any employer regardless of organizational structure (corporation, limited liability company, etc.).

Testimony supporting this measure was received from the Department of Taxation. Comments on this measure were received from the Tax Foundation of Hawaii.

Your Committee finds that this measure enhances the ability of the Department of Taxation to administer taxes more effectively and efficiently. In addition, this measure changes state taxation laws to conform to federal law.

Upon further consideration, your Committee has amended this measure by clarifying that the requirement that the tax on transactions between affiliated companies or persons shall be based on the fair market value of the transaction is not limited to the sales of products or services, and includes all sales.

As affirmed by the record of votes of the members 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. 2568, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2568, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, English, Hanabusa, Ige, Sakamoto, Tam).

SCRep. 3174 Ways and Means on H.B. No. 2788

The purpose of this measure is to authorize the issuance of general obligation bonds to finance the capital improvement project needs of the State.

The bill also provides, pursuant to article VII, section 13, of the Constitution of the State of Hawaii, a declaration of findings that generally includes the estimated amount of principal and interest concerning the general obligation bonds.

Your Committee has amended the bill by changing the effective date to July 1, 2050, in order to promote further 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 H.B. No. 2788, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2788, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Hanabusa, Ige, Sakamoto).

SCRep. 3175 Ways and Means on H.B. No. 1751

The purpose of this measure is to appropriate funds for the treatment services and relapse prevention services for sex offenders under the supervision of the Hawaii Paroling Authority.

Your Committee finds those sex offenders who receive no treatment or inadequate treatment may pose a threat to the general public. Sex offender parolees lack resources to obtain adequate treatment at their own expense. Your Committee believes this measure will aid in providing appropriate and necessary treatment to rehabilitate sex offender parolees and prevent reoccurrences.

Your Committee has amended this bill by changing the amount appropriated from \$1 to a blank amount to facilitate 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. 1751, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1751, H.D. 2, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3176 (Majority) Ways and Means on H.B. No. 1867

The purpose of this measure is to provide health care for the uninsured, particularly those suffering economic hardships resulting from the tragic events of September 11, 2001.

Specifically, this measure appropriates funds as follows:

- (1) Unspecified general funds to be matched by federal funds on a 2:1 basis, to enable the Children's Health Insurance Program to expand eligibility to three hundred per cent of the poverty level guideline for Hawaii;
- (2) Unspecified general funds to be matched by federal funds on a 9:1 basis, to delink medicaid and the temporary assistance for needy families program; and
- (3) Unspecified general funds for community health centers in the State to provide health care services to the uninsured.

Upon further consideration, your Committee has amended this bill to change its effective date to July 1, 2050 for the purpose of promoting 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 H.B. No. 1867, 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. 1867, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Kim, Hemmings).

SCRep. 3177 Ways and Means on H.B. No. 2072

The purpose of this measure is to appropriate \$1,000,000 from the emergency budget and reserve fund to provide housing assistance to Hawaii's needy.

Your Committee finds that the State has not fully recovered from the economic aftermath of September 11. Many people who lost their jobs after September 11 are still either looking for work or waiting to be rehired by their former employers. Unfortunately, in the meantime, they face the possibility of eviction or foreclosure.

This bill is designed to assist these families with their rent, mortgage, utility, and other housing expenses to help prevent them from becoming homeless, and thus better able to return to the job market in the future.

Your Committee has amended the bill by changing the appropriation to a blank amount in order to promote further 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 H.B. No. 2072, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2072, H.D. 2, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Kawamoto, Tam, Hemmings).

SCRep. 3178 Ways and Means on H.B. No. 2216

The purpose of this measure is to make permanent the mental health, alcohol, and drug abuse treatment benefits contained in Act 202, Session Laws of Hawaii 1988 ("Act 202"), as amended by various subsequent Acts.

Your Committee finds that untreated mental illness and substance abuse result in unnecessary loss of financial and human resources within the public and private sector alike. Your Committee further finds that the mental health and substance abuse treatment benefits established by Act 202 have been beneficial to many individuals and continuing these benefits is a step forward in achieving parity between mental and physical illnesses.

As affirmed by the record of votes of the members 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. 2216, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3179 Ways and Means on H.B. No. 2459

The purpose of this measure is to make an emergency appropriation in the current fiscal year to pay for the State's share of costs related to public employees' social security and Medicare expenses.

Your Committee finds that Act 259, Session Laws of Hawaii 2001, authorized the transfer of up to \$15,000,000 to the Department of Business, Economic Development and Tourism for operations and events costs of the Hawaii Convention Center, and that such transfer was necessary to support continuing operations of the Convention Center.

Your Committee further finds that a portion of the funds transferred to operate the Convention Center included \$10,125,000 in funds budgeted for payment of social security and Medicare expenses for public employees. Your Committee acknowledges that the State is required by law to fund these public employee costs.

Upon further consideration, your Committee has made a technical amendment by adding a section to declare that the appropriation in this measure will exceed the expenditure ceiling for fiscal year 2001-2002.

As affirmed by the record of votes of the members 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. 2459, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2459, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3180 Ways and Means on H.B. No. 2495

The purpose of this measure is to make an emergency appropriation to provide foster board and board related costs, permanency assistance, and difficulty-of-care payments for foster and adoptive parents, permanent custodians, and guardians of children with special needs.

Specifically, emergency appropriations are made in the following amounts:

- (1) General Funds: \$2,268,663
- (2) Other Federal Funds: \$1,538,194

Your Committee finds that the State has an obligation to provide foster care to abused and neglected children and to find permanent homes for those children who are unable to return to their original homes. Based on the figures submitted by the Department of Human Services, the Department will be unable to cover the costs of these services with the amount appropriated in the General Appropriations Act of 2002. Therefore, your Committee finds that the emergency appropriation provided in this measure is appropriate and necessary to meet the needs of Hawaii's children.

Upon further consideration, your Committee has amended this bill by adding a new section 3 and by re-numbering the remaining sections accordingly. The new section declares that the appropriation contained in this measure will cause the general fund expenditure ceiling for fiscal year 2001-2002 to be exceeded, and that the appropriation is necessary to serve a public interest.

As affirmed by the record of votes of the members 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. 2495, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2495, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3181 (Majority) Ways and Means on H.B. No. 2512

The purpose of this measure is to establish the public health nursing services special fund to provide case management for medically fragile children.

There is a critical need for comprehensive case management services for medically fragile children, like those with complex medical conditions such as ventilator care, tracheostomy care, catheterizations, parenteral nutrition, complex enteral feeding, and complex wound care. A public health nursing services special fund, supported by Medicaid reimbursements to the Department of Health, could supply these necessary services at substantial savings to the State. Due to a lack of certified case management agencies, public health nurses are already providing care for these cases. Moneys from the fund will be used for early and periodic screening, diagnosis, and treatment case management for families of medically fragile children under the age of twenty-one. Your Committee finds that this is a much-needed service and an appropriate use of available resources.

Your Committee has amended the bill by making the amount of the appropriation 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 H.B. No. 2512, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2512, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, 1 (Slom). Excused, 2 (Kim, Hemmings).

SCRep. 3182 Ways and Means on H.B. No. 2761

The purpose of this measure is to plan, develop, and implement a comprehensive statewide strategy to address the issue of poor oral health of Hawaii's people, especially its children.

In particular, this measure provides a range of alternatives for prevention, intervention, and treatment to improve the quality of oral health in the State by:

- (1) Requiring licensed dental hygienists in the Department of Health to provide comprehensive services to children in public schools;
- (2) Appropriating funds:
 - (A) To hire dental hygienists and supporting staff;
 - (B) For operating costs;
 - (C) For oral health services for uninsured individuals in community health centers serving areas with higher rates of dental caries when compared to the rest of the State;
 - (D) For start up and operational costs of school and community-based dental sealant programs in underserved areas in the State; and
 - (E) To provide basic dental services for adults covered by the Medicaid and QUEST medical assistance programs;

and
- (3) Authorizing the issuance of general obligation bonds and appropriating funds to plan oral health operatories at community health centers that do not have facilities and equipment for oral health services.

Your Committee agrees with the intent of this measure, and finds that Hawaii's children, especially those from poor families, lack regular and proper dental care. Your Committee further finds that providing dental health services for these children will promote positive oral health habits and prevent development of more serious dental problems through early detection and treatment in a school setting.

Your Committee has amended this measure by replacing the sums appropriated with blank amounts in order to facilitate further discussion on the funding necessary to carry out the purposes of 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. 2761, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2761, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3183 Ways and Means on H.B. No. 1878

The purpose of this measure is to establish the Hawaii State Student Council by statute.

Your Committee finds that the State Student Council gives many students an opportunity to get involved in matters of education that affect and may be of interest to students. By establishing a formal statutory provision for the council, continuity would be assured. It is important that legislators keep in touch with the views of the upcoming generations through the resolutions and discussions that take place at the Hawaii State Student Council and the annual State Student Conference where secondary school students from around the State attend workshops and meetings.

As affirmed by the record of votes of the members 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. 1878, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Kawamoto, Tam, Hemmings).

SCRep. 3184 Ways and Means on H.B. No. 1942

The purpose of this measure is to establish a temporary commission to arrange for the commemoration of the centennial anniversary of the arrival of the first Filipinos to Hawaii.

The commission will be composed of fifteen members appointed by the Governor and will be allowed to seek grants from public and private sources to finance the celebratory activities.

Your Committee finds that in the nearly one hundred years since the arrival of the first Filipinos, Hawaii's multicultural heritage has been enriched by Filipino music, art, foods, and fashion. The economy of Hawaii, particularly its sugar and pineapple industries, and now its health care, diversified agriculture, and travel industries have been bolstered by the hard work of these immigrants and their children. This measure will help commemorate the past and celebrate the present contributions of the Filipino people to 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 H.B. No. 1942, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3185 Ways and Means on H.B. No. 2014

The purpose of this measure is to allow the board of directors of a Hawaii nonprofit organization, as a local school board, to manage and operate an existing Department of Education school as a new century conversion charter school.

In addition, this measure:

- (1) Requires the nonprofit organization to make a minimum annual contribution of \$1 per pupil toward the operation of a new century conversion charter school for every \$4 per pupil allocated by the Department of Education for the operation of the new century conversion charter school;
- (2) Requires the detailed implementation plan for a new century conversion charter school to be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents, rather than sixty per cent of the existing administrative, support, and teaching personnel, and parents;
- (3) Gives the board of directors of the nonprofit organization, as the governing body for the new century conversion charter school that it operates and manages, the same protections that are afforded to the state Board of Education;
- (4) Allows a nonprofit organization to allocate federal and state funds among two or more of the new century conversion charter schools that it operates and manages to the extent permitted by law;
- (5) Gives the State of Hawaii first right, except as provided in the detailed implementation plan, to all the assets and facilities of a new century conversion charter school if the new century conversion charter school dissolves or is denied continuation;
- (6) Requires a nonprofit organization that seeks to manage or operate a new century conversion charter school to have experience in the management and operation of public or private schools, or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing this experience; and
- (7) Limits the number of new century conversion charter schools that may be formed by either a nonprofit corporation or an existing Department of Education school, or both, to twenty-five.

Indirectly, this measure will create slots for two additional new century charter schools (as opposed to new century "conversion" charter schools) formed as either start-up schools or schools-within-schools. In addition, this measure will create slots for twenty-three additional new century "conversion" charter schools formed from existing Department of Education schools. This increase in available slots is the result of Waiālae Elementary School and Lanikai Elementary School being considered new century "conversion" charter schools rather than new century charter schools.

Your Committee has amended this measure by making a technical nonsubstantive change for 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 H.B. No. 2014, 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. 2014, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Kawamoto, Tam, Hemmings).

SCRep. 3186 Ways and Means on H.B. No. 2164

The purpose of this measure is to amend the Hawaii educator loan program law to more effectively encourage potential teachers to attend college in Hawaii and teach in our public schools after their graduation.

To increase the supply of qualified teachers in Hawaii's public schools, the bill:

- (1) Reduces the loan forgiveness period from ten years to six years, and specifies the amount of the loan that is forgiven during each year of the initial six-year period of employment;
- (2) Establishes an unspecified appropriation ceiling for the special fund, provides that surplus moneys remain in the special fund at the end of each fiscal year, and authorizes expenditure of up to five per cent of outstanding loans for administrative expenses;

- (3) Appropriates an unspecified amount of funds to the Hawaii educator loan program special fund, and appropriates an unspecified amount of the special fund for purposes of the Hawaii educator loan program; and
- (4) Authorizes the University of Hawaii to adopt rules, exempt from public notice and public hearing requirements of the Administrative Procedure Act, to implement the Hawaii educator loan program.

Your Committee finds that the shortage of qualified teachers in Hawaii is a serious problem that impacts the education of our children. Teacher quality is of great consequence in student achievement and education. It has been established that teachers leave the profession most frequently during their first three to five years of teaching. Those who continue to teach for five years are more likely to stay in the profession.

This bill aims to increase the number of qualified teachers as well as lower the attrition rate of new teachers. By requiring only six years of service for forgiveness of a teacher's student loan, this bill will encourage high school graduates to receive their college education in Hawaii and become teachers in our public schools. Allowing administrative rules to implement the Hawaii educator loan program to be adopted without public notice and public hearing will shorten the time required to make loans available to potential teachers.

Upon reflection, your Committee has amended the bill by changing the amount appropriated to be deposited into the Hawaii educator loan program special fund and the amount appropriated out of the special fund from blank amounts to \$1, in both instances, to facilitate further discussion on 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. 2164, 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. 2164, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3187 Ways and Means on H.B. No. 2166

The purpose of this measure is to authorize the issuance of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities that serve the general public.

Specifically, this measure:

- (1) Proposes amendments to article VII, section 12 and article X, section 1 of the state constitution to authorize the issuance of special purpose revenue bonds to assist these project parties; and
- (2) Adds a new part to chapter 39A, Hawaii Revised Statutes (special purpose revenue bonds), to provide for the issuance of special purpose revenue bonds to assist these project parties.

Because the interest on special purpose revenue bonds is exempt under applicable federal and state income tax laws, your Committee finds that investors are willing to loan money at lower than usual interest rates. Issuers can obtain loans that are up to two percentage points—or twenty-five per cent—below commercial (interest) rates because of these income tax exemptions. A lower interest rate results in lower costs to the private business on whose behalf special purpose revenue bonds have been issued.

Your Committee has amended this measure by:

- (1) Deleting the proposed amendments to article VII, section 12 and article X, section 1 of the state constitution;
- (2) Correcting an invalid cross-reference to section 39A-227, Hawaii Revised Statutes (at page 20, line 14), which is in part VII of chapter 39A, Hawaii Revised Statutes; and
- (3) Making the new part being added to chapter 39A, Hawaii Revised Statutes, effective upon ratification of constitutional amendments authorizing the issuance of special purpose revenue bonds to assist these project parties.

As affirmed by the record of votes of the members 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. 2166, 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. 2166, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3188 Ways and Means on H.B. No. 2235

The purpose of this measure is to establish a Pacific Center for Ecosystem Science within the University of Hawaii to assist the State in addressing top priority conservation issues and to support conservation biology and natural resources management.

Furthermore, this measure also appropriates funds for operating expenditures and capital improvement projects.

Your Committee finds that the center will play an important role in the defense of the State's native ecosystems from the threat of invasive alien species. The center will protect Hawaii's unique environment by being a world-class facility for research, teaching, management, and funding.

As affirmed by the record of votes of the members 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. 2235, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Kawamoto, Tam, Hemmings).

SCRep. 3189 Ways and Means on H.B. No. 2353

The purpose of this measure is to require the Department of Education to expand its statewide assessment program to include norm-referenced testing in the same grades that federal law requires standards-based assessment, using the most appropriate nationally normed test.

In addition, this measure appropriates an unspecified sum to the Department of Education for fiscal year 2002-2003 to include norm-referenced testing in the same grades that federal law requires standards-based assessment of the Hawaii Content and Performance Standards II.

Your Committee finds that criterion-referenced tests (*i.e.*, standards-based assessment) and norm-referenced tests have their respective advantages and disadvantages. Generally, norm referenced tests are useful for comparing individuals or groups to determine highest and lowest achievement levels, and so forth. They are less useful in identifying the specifics of a person's strengths and weaknesses. This latter type of evaluation is better achieved with criterion referenced tests, which lend themselves to use in mastery learning situations and frequent retesting to show mastery.

Your Committee has amended this measure by changing the sum appropriated to the Department of Education to \$1.

As affirmed by the record of votes of the members 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. 2353, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2353, H.D. 2, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3190 Ways and Means on H.B. No. 2480

The purpose of this measure is to establish a school bus fare special fund.

Your Committee finds that currently school bus drivers collect bus fares from school children themselves. This has proven problematic in terms of accountability, identification of children who are exempt from payment, and the resultant operating deficit. Proposed administrative rule amendments would require the schools to collect the fares and then disburse them to the bus service contractors. A fund is needed for the student deposits until they can be disbursed.

Your Committee approves of this concept and has amended the bill by making the fund a revolving, rather than a 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 H.B. No. 2480, 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. 2480, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Kawamoto, Tam, Hemmings).

SCRep. 3191 Ways and Means on H.B. No. 2798

The purpose of this measure is to appropriate funds to the University of Hawaii to be awarded as scholarships to students who qualify for tuition waivers, with a maximum of \$2,000 per student.

The Hope Scholarship tax credit, part of the federal Taxpayer Relief Act of 1997, allows college students an income tax credit up to \$1,500 for qualified out-of-pocket expenses incurred in the first two years of college. Although tuition payments are a qualified expense, many students in the University of Hawaii system receive tuition waivers instead of scholarships and are unable to take advantage of the income tax credit.

Your Committee finds that this measure will allow qualified University of Hawaii students to benefit from the Hope Scholarship income tax credit and keep the appropriated funds within the State as tuition payments to the University.

Your Committee has amended this measure by changing the amount appropriated from a blank amount to \$1 to facilitate further discussion on 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. 2798, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2798, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3192 Ways and Means on H.B. No. 2276

The purpose of this measure is to allow a public employer and an exclusive representative to determine whether non-cost items that are not tied to or bargained against cost items will become effective upon ratification, upon the acceptance of all cost items by the appropriate legislative body, or at some other agreed upon time.

Your Committee finds that existing law makes all non-cost items in a collective bargaining agreement valid, enforceable, and effective before the acceptance of all cost items by the appropriate legislative body. In recognition of the fact that public employers and exclusive representatives occasionally exchange concessions on cost items for concessions on non-cost items, and vice-versa, your Committee finds that existing law actually fragments the collective bargaining process and undermines the work of negotiators. This measure is intended to give negotiators the power to determine, through the collective bargaining process, whether non-cost items that are not tied to or bargained against cost items will become effective upon ratification, upon the acceptance of all cost items by the appropriate legislative body, or at some other agreed upon time.

As affirmed by the record of votes of the members 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. 2276, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3193 Ways and Means on H.B. No. 2500

The purpose of this measure is to make housekeeping amendments to sections of the Hawaii Revised Statutes affected by Act 253, Session Laws of Hawaii 2000, the civil service reform law.

Your Committee finds that Act 253, among other things, repealed chapters 77 and 79, Hawaii Revised Statutes. Your Committee further finds that this measure, in part, conforms the Hawaii Revised Statutes by eliminating references to the repealed chapters.

As affirmed by the record of votes of the members 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. 2500, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3194 Ways and Means on H.B. No. 2501

The purpose of this measure is to deduct \$1,000,000 in general fund appropriations for fiscal year 2001-2002 from the amount previously appropriated for the State's unemployment compensation claims and transferring it to the amount previously appropriated for the State's workers' compensation claims.

Specifically, this measure amends the General Appropriations Act of 2001 by amending the fiscal year 2001-2002 general fund appropriation provisos to HRD 102 Work Force Attraction, Selection, Classification, and Effectiveness.

Your Committee finds that reallocating present fiscal year funds from the State's unemployment insurance program to the State's workers' compensation program is necessary to augment the State's workers' compensation funds, which are expected to be depleted by the end of March 2002. On the other hand, the reduction from the unemployment insurance program is not expected to impair the State's ability to meet its unemployment insurance 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. 2501, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3195 Ways and Means on H.B. No. 2599

The purpose of this measure is to appropriate funds to continue the efforts of the emergency environmental workforce to improve the State's economy by employing citizens to protect the environment.

Your Committee finds that under Act 4, Third Special Session Laws of Hawaii 2001, the Legislature established an emergency environmental workforce for short-term employment for individuals who lost their jobs. The intent of that Act was to assist those people who were displaced as a result of the September 11, 2001, terrorist attacks against the United States.

Your Committee agrees with the intent of this measure, which appropriates an unspecified amount of funds to continue the emergency environmental workforce. Upon further consideration, your Committee has amended this measure by making a technical, nonsubstantive change.

As affirmed by the record of votes of the members 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, 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. 2599, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3196 Ways and Means on H.B. No. 2249

The purpose of this measure is to require the Department of Land and Natural Resources to utilize its powers of eminent domain to acquire lands adjacent to the Mookini Heiau to provide public access and for its protection and preservation.

Your Committee finds that if not properly recognized, over time, many historic sites like heiaus are forgotten and neglected. Kohala has some of the State's most valuable historic sites as the area is closely connected with the Kamehameha lineage. The Mookini Heiau and the surrounding area therefore are of particular importance to Hawaii's history and its native Hawaiians. This bill seeks to facilitate the preservation, access, and protection of this area by providing adequate buffers around the sites, accurate land dimensions, and clear title, so that future generations will be able to access and appreciate the historic significance of the area.

Your Committee has amended this bill by changing the effective date to July 1, 2051 to ensure continued discussion of 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 H.B. No. 2249, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2249, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3197 Ways and Means on H.B. No. 2400

The purpose of this measure is to appropriate interim revenue for the Office of Hawaiian Affairs.

Your Committee recognizes that the issue of public trust revenues and the Office of Hawaiian Affairs is a long and complicated one, and that both the State and the Office of Hawaiian Affairs are working to reach a good-faith solution. The State's obligation toward native Hawaiians is firmly established in our Constitution and is one that the State will honor. Your Committee finds that it is imperative for the Legislature to continue to fund the Office of Hawaiian Affairs to allow it to accomplish its mission while a long-term solution to this political and social problem is being examined and refined.

Your Committee has amended this bill by making the effective date defective for the purposes of continuing 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 H.B. No. 2400, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2400, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3198 Ways and Means on H.B. No. 1939

The purpose of this measure is to appropriate funds for fiscal year 2002-2003 for agricultural water development.

Your Committee finds that agriculture in Hawaii is at a major crossroads. An emerging and thriving diversified agriculture sector is poised to fill the void left by a century of large sugar and pineapple plantations. The transition into diversified agriculture, however, is made more difficult by a plantation water delivery system that is in serious disrepair.

This bill addresses the problem of water infrastructure and delivery systems by providing needed funds in specific projects across the State to enhance the delivery of water to farmers. The bill also provides funds to ensure the receipt of available federal matching funds.

Your Committee has amended the bill by deleting the appropriation amounts in order to promote further 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 H.B. No. 1939, 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. 1939, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (Chun, English, Inouye, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3199 Ways and Means on H.B. No. 1976

The purpose of this measure is to issue special purpose revenue bonds to assist Hawaii Sugar and Transportation Cooperative to purchase the sugar and molasses terminal facility at Nawiliwili, Kauai.

Your Committee finds that sugar continues to thrive on the island of Kauai. Although the days of five sugar plantations on the island are long gone, the sole surviving plantation - Gay and Robinson Inc. continues to market a viable sugar crop. Presently, Gay and Robinson continues to employ three hundred full-time employees and plans to expand its sugar production on 4,300 acres of state-owned land.

To assist Gay and Robinson in their efforts to increase sugar productivity and strengthen its financial stability on Kauai, this bill provides special purpose revenue bonds to Hawaii Sugar and Transportation Cooperative who will in turn, provide Gay and Robinson with marketing services to the mainland and elsewhere, as well as provide affordable transportation services for sugar produced on 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 is in accord with the intent and purpose of H.B. No. 1976, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun, English, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3200 Ways and Means on H.B. No. 2017

The purpose of this measure is to appropriate funds for agricultural research and development to be conducted by the Hawaii Agricultural Research Center (HARC).

Your Committee finds that agricultural research benefits Hawaii's agricultural industry in ways that can lead to increased productivity, healthy plants, efficient planting schemes, and more profits for the industry. For example, Hawaii's sugar and pineapple industries benefited greatly for many years from the research conducted for these crops in the areas of hybridization, fertilizers, herbicides and insecticides, and cultivation methods.

Your Committee also finds that agricultural research leads to the discovery of new products that enhance agricultural diversification. For example, HARC is researching the viability of seed production to sell seeds worldwide.

Your Committee supports agricultural research efforts to help farmers and others be more efficient and effective in their work.

Your Committee has amended this bill by changing the appropriation to a blank amount to allow for 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 H.B. No. 2017, 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. 2017, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun, English, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3201 Ways and Means on H.B. No. 2172

The purpose of this measure is to appropriate funds for the research and development of high-value agricultural products and biotechnology. Funds are also appropriated for the creation and adoption of agricultural management practices that protect Hawaii's environment, and for the development of the agribusiness incubator initiative.

Your Committee finds that Hawaii's agriculture industry provides Hawaii with food, green open spaces, and an opportunity to take advantage of Hawaii's year-round growing season. In addition, our economy will benefit in producing high-end agricultural products for a more sophisticated global market since innovation and diversified agriculture can increase the value of agricultural products grown and produced in Hawaii.

Your Committee has amended this bill by changing the amounts appropriated to blank amounts to allow for 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 H.B. No. 2172, 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. 2172, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun, English, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3202 Ways and Means on H.B. No. 2271

The purpose of this measure is to find ways to reduce the theft of agricultural commodities by appropriating funds to establish an Agricultural Theft Abatement Task Force.

Your Committee finds that agricultural theft is a severe problem facing the agricultural industry. Agricultural producers in Hawaii lose over a million dollars annually due to theft. Furthermore, these losses threaten the sustainability of many agricultural enterprises at a time when such enterprises play a significant role in the efforts to diversify the State's economy.

Your Committee notes that the nature of agricultural operations, including their often rural or remote location, makes it difficult to deter, prevent, and prosecute agricultural theft through conventional means. Your Committee believes that the formation of this task force is an important first step in bringing the stakeholders and appropriate law enforcement officials together to develop new and innovative strategies to abate agricultural theft.

Your Committee has amended this measure by changing the appropriation to an unspecified amount to facilitate further discussion of 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. 2271, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2271, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Chun, English, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3203 Ways and Means on H.B. No. 2455

The purpose of this measure is to establish a brownfields cleanup revolving loan fund.

The fund will provide low interest loans or other authorized financial assistance to eligible public, private, and nonprofit borrowers for cleanup activities of contaminated sites, and site monitoring activities necessary to determine the effectiveness of a cleanup. In addition, this measure appropriates \$1,000,000 out of the brownfields cleanup revolving loan fund for the purposes of providing low interest loans for cleanup and site monitoring activities.

Your Committee finds that "brownfields" are abandoned, idled, or underused industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. Your Committee also finds that the Department of Business, Economic Development, and Tourism has applied to the U.S. Environmental Protection Agency for up to \$3,000,000 in seed money to capitalize and administer the revolving loan fund program.

The financial risks and potential liability associated with reusing brownfields is a barrier to redevelopment throughout the United States. The revolving loan fund would make low interest loans available to project developers in order to expand resources and reduce the risks and liability of brownfield projects. The revolving loan fund would also allow worthy projects that are not a priority to state agencies, but are a priority to communities, an avenue for potential cleanup financing.

Your Committee finds that developable land is becoming a scarce resource in Hawaii, and that contaminated land must be rehabilitated and reused whenever and wherever possible.

As affirmed by the record of votes of the members 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. 2455, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3204 Ways and Means on H.B. No. 2553

The purpose of this measure is to increase the amount of funding received by the Bureau of Conveyances from recording fees.

Specifically, the measure will increase the amount, from \$2 to \$7 of the \$25 recordation fee, that may be deposited into the Bureau of Conveyances special fund. The remaining \$18 of the recordation fee is deposited to the credit of the general fund.

Your Committee notes that this measure will not increase fees charged to the public, but will instead allow the Bureau to retain a higher portion of the current fees to fund its programs. Your Committee finds that this increase will permit the Bureau to continue its modernization efforts and ensure adequate staffing.

As affirmed by the record of votes of the members 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. 2553, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3205 Ways and Means on H.B. No. 2132

The purpose of this measure is to require the provision of gender-responsive community-based programs for female offenders and adjudicated youth.

The measure also: specifies program criteria to meet the needs of female offenders and adjudicated youth; provides for grants-in-aid to assist private agencies that have existing programs for females and to encourage private agencies to develop and implement new programs; and appropriates funds.

Your Committee recognizes that correctional programs and services originally were created for a male dominant population. Accordingly, your Committee finds that it is necessary to modify programs to better reflect the needs of females, including the identification of issues of importance to females, such as childhood abuse, early onset of alcohol and drug abuse, poverty and homelessness, lack of job skills and employment, health problems and needs, and single motherhood.

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

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2132, 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. 2132, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3206 Ways and Means on H.B. No. 2311

The purpose of this measure is to increase the number of circuit court judges in the second and third circuits from three to four judges.

Your Committee finds that it has been ten years since the second judicial circuit, which is comprised of Maui, Molokai, and Lanai, has had a new judgeship. Your Committee further finds that, in the last ten years, the population of Maui county has expanded by twenty per cent and, concomitantly, the number of court cases and their complexity have increased significantly. The burgeoning workload has resulted in additional overtime work for the existing judges, with a corresponding increase in the overtime cost for court staff, and an increase in the cost of per diem judges.

Your Committee notes that the third judicial circuit, which serves the entire county of Hawaii, will be home to the impending Drug Court. Your Committee finds that to help ensure the Big Island Drug Court's success, an additional full-time circuit-level judge will be needed to handle the judicial processes of the court.

Your Committee is aware that the funds for these additional judgeships are currently in the Judiciary's budget request and that this measure is needed to authorize the appointments.

Your Committee has amended this measure by changing its effective date to July 1, 2050, to facilitate 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 H.B. No. 2311, 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. 2311, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3207 Ways and Means on H.B. No. 2563

The purpose of this measure is to increase the allowable compensation awarded by the Crime Victim Compensation Commission to crime victims for medical expenses.

More specifically, the measure:

- (1) Authorizes an award up to the lower of \$20,000 or the actual compensable medical expenses, in instances in which the compensable medical expenses are in excess of \$10,000; and
- (2) Clarifies that, in determining the amount of compensable medical expense to be awarded, the Commission is required to deduct amounts or benefits as provided under section 351-63, Hawaii Revised Statutes.

Your Committee notes that the vast majority of states have higher compensation award ceilings than presently allowed by Hawaii law. These range from \$15,000 to a high of \$150,000 in Washington State, with no statutory ceiling imposed in New York. In contrast, only eight states, including Hawaii, have a \$10,000 award ceiling. Furthermore, the State's present compensation award ceiling of \$10,000 is woefully inadequate to address cases involving catastrophic medical care. Accordingly, your Committee finds that the ceiling should be raised in cases involving compensable medical expenses that are in excess of \$10,000.

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. 2563, H.D. 1, S.D. 1, and recommends that it pass Third Reading

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3208 Ways and Means on H.B. No. 1724

The purpose of this measure is to allow military specialty license plates to be issued to more than one noncommercial passenger vehicle, noncommercial motorcycle, or motor scooter, per applicant.

Your Committee finds that many veterans have multiple vehicles registered in their name and may qualify for several different categories of military specialty plates. Under these circumstances, your Committee feels that allowing a person to have more than one type of military specialty license plate is reasonable.

Your Committee has amended this bill for clarity and consistency by adding the words, "a noncommercial" before "motor scooter", on page 1, line 7.

As affirmed by the record of votes of the members 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. 1724, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1724, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3209 (Majority) Ways and Means on H.B. No. 1730

The purpose of this measure is to increase the drivers education fund underwriters fee for each motor vehicle insured by each insurer from \$2 to \$3 a year.

Furthermore, this measure decreases the fee allocation to the Department of Transportation from fifty per cent to one-third, and increases the allocation to the Department of Education from fifty per cent to two-thirds.

Your Committee finds that the fee increase and reallocation are necessary to meet the increased demand for enrollment in the Department of Education's driver education 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. 1730, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, 1 (Slom). Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3210 (Majority) Ways and Means on H.B. No. 1731

The purpose of this measure is to transfer administration over the drivers education program for the operation of motorcycle and motor scooter operators from the University of Hawaii community colleges to the Department of Transportation.

Furthermore, this measure also recasts the special drivers education fund account as the motorcycle operators education special fund and appropriates funds to the Department of Transportation. This measure also deems motorcycle training programs operated by the United States armed services as state-certified by law.

Your Committee finds that the Department of Transportation has in fact already taken over the administration of the motorcycle program. However, the funding source of the program, the drivers education fund underwriters fee, is statutorily earmarked for distribution to the University. Your Committee finds that this measure is necessary to redistribute the fee to the Department.

As affirmed by the record of votes of the members 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. 1731, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, 1 (Slom). Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3211 Ways and Means on H.B. No. 2527

The purpose of this measure is to lengthen the minimum period for mandatory state inspections of elevators and kindred equipment from eight months to one year, and to eliminate any minimum period for inspections of boilers and pressure systems.

Your Committee finds that present law requires the Department of Labor and Industrial Relations to inspect boilers and pressure systems at least once every thirteen months. By repealing this required period for reinspections, this measure allows the department to set the reinspection intervals for boilers and pressure systems based on public safety concerns.

As affirmed by the record of votes of the members 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. 2527, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3212 Ways and Means on H.B. No. 2577

The purpose of this measure is to grant the Harbors Division of the Department of Transportation greater flexibility in the disposition of leases for uses subject to the approval of the Board of Land and Natural Resources.

Your Committee finds that as an island state, Hawaii is heavily reliant on its harbors and seaways. Transport of people, goods, equipment, supplies, and food all find their way at one time or another, to our maritime entry points. This measure is designed to allow maritime businesses to negotiate a lease not to exceed thirty-five years without recourse to public auction. Your Committee finds that this bill will facilitate business and transportation.

As affirmed by the record of votes of the members 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. 2577, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3213 Ways and Means on H.B. No. 2192

The purpose of this measure is to assist the Hawaii Tourism Authority to achieve greater success in managing its financial resources.

Specifically, this bill:

- (1) Increases the board's membership and specifies areas of expertise of its members;
- (2) Specifies that the Authority is a policy-making board;
- (3) Limits membership to no more than two members representing any individual sector of the industry;
- (4) Requires Senate confirmation of the Executive Director and caps the salary at fifteen per cent of the three per cent authorized for administrative expenses;
- (5) Supports the State's natural resources;
- (6) Prohibits awarding of contracts for contract administration except for single events;
- (7) Requires the Authority to notify the Legislature of any contracts over \$25,000; and
- (8) Requires the Auditor to conduct audits at least every five years on contracts over \$15,000,000.

Your Committee believes that this bill will enable the Hawaii Tourism Authority to better manage its financial 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 H.B. No. 2192, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3214 (Majority) Ways and Means on H.B. No. 2251

The purpose of this measure is to provide a dedicated source of funding to supplement the operating costs of the state park system.

Specifically, this bill:

- (1) Caps the annual share of the transient accommodations tax deposited in the tourism special fund at \$50,000,000;
- (2) Requires the Hawaii Tourism Authority to expend, from the \$50,000,000, at least \$1,000,000 annually on Hawaii's natural environment areas frequented by visitors;
- (3) Earmarks ninety per cent of the transient accommodations tax in excess of \$50,000,000 to be deposited in the state parks special fund, and ten per cent to the Hawaii Statewide Trail and Access Program - up to \$2,000,000;
- (4) Requires the Hawaii Tourism Authority and the Department of Land and Natural Resources to develop a master plan for the expenditure of the \$2,000,000; and
- (5) Transfers annually, any transient accommodations tax in excess of \$52,000,000 to the general fund.

Your Committee finds that this bill will provide a necessary nexus between tourism and the state park system and recognize the substantial use of the system by tourists visiting Hawaii. The bill will also provide the necessary funds to repair and maintain the heavily used system and reduce or eliminate the complaints filed by visitor park users.

Your Committee has amended the bill by adding a \$650,000 appropriation for the design and construction of a beach maintenance project at Waikiki Beach, Oahu.

As affirmed by the record of votes of the members 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. 2251, 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. 2251, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, 1 (Slom). Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3215 Ways and Means on H.B. No. 2595

The purpose of this measure is to appropriate funds to enhance agricultural tourism venues in Hawaii.

Your Committee finds that the agricultural tourism industry is a new revenue source within the market visitor industry. The agricultural tourism industry has been estimated at \$26,000,000 with a potential to double in revenue within two years.

This bill will provide the necessary funds to maximize the agricultural tourism industry's growth potential by focusing on public education to better understand land uses, business training to assist ranchers and farmers, interpretive training to help guides and community-based interpreters, and by also providing collaborative marketing assistance and ensuring compliance with "right to farm" regulations and good neighbor policies.

As affirmed by the record of votes of the members 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. 2595, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3216 Ways and Means on H.B. No. 2453

The purpose of this measure is to allow the Hawaii Capital Loan Program to adjust its interest rates in a more timely manner.

The Hawaii Capital Loan Program provides low interest rate loans to small local businesses that are unable to secure financing elsewhere. Presently, interest rates for these loans are statutorily adjusted every six months based on the prime rate as of January 1 and July 1 of each year. Considering the recent volatility of the economy after September 11, and the profound effect it had on the stock market and the prime rate, the present six-month interest rate adjustment is both impractical and unrealistic.

This bill changes the six-month interest rate adjustment to a monthly adjustment to allow the Hawaii Capital Loan Program to better respond to borrowers in a more efficient and timely 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. 2453, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3217 Ways and Means on H.B. No. 2454

The purpose of this measure is to ease the qualifications for firms enrolled in the enterprise zone partnership as a result of the September 11th terrorist attacks, by altering the method of calculating the number of employees needed to meet the annual hiring requirements of the enterprise zone program. Additionally, this measure eliminates the use tax exemption for enterprise zone-qualified firms.

Testimony supporting this measure was received from the Department of Business, Economic Development, and Tourism.

Your Committee finds that these changes to the enterprise zone program could help minimize business failures and layoffs in the State. The elimination of the use tax exemption for enterprise zone-qualified firms removes the incentive to purchase supplies and equipment from out-of-state vendors, and is intended to encourage purchases from local vendors.

As affirmed by the record of votes of the members 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. 2454, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3218 Ways and Means on H.B. No. 1777

The purpose of this measure is to clarify that the Public Utilities Commission, upon motion, notice, and hearing, may exempt a telecommunications provider from public hearing and contested case requirements in rate-related matters.

Your Committee agrees with the intent of this measure, and finds that there are sufficient requirements in the public utilities law to ensure the public's due process rights to notice and an opportunity to be heard on utility rates that may affect them.

As affirmed by the record of votes of the members 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. 1777, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Chun, English, Kim, Kokubun, Hemmings).

SCRep. 3219 Ways and Means on H.B. No. 2445

The purpose of this measure is to expand affordable rental housing opportunities for the elderly and the disabled.

Currently, the minimum age for residents at public housing for the elderly is sixty-two years. This policy not only discriminates against an elderly person with a spouse or partner who is not sixty-two years of age, but also affects a housing project owner's ability to fill vacancies.

This bill expands the eligibility requirements for elderly housing by allowing a sixty-two-year-old person to reside with a spouse or partner who is at least the age of majority. The bill also allows other members of a household to reside in the elderly housing; provided that they are at least fifty-five years of age. And finally, the bill allows live-in aides and disabled persons to reside in elderly housing under certain conditions.

Your Committee has amended the bill by clarifying the use of the proposed term "elder or elderly housing" and has incorporated it into section 201G-152, 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. 2445, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2445, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Chun, English, Kim, Kokubun, Hemmings).

SCRep. 3220 Ways and Means on H.B. No. 2468

The purpose of this measure is to authorize the Department of Commerce and Consumer Affairs to hire consultants to assist in reviewing cemetery and pre-need funeral authority license applications and other related regulatory matters.

Your Committee finds that recent news about local fraudulent practices in the funeral industry on the Big Island have sensitized the public and heightened awareness of regulation of the industry that can prey on people during their most vulnerable emotional hours. It is important to have trust in the reliability and honesty of the funeral companies who are entrusted with the final services and handling of the deceased member of grieving families. This measure allows the Department of Commerce and Consumer Affairs to hire experts with skills in accounting, auditing, law, and other areas and have the expenses paid by the licensee whose application or activities require the retention of these consultants.

Your Committee realizes the effective date is July 1, 2050, and recognizes that the purpose of this date is to allow the parties to continue working towards a compromise on 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 H.B. No. 2468, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Chun, English, Kim, Kokubun, Hemmings).

SCRep. 3221 (Majority) Ways and Means on H.B. No. 1761

The purpose of this measure is to regulate health insurance rates by adding a new article to the Insurance Code applicable to all types of health insurance offered by managed care plans.

Specifically, this measure requires all managed care plans to file their rates with the Insurance Commissioner for a waiting period of ninety days before the filing becomes effective. The filings are deemed to meet the rate regulation requirements unless the Commissioner disapproves of them within the waiting period.

Your Committee finds that rate regulation is necessary to minimize the over-pricing as well as the under-pricing of insurance products. In other words, rate oversight can result in lower premium rates for insurance consumers as well as protect the insurers' expectancy of earning a reasonable rate of return.

Your Committee has amended this measure as follows:

- (1) By redefining "managed care plan" to include, rather than exclude, mutual benefit societies of employee organizations and voluntary employee beneficiary associations, and to narrow the exclusion for life and disability insurers to apply only to disability insurers;
- (2) By specifying interim rates subsequent to the approval or disapproval of the filing, rather than having the Insurance Commissioner specify those rates; and

(3) By changing the effective date from July 1, 2050 to January 1, 2003.

As affirmed by the record of votes of the members 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. 1761, 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. 1761, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 2 (Hemmings, Slom). Excused, 2 (Ige, Tam).

SCRep. 3222 (Joint) Commerce, Consumer Protection and Housing and Judiciary on H.B. No. 1723

The purpose of this measure is to exempt persons operating a motor vehicle within the normal scope of their employment from the security and license suspension provisions of the Motor Vehicle Safety Responsibility Act, regardless of whether the vehicle is owned by the operator's employer.

The City and County of Honolulu and Hawaii Youth Services Network testified in support of this measure.

The Motor Vehicle Safety Responsibility Act requires the provision of monetary security by the driver or owner of a motor vehicle involved in an accident that results in damages exceeding \$3,000, and the license suspension of those who fail to meet this requirement. Exemptions from this requirement are provided for, among other persons, employees driving their employers' motor vehicles in the normal scope of their employment.

Your Committees find that the above exemption unfairly excludes employees driving vehicles not owned by their employers, such as in the case of a mechanic test driving a repaired vehicle. This measure corrects this inequity by repealing the qualification that the motor vehicle driven by the employee be owned by the employee's employer.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1723, and recommend that it pass Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 5 (Chumbley, Fukunaga, Hanabusa, Ihara, Matsunaga).

SCRep. 3223 Commerce, Consumer Protection and Housing on H.B. No. 2258

The purpose of this measure is to make permanent the law regulating marriage and family therapists and to authorize reciprocal licensure for marriage and family therapists.

Your Committee received testimony in support of this measure from the Hawaii Association for Marriage and Family Therapy, Hawaii School Counselors Association, Chaminade University, Argosy University, and twenty-three individuals. The Department of Commerce and Consumer Affairs presented comments on the measure.

Act 159, Session Laws of Hawaii 1998 (Act 159), established the marriage and family therapist licensing law and provided for the law to sunset on December 31, 2002. This measure repeals the law's sunset, thereby making it permanent. Additionally, this measure allows the recognition of licenses issued by other states with licensing requirements at least as stringent as this State's current requirements.

Your Committee has amended this measure by extending Act 159 for an additional four years, or until December 31, 2006, rather than repealing its sunset. Your Committee also made technical changes to this measure to conform its purpose section to the above amendment and to reflect preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2258, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2258, H.D. 2, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, Kim).

SCRep. 3224 Commerce, Consumer Protection and Housing on H.B. No. 2413

The purpose of this measure is to establish requirements for the bulk purchase of the remaining fee interests in a condominium partially converted to fee simple by an association of apartment owners (AOAO).

Monarch Properties, Inc. supported this measure. The Community Associations Institute (CAI) supported the measure with amendments.

Your Committee finds that among owners of multiple fee interests in a condominium project in which portions of the fee have already been sold by the fee owner to individual condominium owner/lessees, there is a greater interest in selling the remaining leased fee interests in a bulk transaction to the condominium owners association. These transactions enable the fee owner to be totally divested of the owner's interest in the condominium while allowing the AOAO to negotiate a purchase price that includes a bulk sale

discount. Therefore, this measure establishes the requirements and conditions for a bulk purchase of the remaining fee interest in a condominium by an AOA.

Your Committee has amended this measure to incorporate changes proposed by CAI. As amended, this measure:

- (1) Allows, but does not require a bulk purchase of the remaining fee interests by an AOA;
- (2) Clarifies that the bulk purchase provisions do not apply when the AOA has acquired the leased fee interest and then sells it directly to its members;
- (3) Allows an AOA to negotiate for the purchase of some, but not necessarily all of the remaining leased fee interest, to address those situations where the lessor may not be willing to sell the entire leased fee interest;
- (4) Replaces the requirement that seventy-five per cent of the remaining lessees give their written consent to the purchase at the time the lessor offers to sell the remaining leased fee interest with the requirement that seventy-five per cent of the remaining lessees approve an amendment to the declaration that authorizes the AOA's purchase of the remaining fee;
- (5) Eliminates the requirement that at least seventy-five per cent of the remaining lessees purchase the fee interest from the AOA in simultaneous closings, because AOAs may vary in the number of lessees they are willing or able to carry, and additionally, back-to-back closings may not be feasible;
- (6) Provides that, after the purchase of the remaining fee interest by the AOA, the remaining lessees share in the proceeds and benefits resulting from the purchase, in addition to sharing in the costs and expenses;
- (7) Provides that if a lessee declines to purchase the leased fee interest from the AOA, the association may sell the interest to another party, subject to providing disclosure of its intent to do so to the lessee and including a caveat in its disclosure;
- (8) Allows an AOA to refuse to purchase a lessor's remaining leased fee interest if the purchase would not be financially feasible or would not be in the association's best interest, and requires the association to adopt a resolution containing the reasons for its refusal;
- (9) Defines "remaining lessees" as those lessees who have not purchased the leased fee interest in their apartments as of the effective date of the amendment to the declaration authorizing the AOA's purchase;
- (10) Provides that "condominium unit" has the same meaning as "apartment" as that term is defined in section 514A-3, Hawaii Revised Statutes;
- (11) Contains a saving clause to avoid any claims that prior purchases, conveyances, mortgages, loans, or allocations are invalid; and
- (12) Is effective upon its approval, rather than on July 1, 2050.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2413, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2413, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Kim).

SCRep. 3225 Judiciary on H.B. No. 57

The purpose of this measure is to extend the repeal date of the industrial hemp research law from June 30, 2002, to June 30, 2005.

Your Committee received testimony in support of this measure from the Hawaii Industrial Hemp Research Project, Life of the Land, Resource Conservation Alliance, Dr. Bronner's Magic Soaps, and ten individuals. Testimony in opposition was submitted by the Honolulu Police Department and an individual.

Act 305, Session Laws of Hawaii 1999, allowed privately-funded industrial hemp research to be conducted in Hawaii under specified requirements, and enacted an affirmative defense to criminal prosecution under marijuana laws for conducting the research.

Testimony in support of the measure indicated that the research needs more time to continue in order to assess the commercial viability of hemp cultivation. Testimony further indicated that hemp has potential to yield substantial economic benefits 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 H.B. No. 57, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3226 Judiciary on H.B. No. 1012

The purpose of this measure is to require senatorial or representative candidates to be qualified voters in the district prior to filing primary election nomination papers except in the case of an incumbent senator or representative when displaced by reapportionment.

Your Committee received testimony in favor of this measure from the Office of Elections, League of Women Voters of Hawaii, and Common Cause Hawaii. The Libertarian Party of Hawaii submitted testimony in opposition.

Your Committee finds that a person can run for office in any district and only has to move into the district on the day of the general election. A district would be better served by a legislator who has lived in the area for an extended period of time.

Your Committee believes that requiring a person to live in the district from the day the person files for candidacy would enhance the potential candidate's understanding of the community the potential candidate hopes to serve.

Your Committee has amended this bill to make it clear that an elected Senator or Representative is required to be a qualified voter of the district for the entire term of their respective offices and prior to filing their nomination papers.

Your Committee also amended the exception for incumbent legislators that may be adversely affected by reapportionment. The amendment allows incumbent legislators to move into a new district after the adverse reapportionment, and to continue to serve the remainder of the terms of their respective offices, even though by moving into a new district, they would no longer be qualified voters of their old 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 H.B. No. 1012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1012, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3227 Judiciary on H.B. No. 2199

The purpose of this measure is to authorize the county liquor commission to permit a liquor licensee to allow a patron to remove from the licensed premises any portion of wine that was purchased for consumption with a meal; provided that it is recorked or resealed in its original container.

Your Committee finds that this measure takes a responsible approach in balancing the public health and safety interests and practicality. Liquor consumption must be regulated without unnecessarily burdening vendors and consumers. This measure properly allows consumers to obtain the full benefit of their purchases without compromising the policy of ensuring responsible and safe liquor distribution and consumption.

As affirmed by the record of votes of 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. 2199, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3228 Judiciary on H.B. No. 2432

The purpose of this measure is to delete reference to the Office of Child Support Hearings (OCSH) as an entity with the ability to order direct payments of child support.

Your Committee finds that eliminating these references will ensure that OCSH continues to receive the federal funding necessary for its federally approved functions and operations.

As affirmed by the record of votes of 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. 2432, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3229 Judiciary on H.B. No. 2509

The purposes of this measure are:

- (1) To establish a separate offense for parking in or otherwise using the access aisle adjacent to a parking space reserved for a person with a disability; and
- (2) To delay for one year the date by which private and public entities must comply with the signage posting and other requirements of Part III of chapter 291, HRS, relating to parking for persons with disabilities.

During the 2001 regular session, legislation was enacted providing for increased penalties for persons who violate the law regarding parking for persons with disabilities. Your Committee finds that this measure is a logical extension of last year's amendments.

Your Committee finds that the access aisle adjacent to parking spaces reserved for a person with a disability is important to provide sufficient room to enter and exit vehicles parked in those spaces.

A person who illegally uses the access aisle inhibits use of that space to nearly the same extent as a person who illegally parks within the space itself. Therefore, your Committee fully supports this measure insofar as it prohibits parking in access aisles.

Your Committee also supports the provisions of this measure that provide an additional year for entities to comply with statutorily mandated signage requirements. Despite their diligence, many entities have had difficulty in placing signs on their property, and your Committee believes that an additional year is warranted.

As affirmed by the record of votes of 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. 2509, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3230 Judiciary on H.B. No. 2565

The purpose of this measure is to require the reporting of inventories of explosives under the control of manufacturers, dealers, and users. The measure also provides penalties for those who do not comply.

Your Committee agrees with the finding of the Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that after September 11, 2001, the State was not able to readily respond to federal requests concerning the locations of explosive materials in the islands. In light of the potential for explosives to fall into the wrong hands, the Department of Public Safety recommends that the manufacturers, dealers, and users be required to submit quarterly reports reflecting the inventories on hand.

As affirmed by the record of votes of 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. 2565, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3231 Judiciary on H.B. No. 2580

The purpose of this measure is to distinguish the examination, licensing, and operation of mopeds from that of motor scooters and motorcycles.

Your Committee finds that under existing law, persons may use mopeds to meet the licensing requirements in section 286-102, Hawaii Revised Statutes, for motor scooters. This measure would distinguish mopeds as class 1 vehicles and motor scooters and motorcycles as class 2 vehicles.

Your Committee believes that the measure will conform licensing requirements to the definitions of mopeds, motor scooters, and motorcycles found in Section 286-2, 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 H.B. No. 2580, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3232 Ways and Means on H.B. No. 2018

The purpose of this measure is to provide relief to agricultural lessees on public land with leases expiring within five years.

Your Committee finds that many agricultural lessees on public land are facing the expiration of their leases. Since preparation and planning in farming, like any other business, is critical to success, the possibility of an expired lease obviates long-term planning and threatens a farmer's ability to facilitate growth and production.

This bill provides relief to lessee farmers by allowing them to re-negotiate state leases within five years of the expiration of the lease. If the original lessee wins or retains the lease, the lessee can continue to farm the land without the threat of eviction. If the lessee loses the lease through the bidding process, the lessee is compensated for any residual value of any improvement made on the property by the new tenant. Either way, the State is insured optimal rent for agricultural leased land, and the lessee is provided fair disposition of an otherwise tenuous situation.

It is your Committee's intent that the notice requirement should not preclude advertising in local area newspapers.

Your Committee has amended the bill by making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2018, 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. 2018, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Kokubun, Hemmings).

SCRep. 3233 (Majority) Ways and Means on H.B. No. 2744

The purpose of this measure is to appropriate funds for a study to assess the feasibility of establishing a world-class farmers' market in Hawaii.

Specifically, the bill appropriates \$200,000 to be expended by the Department of Agriculture for a study that includes the Department's findings and recommendations on the economic feasibility of establishing a farmers' market as a vehicle to market and to promote Hawaii's agricultural products.

Your Committee finds that farmers' markets on the mainland benefit not only local residents but also visitors. Agritourism is an important niche to the tourism market. Farmers' markets strengthen the local agricultural industry, and spur economic opportunity and growth.

Your Committee has amended this measure by replacing the amount appropriated with a blank amount to facilitate continued 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 H.B. No. 2744, 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. 2744, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Hemmings).

SCRep. 3234 Ways and Means on H.B. No. 2485

The purpose of this measure is to remove the Compliance Resolution Fund and the Insurance Regulation Fund from the list of special funds that are exempt from central service assessments.

Your Committee finds that it is appropriate to have central service expenses charged to these two accounts, and understands that the Department of Commerce and Consumer Affairs supports this change.

Your Committee has amended the bill by making the date defective to promote 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 H.B. No. 2485, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2485, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Kim, Hemmings).

SCRep. 3235 (Majority) Ways and Means on H.B. No. 2834

The purpose of this measure is to create the Hawaii Rx program to reduce prescription drug costs for all state residents who choose to participate.

The Hawaii Rx program is established in the Department of Human Services to combine the purchasing power of all state residents who choose to participate to reduce prescription drug costs. Your Committee finds that prescription drugs are vital to the community, particularly the chronically ill and the elderly. However, prescription drug costs are constantly rising, which forces these residents into making a harsh choice between the medicine they need and the necessities of life. The Hawaii Rx program would allow participants to save money via discounted prices and a rebate program negotiated by the department.

The bill would also establish a prescription drug advisory committee to review access to prescription drugs for state residents, including pricing and affordability, and advise the Director of Human Services on access to prescription drugs, including insurance and third-party payments. Your Committee finds that this program will help make prescription medication more affordable for all residents.

Your Committee has amended the bill by changing the appropriations to \$1 each, and by establishing the program in chapter 346 (Department of Human Services) instead of 328 (Food, Drugs, and Cosmetics), Hawaii Revised Statutes, where it more appropriately belongs.

As affirmed by the record of votes of the members 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. 2834, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2834, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 2 (Hemmings, Slom). Excused, 2 (Ige, Tam).

SCRep. 3236 Ways and Means on H.B. No. 2854

The purpose of this measure is to clarify requirements for licensure as a certified public accountant.

The bill specifies that applicants seeking licensure as certified public accountants must complete the one hundred fifty semester hours of college education, and that this requirement is a prerequisite for licensure and not a prerequisite to sitting for the uniform certified public accountant examination.

Your Committee understands that this measure will thereby allow applicants to sit for the examination after completing one hundred twenty semester hours of education.

As affirmed by the record of votes of the members 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. 2854, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Chun, English, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3237 Ways and Means on H.B. No. 1959

The purpose of this measure is to repeal the Hawaii Opportunity Program in Education Endowment Special Fund but to retain the Hawaii Opportunity Program in Education itself within the University of Hawaii.

Furthermore, this measure transfers the balance in the special fund to the University of Hawaii tuition and fees special fund, to be used for programs to support underrepresented students and promote diversity.

Your Committee finds that this measure provides the University of Hawaii with the resources and flexibility to fund programs to recruit and retain financially needy students from underrepresented ethnic groups and to fund student diversity programs. It is your Committee's intent that the moneys be used to promote diversity by recruiting students in Hawaii and on the mainland.

As affirmed by the record of votes of the members 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. 1959, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Hemmings).

SCRep. 3238 (Majority) Ways and Means on H.B. No. 1969

The purpose of this measure is to allow the Department of Education (DOE) to employ attorneys to support its legal interests.

Your Committee finds that allowing the Department of Education to retain its own legal counsel will significantly improve the response time of its requests for legal assistance. At the present time, a request to the Department of the Attorney General may not be as timely as necessary when the DOE needs a legal opinion to act on student, parent, or administrative matters. This puts the entire DOE and staff at a disadvantage and unfairly heightens the public image of the DOE as an agency that is bureaucratic and obstructionist. This measure will help improve the reaction time and give the DOE more flexibility.

Your Committee notes that the Board of Education will be responsible for fixing compensation of these attorneys. The Board will still be able to seek the services of the Attorney General.

As affirmed by the record of votes of the members 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. 1969, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, 1 (English). Excused, 7 (Buen, Chun, Ige, Inouye, Kim, Hemmings, Slom).

SCRep. 3239 (Majority) Ways and Means on H.B. No. 2163

The purpose of this measure is to promote the rehiring of retired teachers.

The bill accomplishes this objective by amending Act 308, Session Laws of Hawaii 2001, to shorten from two years to one year the minimum length of time a teacher needs to be in retirement in order to be rehired full-time without impact upon the teacher's retirement benefits. Furthermore, this measure extends the sunset of Act 308 from July 1, 2005 to July 1, 2007.

Your Committee finds that a one-year waiting period is sufficient to address concerns that in-service teachers should not retire only to immediately return as a rehired retiree. Your Committee further finds that a shorter waiting period will help alleviate the continued teacher shortage.

Your Committee has amended this measure by deleting the extension of the sunset date of Act 308, thereby reinstating the original sunset date of July 1, 2005, and by changing the effective date of this measure to upon approval.

As affirmed by the record of votes of the members 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. 2163, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2163, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Hemmings).

SCRep. 3240 Ways and Means on H.B. No. 2558

The purpose of this measure is establish the Hawaii educator incentive program to increase the number of qualified teachers in Hawaii public schools.

Specifically, the bill provides that:

- (1) Students who complete an approved teacher education program in Hawaii and teach in Hawaii public schools for six years may receive tuition reimbursement;
- (2) The maximum reimbursement shall not exceed the cost of tuition, textbooks, and required materials at University of Hawaii;
- (3) Periodic installment reimbursements begin one year after employment as a full-time teacher and conclude after the sixth year of teaching in certain designated hard-to-fill positions, ceasing if the individual stops teaching in Hawaii public schools; and
- (4) The Hawaii educator incentive special fund, to be administered by the Department of Education, is created to provide financial assistance to program participants.

Your Committee finds that the shortage of qualified teachers in Hawaii's public school system is a serious problem that affects the education of our children. The Hawaii educator incentive program addresses this issue by providing tuition reimbursements to individuals who receive their education in state-approved teacher programs in Hawaii and who commit to teaching for six years in positions designated by the Superintendent of Education as hard to fill. By providing tuition reimbursements to graduates of state-approved programs in Hawaii, the Hawaii educator incentive program will encourage students who attend Hawaii colleges other than the University of Hawaii to become teachers in the public school system.

Upon further consideration, your Committee has amended this bill by replacing all references to "the tuition reimbursement recipient", and other terms as well, with the term "person" to clarify that reimbursement payments begin after employment as a full-time teacher, not while the recipient is a "student", and to make the use of terminology consistent. Additionally, technical, nonsubstantive changes have been made for the purpose 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. 2558, 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. 2558, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Chun, Ige, Kokubun, Hemmings).

SCRep. 3241 Ways and Means on H.B. No. 2751

The purpose of this measure is to appropriate funds for additional auditors, support staff, and initial one-time equipment startup costs at the Department of Education.

Your Committee finds that the Department of Education, with one of the largest budgets in state government, needs more staff to adequately meet its fiscal monitoring requirements. Internal financial audits of the Department of Education statewide require coordination with all schools not only to meet federal audit requirements, but also state statutory requirements of the Comptroller. An internal audit is also needed when there are financial investigations of theft or other violations. With only one auditor currently on the staff, these duties are nearly impossible to perform adequately, if at all. This bill is designed to help correct this problem.

Your Committee has amended this bill by changing the effective date to July 1, 2050, in order to assure continued discussion of 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. 2751, 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. 2751, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Hemmings).

SCRep. 3242 Ways and Means on H.B. No. 2848

The purpose of this measure is to propose amendments to the state constitution that would authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities.

Because the interest on special purpose revenue bonds is exempt under applicable federal and state income tax laws, your Committee finds that investors are willing to loan money at lower than usual interest rates. Issuers can obtain loans that are up to two percentage points—or twenty-five per cent—below commercial (interest) rates because of these income tax exemptions. A lower interest rate results in lower costs to the private business on whose behalf special purpose revenue bonds have been issued.

Your Committee has amended this measure by proposing amendments to the state constitution that would authorize the State and its political subdivisions to combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds, separately authorized, in the total amount of not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds. This provision could be used by the State to reduce the costs of issuing special purpose revenue bonds on behalf of not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities.

Your Committee notes that the addition of a generalized bond pooling concept, as suggested in testimony may violate article III, section 14 of the state constitution as it applies to H.B. No. 2848, H.D. 1, S.D. 2. Because the pooling concept applies to special purpose revenue bonds issued on behalf of:

- (1) Manufacturing, processing or industrial enterprises;
- (2) Utilities serving the general public;
- (3) Health care facilities provided to the general public by not-for-profit corporations;
- (4) Early childhood education and care facilities provided to the general public by not-for-profit corporations; and
- (5) Low and moderate income government housing programs,

the breadth of this bill may be deemed to be greater than its title.

It is the intention of your Committee that this matter and other matters (such as the defective effective date), be addressed by your Committee on Conference.

As affirmed by the record of votes of the members 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. 2848, 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. 2848, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3243 Ways and Means on H.B. No. 2449

The purpose of this measure is to assist small businesses by modifying the provisions of the Hawaii Small Business Regulatory Flexibility Act.

In particular, this measure:

- (1) Amends the definition of “small business” to mean enterprises with fewer than one hundred, rather than two hundred employees;
- (2) Allows the Small Business Regulatory Review Board to make nominations to fill board vacancies;
- (3) Allows the majority of the Board to elect the chairperson;
- (4) Requires the Board to submit an annual report to the Legislature; and
- (5) Makes the Small Business Regulatory Flexibility Act and Board permanent by removing the sunset date.

Your Committee finds that there is a need to amend the Small Business Regulatory Flexibility Act to continue to provide relief to small businesses that are burdened by broadly drafted administrative rules. Your Committee further finds that this measure will assist in the State’s economic recovery following the tragic events of September 11, 2001, by providing needed assistance to small businesses which play a vital role in strengthening the State’s economy.

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

- (1) Deleting the provision for a small business defender; and
- (2) Making technical, nonsubstantive amendments 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 H.B. No. 2449, 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. 2449, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Ige, Inouye, Kim, Hemmings, Slom).

SCRep. 3244 (Majority) Ways and Means on H.B. No. 1858

The purpose of this measure is to divert some of the funds from the tobacco settlement from the emergency and budget reserve fund to the Department of Human Services for before-school, after-school, weekend, spring break, winter break, and intercession programs for children.

Your Committee finds that there is widespread agreement about the importance of a safe, structured environment for children and youth during non-school hours. Given the large number of working parents, this environment often cannot be supplied by the students' parents. Leaving children and youths on their own during the later afternoon and early evening hours leads to an increase in juvenile crime, drug use, tobacco use, and alcohol use. Your Committee also finds that creating a stable source of funding for programs to care for children and youth in these non-school hours will provide a crucial societal benefit.

Your Committee has amended this bill by changing the effective date to July 7, 2002 to ensure that the changes proposed by the bill will not be negated when Act 14, Third Special Session of Hawaii 2002, becomes effective on July 1.

As affirmed by the record of votes of the members 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. 1858, 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. 1858, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, 1 (Slom). Excused, 3 (Ige, Kokubun, Hemmings).

SCRep. 3245 (Majority) Ways and Means on H.B. No. 2506

The purpose of this measure is to repeal the requirement that the Department of Health divide the State into public health statistics registration districts that conform to the political subdivisions.

Additionally, this bill requires "local designated representatives" (rather than "local agents") of the Department of Health to process certificates and permits pertaining to births and deaths in a county.

Your Committee finds that this measure will thus streamline and centralize documentation relating to vital statistics.

As affirmed by the record of votes of the members 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. 2506, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, 3 (English, Hemmings, Slom). Excused, 3 (Ige, Kim, Tam).

SCRep. 3246 Ways and Means on H.B. No. 2571

The purpose of this measure is to provide tax benefits to blind, deaf, or totally disabled individuals who are engaged in business, regardless of the type of business entity in which they do business.

Currently, state gross income tax and general excise tax benefits are available to blind, deaf, and totally disabled individuals, as defined in section 235-1, Hawaii Revised Statutes, or corporations whose outstanding shares are owned only by blind, deaf, or totally disabled persons. Your Committee finds that tax benefits should be available to these individuals regardless of the type of business entity if they choose to do business. Tax benefits should be available not only to corporations, but also to other business entities formed by blind, deaf, and totally disabled persons, such as partnerships of all types and limited liability 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. 2571, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Ige, Inouye, Kim, Hemmings, Slom).

SCRep. 3247 Ways and Means on H.B. No. 2382

The purpose of this measure is to require public notice and allow for public input on development or expansion of in-state correctional facilities.

Your Committee finds that siting of prisons and expansion of existing prisons is a sensitive matter of great concern to the public. Allowing public comment during the site selection process is appropriate and economical as the comments will be concurrent with the time period of any necessary environmental assessment or environmental impact statement. Your Committee finds that public notices and comments will make the whole selection and development process more efficient and effective.

Your Committee has amended the bill by making the date defective for the purpose of encouraging 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 H.B. No. 2382, 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. 2382, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Kokubun, Hemmings).

SCRep. 3248 (Majority) Ways and Means on H.B. No. 1843

The purpose of this measure is to reinstate binding interest arbitration for bargaining unit (9), registered professional nurses and, consequently, to eliminate their right to participate in a strike.

Your Committee finds that state hospitals cannot function safely without their registered professional nurses. A strike by registered professional nurses would jeopardize the health and safety of patients, and could expose the State to lawsuits if these patients are injured or become ill because of inadequate nursing care. A strike by registered professional nurses could also expose certified nurse assistants and licensed practical nurses to disciplinary action if they perform work that is clearly outside the scope of their certification or licensure. With the repeal of the essential worker law, there is no effective means—other than binding interest arbitration—for protecting the health and safety of the public from imminent or present danger during a strike.

Your Committee has amended this measure by changing its effective date to July 1, 2020, in order to continue discussions on this particular matter and to consider including bargaining unit 3 (emergency response operators and police radio dispatchers) and bargaining unit 4 (supervising police radio dispatchers). Your Committee needs to resolve some legal issues raised about these bargaining units.

As affirmed by the record of votes of the members 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. 1843, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1843, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Hemmings).

SCRep. 3249 Ways and Means on H.B. No. 2526

The purpose of this measure is to extend from December to January the deadline for employers to file workers' compensation payment reports with the Department of Labor and Industrial Relations.

Your Committee has amended this measure by deleting its contents and replacing it with the proposed measure that was heard in committee. As amended, the purpose of this measure is to exclude from the definition of "employment" under the workers' compensation law services performed for a limited liability company or a limited liability partnership by a person who owns at least fifty per cent of the company or partnership.

Your Committee finds that the present workers' compensation law excludes from the definition of "employment" services performed for a corporation by an individual who owns at least fifty per cent of the corporation. Your Committee finds that principles of fairness require that if owners of an ordinary corporation have the privilege of being excluded from workers' compensation coverage that same privilege should be extended to members or partners of limited liability companies or partnerships as well.

As affirmed by the record of votes of the members 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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2526, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Tam, Hemmings).

SCRep. 3250 Ways and Means on H.B. No. 536

The purpose of this measure is to allow the counties to continue administering special management area permits and shoreline setback variances in certain community development districts.

County authority would continue in districts where the Hawaii Community Development Authority has not developed, and the Governor has not approved, a community development plan. In addition, this measure repeals the Hamakua community development district.

Your Committee finds that allowing the counties to continue administering the special management area and shoreline setback area in community development districts, until a community development plan takes effect, will ensure that permit approvals and variances are legitimately and consistently granted. Your Committee also finds that the high degree of cooperation demonstrated by the Department of Business, Economic Development and Tourism, the Hawaii Community Development Authority, and the Hilo-Hamakua Coordinating Committee has obviated the need for a Hamakua community development district.

As affirmed by the record of votes of the members 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. 536, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Kokubun, Hemmings).

SCRep. 3251 Ways and Means on H.B. No. 2045

The purpose of this measure is to authorize county-established corporations or boards, which own or operate facilities for the furnishing of electricity, to issue revenue bonds.

This measure will be applicable only to counties with a current resident population under 100,000 people, and will be repealed on June 30, 2004.

Your Committee finds that this measure will allow the County of Kauai to issue revenue bonds for facility-related capital improvement projects if the County decides to purchase Kauai Electric.

Your Committee has concerns with counties using utility fees to subsidize programs that should be funded through taxes, and does not intend counties to use this measure to raise utility fees to fund these programs.

Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2040;
- (2) Changing its repeal date to June 30, 2041; and
- (3) 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. 2045, 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. 2045, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Ige, Inouye, Kim, Hemmings, Slom).

SCRep. 3252 Ways and Means on H.B. No. 2195

The purpose of this measure is to require Senate confirmation of the Executive Director of the Hawaii Tourism Authority (Executive Director).

In addition, this measure caps the Executive Director's salary at fifteen per cent of the three per cent authorized for administrative expenses; prohibits private sector moneys or other contributions to be included in the final compensation package; and clarifies the Authority's role in the appointment of the position.

Your Committee finds that the role of the Executive Director has even greater importance since the events of September 11, 2001, which have had a devastating effect on Hawaii's tourism industry. Your Committee believes that attracting a dynamic and experienced individual for this position will be a decisive factor in the success of the Authority in improving Hawaii's tourism industry and the State's overall economy.

As affirmed by the record of votes of the members 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. 2195, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3253 Ways and Means on H.B. No. 1722

The purpose of this measure is to extend further relief to concessionaires whose businesses were harmed by reduced air arrivals.

In particular this measure is divided into three parts as follows:

- (1) Part I of this measure seeks to accomplish the following:
 - (A) Provide relief beyond April 30, 2002, for airport concessions still suffering from the terrorist events of September 11, 2001;
 - (B) Allow airport concessions that are still suffering from those events but whose concessions agreements are terminated due to a new concession operator, to recover their bonds and deposits and not be barred from doing business with the State for five years as provided by the present law;

- (C) Provide that concessions suffering losses and damages due to termination have no right to make any claim for damages or losses against the State;
 - (D) Avoid another legislative session or future special session to consider relief for concessions by enacting a mechanism to allow concessions to receive relief due to the events of September 11, 2001, and similar future events; and
 - (E) Provide a force majeure provision common to most commercial leases to hold neither the State (as lessor) nor the concessionaire (as lessee) responsible for acts or causes beyond a party's control, including acts of God, sabotage, and terrorist acts;
- (2) Part II of this measure reduces the motor vehicle safety inspection requirement for heavy commercial vehicles from twice a year to once a year; and
 - (3) Part III of this measure repeals the June 30, 2002, sunset date of Act 332, Session Laws of Hawaii 1993, which authorizes the establishment of the Air Carrier Commission.

With respect to part I of this measure, your Committee finds that due to the severe decline in air arrivals and departures, together with tighter security measures at airports, concessionaires are hurting as much or more than any other sector of the business community. Your Committee finds that this measure will provide needed relief during the current crisis and will establish a statutory mechanism for providing future relief if similar circumstances arise.

With respect to part II of this measure, your Committee finds that the companies operating heavy commercial vehicles regularly inspect those vehicles, and that State inspection more than once a year is unnecessary.

With respect to part III of this measure, your Committee finds that although the Air Carrier Commission authorized by Act 332, Session Laws of Hawaii 1993, was never established, it is prudent to repeal the sunset date of that Act so that the Commission can be convened if federal enabling legislation is enacted.

As affirmed by the record of votes of the members 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. 1722, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Hemmings).

SCRep. 3254 Ways and Means on H.B. No. 2167

The purpose of this measure is to repeal the traffic enforcement demonstration project.

In addition, this measure reenacts affected sections of the Hawaii Revised Statutes in the form in which they read prior to their amendment by the traffic enforcement demonstration law, requires the Department of Transportation to terminate all contracts with private entities for the provision of photo traffic enforcement services, and transfers all moneys in the photo enforcement revolving fund to the state general fund.

Your Committee finds that Act 234, Session Laws of Hawaii 1998, as amended in 1999 and 2000, required the Department of Transportation to contract with a private vendor to implement the traffic enforcement demonstration project. The project involves the use of photo speed imaging detectors to deter speeders, photo red light imaging devices to implicate red light runners, and other photo technology systems to deter motorists from illegally crossing longitudinal lane markings.

The Department contracted with a private vendor, and the photo speed imaging system went into effect in January, 2002, but the photo red light imaging and photo technology systems are not yet in place. Your Committee finds that the project, as currently implemented, has caused numerous disruptions to drivers and pedestrians in the State, and finds that the entire project should be discontinued and the contract with the private vendor terminated as soon as possible.

As affirmed by the record of votes of the members 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. 2167, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3255 Ways and Means on H.B. No. 2549

The purpose of this measure is to allow the extension of leased public land to allow a lessee who personally finances improvements on the land to amortize and recoup such costs.

The bill also:

- (1) Adds certain conditions and restrictions with respect to such extensions;
- (2) Provides lease extensions in certain economic hardship cases; and
- (3) Broadens the scope of, and removes restrictions on federal mortgage agencies that guaranty loans for public land leases.

Your Committee finds that some lessees of public lands are placed in an untenable situation. Presently, lessees that choose to make major improvements on their land cannot recoup their investment (especially near the end of the lease) unless the improvements are financed through conventional means.

This bill would level the playing field by allowing the extension of public land leases to lessees who self-finance major improvements to the land. The bill also recognizes the plight of some lessees facing economic hardship and allows a lease extension under certain conditions.

As affirmed by the record of votes of the members 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, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Hemmings).

SCRep. 3256 Ways and Means on H.B. No. 2764

The purpose of this measure is to appropriate \$1,000,000 from the proceeds collected from the real property conveyance tax to assist the homeless under program identification BED224.

Your Committee finds that the need for services for the homeless has grown while funding for these services has not. The events of September 11 and the cutoff of welfare cash benefits have further amplified the need to increase funding for homeless services.

This bill will provide a temporary financial boost for homeless services that is based on the current increased number of real estate transactions in the State. It will not affect the programs that are currently funded from the conveyance tax. To insure that these programs remain unaffected, your Committee has amended the bill to clarify that the amount earmarked for homeless services is calculated only after the transfers are made to programs currently funded by the conveyance tax.

Your Committee has also amended the bill by deleting the appropriation amounts and inserting defective dates in order to promote further 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 H.B. No. 2764, 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. 2764, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Ige, Inouye, Kim, Hemmings, Slom).

SCRep. 3257 Ways and Means on H.B. No. 1821

The purpose of this measure is to appropriate funds for the auditor to perform financial audits of the departments of education, health, human services, and other state agencies.

The Department of Accounting and General Services contracts out many state agency financial audits. The Office of the Auditor currently performs an average of three financial audits per year, contracted out to private auditing firms. Constitutional and statutory law requires the Auditor to conduct post-audits of all departments, although currently DAGS — does the majority.

Your Committee finds that it is appropriate for the Office of the Auditor to assume more of the responsibilities of performing state audits. Your Committee has amended this bill by establishing an Audit Revolving Fund within the Office of the Auditor to enable the State to charge each federal, special, or other fund its rightful audit cost and expend them for audit services. The creation of a revolving fund would allow state agencies to continue to obtain federal reimbursement for audit costs. The Office of the Auditor could then bill state agencies for the cost of the federal portion of the audit and the billing could be used by the agency to seek reimbursement from the federal government. This mechanism is used in a number of states, as it serves to prevent loss of federal funding. Aside from an initial start-up cost, this fund would merely change the expending agency and would not change the overall expenses for auditing. The seed money is necessary as federal funds are secured on a reimbursement basis.

Your Committee has further amended the bill to appropriate funds to the Audit Revolving Fund for the Department of Education only. The Department of Education currently does not pursue federal reimbursement for the costs of its audits. When the department takes that step, the revolving fund established in this bill will be available to account for those reimbursements.

As affirmed by the record of votes of the members 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. 1821, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1821, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3258 Ways and Means on H.B. No. 1996

The purpose of this measure is to lower the adjusted gross income threshold for individuals required to make annual payments for underpaying their estimated taxes, and to reduce the percentages used to determine the required annual payment.

Your Committee has amended this measure to delay the effective date for purposes of 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 H.B. No. 1996, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1996, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Tam, Hemmings).

SCRep. 3259 Ways and Means on H.B. No. 2720

The purpose of this measure is to require owners of vehicles purchased out-of-State to prove payment of use taxes prior to being issued a certificate of motor vehicle registration.

Testimony supporting this measure was submitted by the Department of Taxation, City and County of Honolulu Department of Customer Services, Hawaii Automobile Dealers' Association, and Soderholm Sales & Leasing, Inc. Comments were received from the Tax Foundation of Hawaii.

Your Committee finds that the use tax laws ensure that Hawaii's businesses and residents conducting transactions solely within the State are fairly taxed when compared to businesses and residents that import goods and services. This measure specifically addresses the importation of motor vehicles and ensures the appropriate and equitable administration of taxes on those applicable transactions.

Your Committee has amended this measure by making its provisions effective on January 1, 2005 in order to continue discussion 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 H.B. No. 2720, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2720, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Kim, Tam).

SCRep. 3260 (Majority) Ways and Means on H.B. No. 2827

The purpose of this measure is to transfer moneys from special and revolving funds into the general fund.

The bill also:

- (1) Establishes the Litigation Deposits Trust Fund;
- (2) Establishes criteria for the establishment and continuance of new special and revolving funds by the legislature;
- (3) Requires the Department of Budget and Finance to audit each special and revolving fund under certain conditions;
- (4) Requires all general funds encumbered but not expended within one fiscal year to lapse into the general fund;
- (5) Establishes criteria for the establishment and continuance of administratively established accounts and funds;
- (6) Allows appropriations from the Emergency and Budget Reserve Fund for programs essential to education; and
- (7) Reclassifies, repeals, or discontinues certain special and revolving funds pursuant to recommendations of the Auditor.

Your Committee has amended the bill by changing various dollar amounts transferred from special or revolving funds to the general fund and by transferring moneys from the following additional special or revolving funds (and amounts) to the general fund:

- (1) The Assistance for Agricultural Enterprises on Kauai Revolving Fund (\$500,000);
- (2) The Assistance for Aquaculture Enterprise on Kauai Revolving Fund (\$500,000);
- (3) The Aloha Tower Development Fund (\$1,600,000);
- (4) The Natural Energy Laboratory of Hawaii Authority Special Fund (\$400,000);
- (5) The Tourism Research Special Fund Account (\$450,000);
- (6) The Rental Housing Trust Fund (\$2,000,000);
- (7) The Kalaeloa Community Development Revolving Fund (\$51,950); and
- (8) The Spouse and Child Abuse Special Fund (\$150,000).

Your Committee has also amended the bill by deleting provisions relating to:

- (1) Criteria for the establishment and continuance of special and revolving funds;
- (2) Audit of excess funds remaining in special or revolving funds at the end of the fiscal year;
- (3) General funds encumbered for more than one fiscal year;
- (4) Criteria for the establishment and continuance of administratively established accounts and funds; and
- (5) Transferring funds from the following special or revolving funds to the general fund:
 - (A) The Petroleum Products Control Fund;
 - (B) The Human Resource Development Special Fund;
 - (C) The Beach Restoration Special Fund;
 - (D) The Correctional Industries Revolving Fund;
 - (E) The Halawa Correctional Facility Inmate Store Revolving Fund;
 - (F) The Oahu Community Correctional Center Inmate Store Revolving Fund; and
 - (G) The Women's Community Correctional Center Inmate Store Revolving Fund.

Your Committee has also amended the bill by:

- (1) Expanding the conditions under which moneys received through litigation are exempted from deposit into the Litigation Deposits Trust Fund;
- (2) Easing the reporting requirements to the legislature regarding the Litigation Deposits Trust Fund; and
- (3) Making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2827, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2827, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Hemmings).

SCRep. 3261 (Joint) Health and Human Services and Judiciary on H.B. No. 2440

The purpose of this measure is to revise chapter 846E, Hawaii Revised Statutes, on Sex Offender Registration and Notification to address the Hawaii Supreme Court's concerns expressed in State of Hawaii v. Eto Bani.

Testimony supporting this measure was received from the Department of Public Safety and Volunteer Legal Services Hawaii. Opposing testimony that preferred the Senate version of this measure, S.B. No. 2698, S.D. 2, was received from the Department of the Attorney General, County of Honolulu Department of the Prosecuting Attorney, and County of Maui Police Department. Other opposing testimony was received from the County of Hawaii Police Department.

The public notification provisions of Hawaii's sex offender registration law, chapter 846E, Hawaii Revised Statutes, were invalidated by the Hawaii Supreme Court in November, 2001, on the grounds that they violated a person's right to due process under the state and federal constitutions.

Your Committees find that immediate and appropriate action is necessary to remedy the concerns of the Hawaii Supreme Court to ensure that the law accomplishes its intent, which is to preserve public safety, especially the safety of Hawaii's children. Your Committees further recognizes that since the enactment of chapter 846E, Hawaii Revised Statutes, additional federal laws relating to sexual offender notification and registration have been enacted. Conformance with these federal laws directly affects the State's ability to receive federal funds.

Your Committees find that this measure in its current form limits its scope to addressing the concerns of the Hawaii Supreme Court. Therefore, your Committees have amended this measure by replacing its contents with the Senate version, S.B. No. 2698, S.D. 2. As amended this measure, among other things:

- (1) Addresses the due process concerns of the Hawaii Supreme Court expressed in State of Hawaii v. Eto Bani by establishing hearing and petition procedures and specifying conditions for registration information availability and release;
- (2) Conforms state law to the federal laws relating to sex offender notification and registration;

- (3) Distinguishes sex offenders from other offenders by appropriately creating a separate registry for persons who commit acts of kidnapping and unlawful imprisonment that are not sexually related;
- (4) Further clarifies what constitutes a "sexual offense" under chapter 846E, Hawaii Revised Statutes; and
- (5) Makes various conforming technical amendments to chapter 846E, Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2440, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2440, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 2 (Ihara, Hogue).

SCRep. 3262 Judiciary on H.B. No. 703

The purpose of this measure is to update the law on uniform controlled substances and to conform the law to federal regulation.

Testimony in support of this measure was received from the Department of Public Safety (PSD). Testimony in opposition was received from the Hawaii Medical Association.

This measure would bring the State's Uniform Controlled Substances Act in conformance with changes in federal drug laws, and would enhance the enforcement capabilities of the Narcotics Enforcement Division of the PSD.

Your Committee finds that the Uniform Controlled Substances Act is subject to constant changes in the federal drug laws. Consequently, the PSD periodically submits a measure to update and conform Hawaii's narcotic law.

Your Committee has amended this measure on the recommendation of the PSD by deleting its contents and inserting H.B. No. 2562, H.D. 1., which differs as follows:

- (1) Deletes the two new definitions of "Controlled substance analogue" and "Locum tenens practitioner" (section 1 of H.B. No. 703, S.D. 1);
- (2) Deletes the amendments to sections 329-11 and 329-14, Hawaii Revised Statutes (HRS) (sections 2 and 3 of H.B. No. 703, S.D. 1);
- (3) Deletes the amendment to section 329-16(b), HRS (section 4 of H.B. No. 703, S.D. 1);
- (4) Deletes the amendments to sections 329-16(g), 329-18(c) and (h), and 329-20(g), HRS (sections 6, 7, 8, and 10 of H.B. No. 703, S.D. 1);
- (5) Amends section 329-16(c), HRS, by deleting paragraph (19) and section 329-20(d), HRS, by amending paragraph (12);
- (6) Amends section 329-38, HRS, relating to prescriptions to clarify:
 - (a) Emergency situations necessitating the dispensing of controlled substances by oral authorization;
 - (b) Prescription requirements for patients in a long term care facility or with a terminal illness; and
 - (c) Requirements for facsimile transmittals of prescriptions;
- (7) Amends section 329-40, HRS, relating to methadone treatment program, to replace "Food and Drug Administration" with "Substance Abuse and Mental Health Services Administration" as the proper federal agencies, and to clarify the permissible take-home dosages of methadone;
- (8) Amends section 329-59, HRS, relating to controlled substances revolving fund, to add processing and issuance of patient registry identification certificate as a permissible offsetting cost, and to add the registration certificate fees as income to the fund;
- (9) Deletes amendments to section 329-61, HRS, relating to substances subject to reporting (section 11 of H.B. No. 703, S.D. 1); section 329-65, HRS, relating to penalties (section 12 of H.B. No. 703, S.D. 1); section 329-101, HRS, relating to electronic prescription accountability system (section 13 of H.B. No. 703, S.D. 1);
- (10) Appropriates \$10,000, to the PSD for equipment and expenses to carry out the purposes of the medical use of marijuana law; and
- (11) Conforms the amended sections to various amendments made in the 2001 Session.

Your Committee further amended the provisions inserted from H.B. 2562, H.D. 1, by deleting from the amendment to section 329-38, HRS, the requirement that pharmacists record on the prescription that the patient is terminally ill.

As affirmed by the record of votes of 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. 703, 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. 703, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Matsuura, Nakata).

SCRep. 3263 (Majority) Judiciary on H.B. No. 1901

The purpose of this measure is to require, without informed consent, human-immunodeficiency virus (HIV) testing of persons charged with sexual offenses.

Your Committee received testimony in support of this measure from the Honolulu Prosecuting Attorney. Testimony in opposition was received from the Department of Health, Life Foundation, AIDS Community Care Team, and Hawaii CARES. The Sex Abuse Treatment Center expressed concerns.

Your Committee finds that individuals who are survivors of sexual offenses are concerned about and at risk for contraction of sexually transmitted diseases, including HIV. Your Committee further finds that existing law allows victims to request, and the court to mandate, HIV testing of convicted sex offenders. However, due to the potential life-threatening illnesses that can derive from HIV infection, early detection and treatment for survivors is recommended by health care providers and advocates for survivors of sexual assault.

Your Committee notes the concerns expressed by the Committee on Health and Human Services relating to allowing the court to consider the sexual and drug use history of a person who has only been charged with an offense. The measure requires the court to order an HIV test, if the charged person does not agree to the test, upon a showing of probable cause under the amendment to section 325-16.5(b)(3), Hawaii Revised Statutes, and the court is required to consider all relevant facts thereto. Your Committee believes that the requirements for showing of probable cause, and judicial consideration of all relevant facts satisfy the constitutional rights of the person charged, notwithstanding the absence of a conviction. Your Committee finds that the time element for HIV testing gives reason enough to provide an expedited process for the victim to know the results soon after the charge is brought rather than upon conviction.

As affirmed by the record of votes of 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. 1901, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 2 (Fukunaga, Ihara). Excused, 2 (Hanabusa, Matsuura).

SCRep. 3264 Judiciary on H.B. No. 1093

The purpose of this measure is to prohibit the use of Washington Place for political activities.

This measure prohibits the Governor from allowing Washington Place to be used for any events intended to solicit funds, support, or votes for any candidate for elective office. This measure tracks with similar restrictions on state employees in using their official position to grant unwarranted privileges or advantages and prohibiting them from using state time, equipment, and facilities for private business purpose.

The Hawaii State Ethics Commission and Common Cause Hawaii testified that political campaigning should not occur at what is a state facility supported by state tax dollars. Your Committee agrees, and therefore supports this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1093, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3265 Judiciary on H.B. No. 1725

The purpose of this measure is to allow a person unable to appear in person before the examiner of drivers to apply for renewal of their driver's license by mail.

Your Committee received testimony in support of this measure from the Department of Transportation and Honolulu Department of Customer Services.

Your Committee finds presently that driver's license renewal by mail is restricted to residents who are temporarily out of State. Since there are no residency restrictions for the initial issuance of a driver's license and since applicants for renewal by mail are required to have a physical examination as a prerequisite for renewal, driver's license renewal by mail should be offered to all licensed drivers.

As affirmed by the record of votes of 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. 1725, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3266 Judiciary on H.B. No. 2302

The primary purpose of this measure is to allow judges the discretion to conditionally issue or renew driver's licenses or permits, other than commercial driver's licenses, of individuals who will be fired from work or have no transportation to work without a license.

Testimony in support of this measure was received from the Department of Transportation.

Your Committee finds that current licensing law creates a catch-22 situation with respect to the many individuals who cannot renew their driver's licenses because they have outstanding traffic fines, but cannot pay their traffic fines because they cannot renew their driver's licenses to get to work.

This problem is particularly acute on the neighbor islands, where there is often no viable public transportation. This measure would allow judges the discretion to ameliorate that difficulty, which would be of particular benefit to such vulnerable segments of the population as:

- (1) Low income working individuals;
- (2) Parolees who accumulated numerous traffic violations prior to their incarceration and who are now trying to obtain gainful employment; and
- (3) Former drug abusers who accumulated numerous traffic violations prior to entering into drug rehabilitation and are now trying to lead a productive and sober life.

Your Committee notes that the effective date of this measure is July 1, 2050, which will allow for further discussion of this issue during conference.

As affirmed by the record of votes of 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. 2302, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3267 Judiciary on H.B. No. 2349

The purposes of this measure are:

- (1) To apply the "authorized emergency vehicles" exemption from the Statewide Traffic Code to every vehicle used by a police officer during the performance of any police function;
- (2) To expand the "authorized emergency vehicles" exemption to include authorization to drive on the shoulders and medians of roadways and in controlled-access roadways;
- (3) To remove the requirement that law enforcement personnel operating such emergency vehicles use audible and visual signals, except when driving on shoulders, medians, or controlled-access roadways; and
- (4) To exempt police motorcycles entirely from the requirement of using audible and visual signals while engaged in an emergency.

Your Committee received testimony in support of this measure from the Honolulu Police Department.

Your Committee agrees that our law enforcement personnel require the ability to respond to emergencies, including exemptions from general driving laws while responding to such situations. Therefore, your Committee supports this measure, to better equip law enforcement agencies to respond to emergency 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 H.B. No. 2349, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3268 Judiciary on H.B. No. 2298

The purpose of this measure is to clarify the filing date for nomination papers for the Board of Trustees of the Office of Hawaiian Affairs.

Your Committee finds that synchronizing two candidate filing procedures within each general election cycle to a single one:

- (1) Is much better use of Office of Elections and county clerk staff resources; and
- (2) Makes the filing process easier for prospective candidates to understand and use, which fosters precisely the broadbased participation that keeps democracy strong.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2298, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3269 Ways and Means on H.B. No. 1800

The purpose of this bill is to amend the General Appropriations Act of 2001 (Act 259, Session Laws of Hawaii 2001), which appropriated funds for the operating and capital improvement costs of the Executive branch for the fiscal biennium July 1, 2001, to June 30, 2003.

2001-Renewed Enthusiasm

Budget deliberations during the 2001 Regular Session took place amid the growing optimism that Hawaii was finally experiencing its long-anticipated economic rebound from a decade of recession. The Council on Revenues forecasted a steadily growing economy as many indicators pointed toward a reinvigorated tourism market. Airline flights were full, hotel occupancy was up, and visitor spending was on the rise. Still, this was cautiously balanced against the fact that eastbound tourism was still flat, as Japan remained mired in a terrible recession. Nonetheless, other positive indicators of Hawaii's economic growth were evidenced by increases in real estate activity, increases in private construction, and a low jobless rate. Factors that precipitated this situation may have included the enactment of tax law changes, including lowering of the individual income tax rate, de-pyramiding of the General Excise Tax and granting of hotel renovation construction tax credits.

The projections of steady revenue growth brought sighs of relief from lawmakers who anticipated some breathing room in their fiscal policy decision-making. While cautious optimism prevailed, signs of a healthy economy bolstered renewed enthusiasm from many sectors of the public who sought financial relief from the burdens accumulated over the ten-year period. Many advocated economic stimulus tax proposals to expand the invigorated economy even further. Some advocated providing sorely needed government services to children, the elderly and the poor. Others reminded the Legislature that federally mandated programs still demanded attention.

Addressing Priorities

While the Legislature recognized that a balanced allocation of resources would be most prudent, it focused its attention on the need to address the public mandate to fix our schools. For the first time in many years, the Legislature had the ability to improve the public education system in a wide-ranging manner.

It first recognized that teachers who were expected to provide first-class instruction deserved first-class compensation. To this end, it supported public school teachers and university professors in their pursuit of a fair wage increase during their collective bargaining negotiations. The Legislature also recognized that salary increases would go a long way to help address the teacher and professor recruitment and retention problem. After enduring one of the longest work stoppages in the State's history—the first time the entire public education system was shut down simultaneously—the teachers and professors won their hard-earned pay increases that were quickly approved by the Legislature.

The Legislature also provided much needed resources for additional teachers, textbooks, and equipment for both existing and new facilities of the Department of Education. Furthermore, the University of Hawaii got a tremendous boost with a \$6 million, one-year lump-sum appropriation.

Finally, as it set out to literally "fix the schools", the Legislature approved over \$180 million in new construction projects to repair, upgrade, and improve public school facilities. It also provided \$80 million for construction costs to improve and expand facilities of the University of Hawaii system.

Fiscal Prudence

While there was a growing sense that Hawaii's economy was on the rise, the Legislature wisely approached this situation with great caution. Demand for resources, whether in the form of direct services or costs for providing such services, was also on the rise. Until State government could demonstrate long-term fiscal integrity, the 2001 Legislature made sure it kept a keen eye to the future. As such, the Legislature took bold, yet controversial steps to ensure that rising fixed costs could be contained. For example, it set out to investigate the use of public funds for the Felix Consent Decree mandate and created the Employer-Union Trust to administer the provision of health insurance to all government employees and retirees equitably.

With these fiscal policy debates taking center stage throughout the session, the 2001 Legislature closed amid a mixed sense of accomplishment and apprehension.

A National Tragedy

September 11, 2001 will go down in history as one of the most horrific events to take place on United States soil. The degree of damage inflicted upon the nation was unimaginable. In heroic response to this tragedy, our communities galvanized and our nation of individuals became a nation of Americans. Despite this newfound resolve of the people, the national economy inevitably went into shock. While encouraged to carry on with life as normally as possible, the mission to heal a nation became a daunting task of overcoming emotional, psychological, and financial trauma.

While our spiritual strength proved resolute, our economic strength faltered. Immediately following the attack, all air travel was halted for two days. Flights were reinstated, but air travel was severely restricted. Leisure travel was virtually shut down. Further aggravating consumer confidence was the declaration of war overseas that required military action that this country had never before witnessed.

Closer to home, Hawaii's economy immediately fell into rapid decline. Tourism activity dropped swiftly, as did our retail and restaurant businesses. There was a sudden 26.1% drop in international visitors—a major component of the tourism industry.

Unemployment rates rose as businesses either closed or reduced the level of their service, resulting in both small business and large corporate lay offs. The ripple effect of the attacks was both immense and immediate and sent our State and our Nation into disarray.

Government Responds

Hawaii, like most states across the nation, convened in a special session to pursue options to help stimulate growth in our local economy and to provide a safety net to those most in need. Emergency powers were given to the Governor to provide businesses and private citizens with a broad-range of financial relief. Emergency funding was provided for the jobless and tax credits were extended for hotel and residential renovation construction.

In November, the Council on Revenues met in an emergency meeting to assess the effect the September 11th attack had on our State's economy. However, with only two months of new data, the Council was hesitant to make any new predictions. While a drop in revenue was inevitable, the duration and magnitude of this decrease was debatable. Based on models derived from the State's economic reaction to the Gulf War and Hurricane Iniki, coupled with the State's pre-event trajectory, the Council believed that the economy would react with a sharp decline, but follow with a quick and strong rebound. This led the Council to revise its forecast to reflect a drastic reduction in revenue for the remainder of fiscal year 2001-2002, a .7% decrease instead of a 4.1% increase. However, it retained a strong forecast for the ensuing five fiscal years.

Revenue Shortfall and the Budget

The effects of that projection on planned state spending were tremendous. In terms of dollars, this amounted to a revenue shortfall of \$315 million over the two years of the fiscal biennium--\$150 million for fiscal year 2002 and \$165 million for fiscal year 2003.

With these new projections, the Governor was forced to take quick action. He immediately imposed a 1% spending reduction on the discretionary budgets of all departments including for the first time in many years, the Department of Education (DOE) and the University of Hawaii (UH). All executive departments were then instructed to revise their budgetary plans for the remainder of the fiscal biennium. All departmental discretionary funding was to be reduced by 2%, and once again, the DOE and UH were not spared, as the Governor proposed to cut a combined \$20 million from their budgets. In addition to cuts to expenditures, the Governor also attempted to offset the projected revenue shortfall by proposing to transfer the entire balance of the Hawaii Hurricane Relief Fund to the General Fund, transfer balances of other special and revolving funds to the General Fund, and increase the liquor tax.

While these options appeared unpalatable, it was well noted that Hawaii was clearly not alone in facing tough budget decisions. Before the end of 2001, there were at least 35 states struggling with budget deficits totaling in excess of \$46 billion. Whereas some states may have large "rainy day" funds as a result of the prosperous economic times in the 1990s, many others like Hawaii were forced to look at a combination of tax changes and cuts to essential services.

In an unprecedented effort to address this serious matter in a manner that would recognize its gravity and urgency, your Committee and the House Committee on Finance, with the cooperation of the Department of Budget and Finance, jointly held a series of statewide public hearings on the Governor's proposals. The hearings were used to generate public input on the State's financial situation and to get the pulse of the people's priorities on essential government services.

2002 Session Begins

From Opening Day of the 2002 Regular Session, public sentiment appeared generally opposed to the Governor's proposals to increase state revenues. Your Committee thus believed that the public mandate was to cut government spending. However, the magnitude of these cuts must be put into perspective. It would take the complete elimination of the 12 smallest departments (of a total of 19) to generate a savings of \$160 million a year necessary to cover the expected revenue shortfall. In another scenario, if the entire revenue shortfall were to be covered by across the board cuts to each department, it would require 7% budget cuts, resulting in a \$50

million cut to the Department of Education, and a \$20 million cut to the University of Hawaii. These statistics highlight the fact that the bulk of state government services are concentrated in the following major areas: public education, health and safety, and mandated costs and services.

While the popular sentiment may be to “right-size” government, the numbers indicate that addressing the revenue shortfall by merely reducing expenditures would force the elimination of crucial government services in a time when these services are most needed.

Although your Committee may have disagreed with prior fiscal initiatives of the Governor, we believe that his cautious approach to trimming expenditures is an appropriate course of action. Specifically, we agree that budget reductions that translate to lost jobs should be avoided as much as possible. While we acknowledge that the private sector has had to reduce its workforce recently, your Committee believes that elimination of government positions will only exacerbate our economic situation.

Further adding to the difficulty is the fact that a large percentage of government spending is now deemed as fixed costs. These types of costs—court-mandated programs, social welfare, and debt-service—are found mainly in the Departments of Education, Health, Human Services, Public Safety, and Budget and Finance.

Supplemental Budget Recommendations

Your Committee has taken the position that government services are currently being provided at necessary and justifiable levels and that in some cases, below what is truly needed. This budget reflects months of analyses that validate what was already revealed throughout the 1990’s—that budget cuts have severely hampered many departments’ ability to provide basic services to the community. Moreover, your Committee notes that the demands placed on our departments continue to grow each year by legislative mandate—sometimes with only limited, short-term resources. Worse, while the mandates remain, funds are continually taken away.

All this has kept morale of employees low, as they have endured years of being asked to do more with less. Program administrators are continually frustrated with the task of providing more services at ever-increasing costs with less and less funding.

However, as discussed above, the fiscal situation our State is in required your Committee to act prudently in examining all government expenditures. While this supplemental budget represents a reduction to all executive expenditures by \$73 million, your Committee believes that it has kept departments in a position to carry out its mandates. Your Committee cautions however, that the demand for services and the funding level that is committed towards it has reach a critical point. No longer will departments be able to absorb across the board reductions. Your Committee stresses that if funding to departments is to be reduced below the levels recommended in this budget, than this Legislature must concurrently reduce the mandates placed on those departments.

Education

Again, public education remains the State’s top priority. Your Committee believes that even during these difficult times, providing additional resources for public education is warranted and necessary.

Your Committee had two important objectives when evaluating the Department of Education’s budget. The first objective, embodied both in this measure and in H.B. No. 2654, H.D. 2, S.D. 1, was to provide funding for critical needs of the DOE, by restoring critical educational programs targeted for reduction and providing additional funding for Board of Education-approved initiatives that failed to receive executive approval.

The second objective was to provide sufficient resources to cover all major fixed costs, to facilitate compliance with all legal mandates, and provide funding for many critical educational programs. While the funding for mandated costs are viewed as critical, the requirements of special needs students and regular education students have been treated equally.

Critical needs of the DOE

Your Committee recognizes the need for sufficient school-level resources. With this in mind, your Committee has approved the addition of approximately \$700,000 for equipment and textbooks for new special and regular education facilities for five schools. Additionally, your Committee has added approximately \$5.6 million in funding for New Century Charter Schools. Your Committee’s appropriation for charter schools reflects the current per pupil allocation amount as determined by the State Auditor.

As evidence of a commitment to provide library services for patrons throughout the State, your Committee has provided 24 permanent FTE’s and \$1.7 million in funding to staff and operate the Kapolei Library in Kapolei, Oahu. Noting that the public’s anticipated opening and use of the Kapolei Library has been delayed at least a year, your Committee believes that it is appropriate and timely that operating staff and positions be approved for this library at this time.

Your Committee has added \$15 million in federal impact aid funding within EDN 100 (School-based Budgeting). With this appropriation, the department can mitigate some of the proposed budget cuts.

Your Committee regrets that this budget reflects a majority of the Governor’s two percent and, in some cases, three percent departmental budget reductions, totaling approximately \$15.5 million. However, your Committee has created a mechanism to not only restore \$8.8 million of the cuts reflected in this budget, but to also add an additional \$46.2 million in additional DOE-related priorities. Critical educational programs to be restored through H.B. No. 2654, H.D. 2, S.D. 1, include:

- Ⓢ After-school Plus (A+) program (\$3.5 million);
- Ⓢ Computer education (\$3.6 million);
- Ⓢ Summer school programs (\$1.2 million);
- Ⓢ Instructional materials for regular education (\$1 million); and
- Ⓢ Student enrichment programs (approximately \$300,000).

Additionally, H.B. No. 2654, H.D. 2, S.D. 1, will fund important BOE requests that were denied by the Governor. These requests include:

- Ⓢ Multi-track schools (approximately \$1 million);
- Ⓢ Lower student-teacher ratios for ESLL teachers (\$400,000);
- Ⓢ Two clerks to expedite the payroll process for new hires (approximately \$42,000);
- Ⓢ Electricity costs (\$1.8 million); and
- Ⓢ Water costs (approximately \$900,000).

During the 2001 Regular Session, special emphasis was placed on improving public school facilities, and \$60 million was appropriated for the general repair and maintenance of public school facilities. An additional \$120 million was appropriated for various improvements to the public school system including:

- Ⓢ Telecommunication and power infrastructure upgrades
- Ⓢ Renovation of buildings and school sites
- Ⓢ Health and safety improvements
- Ⓢ Heat and noise abatement
- Ⓢ New classroom buildings
- Ⓢ Playground equipment

The Legislature again showed its commitment to the State's public education system by providing an additional \$75 million during the Third Special Session of 2001. With this new appropriation for the repair and maintenance of public schools, the Legislature brought funding for the improvement of the public school system to \$255 million over the fiscal biennium.

Your Committee has sustained this commitment to education by providing an additional \$145 million for the repair and maintenance of public schools for fiscal year 2003. Another \$70 million has been provided for various improvements to public education facilities. These new authorizations bring total funding of public education construction projects to \$470 million, representing an unparalleled commitment to the State's public education system.

To ensure that the children of Hawaii receive the best education possible, your Committee granted various requests by the Department of Education for supplemental funding. Your Committee approved \$15 million that will provide new reading trainers, replace old science equipment, replenish science materials, accommodate growth in the Hawaiian language immersion programs, and also support and maintain Multi-track schools.

Most importantly, critical library functions such as children's and young adult programs will be retained, library services to correctional and long-term care facilities will continue, bookmobile services will continue, and access to library facilities, books, and materials will remain generally unaffected.

Teacher Positions

Your Committee has taken a cautious approach to evaluating the Governor's requests to reduce 162 regular education teacher positions. The Governor requested a reduction in regular education teacher positions by 162, special education (SPED) teacher positions by 63 and educational assistant (EA) positions by 63. Convinced that the number of teacher and educational assistant positions should be based on actual workload and need, your Committee requested that the Department of Education re-examine the number of teacher and EA positions proposed for reduction.

The department recalculated and determined that 79 regular education teacher positions, 52 SPED teacher positions, and 24 SPED EA positions could be eliminated for fiscal year 2003 without compromising service. Your Committee accordingly trimmed the reduction of teacher and EA positions to reflect the department's re-assessment.

Felix Consent Decree and the Contempt Order

Since 1994, the State has been subject to the Felix Consent Decree, which requires the State to provide adequate services for special needs children through the Department of Health and the Department of Education.

Felix costs-Department of Education

Approximately \$8.1 million has been added to last year's \$65 million appropriated for the DOE's Felix Response Plan (FRP) and School Based Behavioral Health (SBBH) services. This \$73 million will maintain and supplement the department's budget to support the over 1,600 temporary employees currently needed to implement the court-mandated FRP priorities and SBBH services.

Your Committee has increased funding for the Felix and special education-related programs by providing an additional \$5 million for a grand total of \$228 million. This clearly demonstrates your Committee's commitment to providing the Department of Education with sufficient funding and resources to meet the U.S. District Court's Felix-related benchmarks.

In the past, the Legislature has generally provided almost unrestricted funding for special education services pursuant to court mandate. However, as a result of the findings of the 2001 Joint Senate-House Investigative Committee to Investigate the State's Compliance with the Felix Consent Decree, your Committee reviewed the Department of Education's Felix and Special Education-related requests with an eye toward greater cost-effectiveness and restraint, while continuing to adequately meet the needs of these special students.

For example, the Department requested 1,686.50 additional permanent, full-time position counts to implement and maintain the FRP priorities and the SBBH services. In considering this request, your Committee decided that there was insufficient information to accurately determine the appropriate number and type of positions needed within the FRP and SBBH programs that would adequately meet student needs.

Your Committee also acknowledged that future court decisions, which will address compliance and sustainability under the Felix Consent Decree, might substantively affect current department estimates of the number and type of positions as well as overall funding needed to adequately staff and maintain the FRP and SBBH programs. Therefore, your Committee decided that all positions currently assigned to the FRP and SBBH programs should remain temporary. Creating permanent position counts for programs that could dramatically change was determined to not be a prudent course of action.

Your Committee has included a budget proviso directing the Department of Education to complete a comprehensive assessment of its efforts to meet and maintain compliance with the Felix Consent Decree and associated federal statutes. The proviso requests that the department, in its assessment, focus on identifying the specific needs (funding, positions, organizational schemes, facilities, equipment and any statutory/constitutional amendments) that would be required to maintain compliance. The proviso requests the department to submit a detailed report of its findings and recommendations to Legislature prior to the convening of the 2003 Regular Session.

Funding for the Felix and Special Education-related programs in the Department of Education generally has been maintained, and in fact, support for the implementation and maintenance of FRP programs has been increased by providing an additional \$5 million in EDN150 (Comprehensive School Support Services). Concurrently, your Committee has reduced or eliminated those appropriations that are no longer necessary. The FRP and SBBH fiscal year 2003 appropriations were reduced by \$709,681 and \$450,000, respectively, targeting unnecessary expenses for the Felix Court Monitor as well as costs for equipment and administration.

Your Committee believes that the fiscal year 2003 budget for Felix Consent Decree and special education services and administration, which includes the Committee's directive to maintain temporary FRP and SBBH positions, strikes a close balance between the need for fiscal accountability while providing sufficient resources to comply with the State's Felix and special education mandates.

Felix Costs-Department of Health

Your Committee reaffirms its support for children with special health needs and appropriated \$408,812 to ensure continued care coordination support for the Department of Health's Early Intervention Section, which services families and children between the ages of 0 to 3 years.

Your Committee further acknowledges the recent progress made by the Department of Health's Child & Adolescent Mental Health Division (CAMHD) in improving mental health services for the Felix-class children so as to comply with the Felix Consent Decree. While the supplemental \$10.06 million request was withdrawn by the CAMHD, your Committee remains unclear as to how the CAMHD will offset its multi-million dollar estimated shortfall by reviewing its current expenditure patterns and programmatic strategies to control costs.

Prior to the transition to School Based Behavioral Health (SBBH) services, there were 11,479 youth registered with CAMHD. By the end of this current fiscal year, CAMHD expects to serve approximately 2,143 registered children and youth. Your Committee is further aware that despite the transfer of the "low-end" Felix youths in November 2001 to SBBH in the Department of Education, no administrative positions were transferred. CAMHD maintains that the division still requires the 100 administrative positions to provide oversight and monitoring and to disseminate evidence-based practices. Given that the CAMHD Felix population has decreased by over 81%, your Committee reviewed the 100 administrative positions within CAMHD and reduced the number of positions by 10% to represent a more acceptable level.

Civil No. 91-00137 DAE-KSC Settlement Agreement

In 1991, the United States government filed an action in the United District Court for the District of Hawaii against the State of Hawaii based on the Civil Rights of Institutionalized Persons Act, 42 U.S.C. Section 1997 et seq., regarding the deprivation of rights of persons residing at the Hawaii State Hospital (*United States v. State of Hawaii, et al., Civil No. 91-00137 DAE-KSC*). The State entered into a Settlement Agreement with the United States Department of Justice which was incorporated into a Stipulation and Order filed on September 19, 1991. This and subsequent Stipulations and Orders issued in 1996, 1997, 1998, and 2000, document the State's obligations to enhance the existing array of community services and related supports to ensure the timely and effective discharge of patients from the Hawaii State Hospital and to prevent the hospitalization or rehospitalization of individuals.

Your Committee affirms its full support of and commitment to the seriously mentally ill population residing in Hawaii by appropriating \$4.09 million. However, your Committee has grave concerns as to the purchase of outpatient community-based services.

The total appropriation for the Adult Mental Health Division (AMHD), including funding for administrative support positions, amounts to over \$94.31 million. While your Committee is dedicated to ensuring that a system of care is developed for the seriously mentally ill population, your Committee is disconcerted by the AMHD's inability to justify its requests for additional funds beyond stating that the Settlement Agreement requires such expenditures.

Repeated requests by your Committee for answers were returned with responses that referenced two reports, the "Implementation Plan for Service Development (IPSD) for Fiscal Years 2002-2005 dated March 15, 2001" and the "Hawaii Needs Assessment Project" report dated November 2000, as the basis of its funding requirements. While there is nothing intrinsically wrong with adhering to these reports, your Committee is concerned by the absence of explanations and details as to how the requested amounts were calculated.

Your Committee finds after reviewing the IPSD, that the IPSD is based on "projections for newly identified or emerging cases in the community as well as projections for the population of consumers currently being served." Since all of AMHD's requests are tied to the IPSD, the logic that follows is that all requests for funds, including infrastructure support, are based on these projections.

Your Committee directs AMHD to look at actual caseloads and compare them with the projected numbers in order to validate whether they are "on target" with projections. Moreover, based on the projections and assumptions in the IPSD, your Committee is concerned that over-budgeting may occur as a result of the methodology used whereby the focus is on the most severe population case scenario. The funding request for the seriously mentally ill may be based on these higher cost estimates.

It is unclear how the IPSD's \$122 million amount (over a four-year period) was derived. Your Committee believes that the basis for AMHD calculations to justify its requests thus far is based on "backing into" the numbers found in the IPSD.

To place this in proper context, if your Committee agreed to the AMHD's request for funding in the next fiscal biennium, the funding requirement would total \$64 million (including an administrative infrastructure support base to support the community-based services).

Your Committee was also unable to determine the basis or assumptions of the 22.5% used to calculate the amount needed for administrative infrastructure. The current division-wide infrastructure includes over 166 vacancies, yet the AMHD has requested an additional 22 temporary positions in fiscal year 2003 for administrative infrastructure support based on the IPSD report. Your Committee directs that the AMHD evaluate its existing vacant positions to address current and future needs before requesting for additional infrastructure support.

Your Committee further questions whether there are adequate service providers available to provide the services (also known as the "capacity issue.") Your Committee does not want to see a "culture of profit" by private providers and contractors as was evident under the Felix Consent Decree, however, the AMHD has failed to provide assurances that the current services provided are effective or efficient.

Your Committee notes that U.S. Magistrate Kevin Chang was appointed on May 17, 2001, by U. S. District Court Judge Ezra as Special Master to oversee the State's compliance with the Settlement Agreement. Your Committee is confident that the Special Master is providing the AMHD with sorely needed guidance, and that the AMHD will soon be able to provide the Legislature with clear articulation of its activities and justification for its expenditures pursuant to the Settlement Agreement.

Other Fixed Costs

The State must pay debt service each year as a result of issuing bonds for capital improvement projects. Just as individuals must make mortgage payments, the State must make payments on money it has borrowed. Total debt service payment for fiscal year 2003 will be \$439 million, which represents about twelve per cent of the entire general fund budget for the State.

Other mandatory costs include health fund premiums for state employees owed by the State, as the employer of all state employees. Total health fund premium payments for fiscal year 2003 will total nearly \$280 million, or about eight percent of the entire general fund budget of the State.

The State must also provide for the retirement of its workers. For fiscal year 2003, the State's contribution to the pension accumulation fund is \$157 million and social security payments are \$139 million, totaling \$295 million.

These three items alone total more than \$1 billion, or nearly a third of the State's general fund budget.

Critical Government Services

Department of Agriculture

Your Committee, in consideration of the Department of Agriculture's continuous general fund reductions and non-general fund transfers to the State treasury, has restored and preserved programs critical for the agricultural industry of Hawaii. Since fiscal year 1995, the department's budget has shrunk by \$4 million, and the number of full-time employees providing agricultural services has declined from 440 positions to less than 250.

Recognizing the importance of diversifying our agriculture industry, your Committee has appropriated over \$2.3 million for agricultural development and research. Increased funding for the Hawaii Agricultural Business Corporation Revolving Fund will generate additional revenues for the State and improve Kauai's economy by using agricultural lands and irrigation resources vacated with the closure of sugar plantations. Your Committee also provided additional resources for vital improvements to the infrastructure in the Hamakua subdivision to strengthen the agricultural industry of the island of Hawaii. These two measures will stimulate economic growth in Hawaii.

Department of the Attorney General

Your Committee preserved the Sex Offender Registration Program, the Missing Child Center Program, and the Victim Assistance Program--programs previously targeted for elimination in their entirety.

To combat healthcare fraud, funds have been provided for the prevention and prosecution of fraudulent and abusive billing practices that contribute to rising costs of the state Medicaid program and other health care programs. Your Committee also provided for an investigator for the Financial Investigations Unit to maximize federal grant funds. Your Committee has also provided for federal criminal justice grants for victims of crime and crime prevention activities.

Department of Defense

To help combat terrorism, your Committee has provided for new positions in the Department of Defense. These positions will coordinate and plan state anti-terrorism activities and oversee Civil Defense communication systems. Furthermore, your Committee has taken strides to preserve the Department of Defense's budget to keep funding of Civil Defense, Hawaii Air National Guard, and Hawaii Army National Guard at the highest possible levels.

Department of Health

In regards to maintaining the health and safety of the public, your Committee has provided funds to meet the needs of the Emergency Medical Services (EMS) ambulance services by providing collective bargaining increases totaling \$1.64 million for the City and County of Honolulu and for the counties of Hawaii, Kauai, and Maui. Your Committee realizes that the scope of the Health Insurance Portability & Accountability Act (HIPAA) compliance activities is expansive and has appropriated \$303,250 to allow for the Department of Health's initial compliance deadline of October 2002.

Department of Human Services

The Department of Human Services provides critical services to those least able to provide for themselves. The department provides services across the State through 88 locations, allowing easy accessibility for those in need. Recognizing that a reduction in funds for the department would impair its ability to deliver services when needed most, your Committee has been judicious in maintaining existing funding levels of the department.

Two important programs in the department, Temporary Assistance to Needy Families (TANF) and Temporary Assistance to Other Needy Families (TAONF), make up the State's time-limited welfare programs for adults with children. TAONF is funded entirely by state general funds and provides for two parent families and those families with at least one member who is a non-citizen. Together, these welfare programs have a budget of nearly \$50 million from the state General Fund and over \$55 million of federal funds. In fiscal year 2001, these programs serviced 19,500 families throughout the State.

Another significant program of our State is the General Assistance (GA) program, funded by a state block grant amounting to approximately \$24 million. Every month, an average of 5,100 individuals in Hawaii receive \$418, which is the current mandated maximum. Your Committee notes that the number of individuals served by the GA program has been decreasing in recent years. In light of current economic conditions, your Committee has reduced funds for the GA program by \$1 million, still allowing the GA program to maintain its monthly benefit payments.

The department's Med-QUEST Division (MQD) administers the State's medical assistance or Medicaid programs, which are designed to provide medical care to the low-income population. Your Committee strongly believes that medical care to people with low income should not be reduced and has allowed MQD to continue with its current funding level. Your Committee understands that health care costs have risen tremendously in recent years, making it even more imperative to continue funding of these programs.

The Child Welfare Services (CWS) branch of the department ensures the safety and permanency of children in their own homes or in out-of-home placements. The total budget for CWS is approximately \$90 million, which includes nearly \$41 million in federal funds. Your Committee recognizes that these services are essential to the well being of children across the State, and has increased spending for this program to help handle the ever-increasing caseload.

Your Committee notes that the department offers numerous other services that provide relatively inexpensive alternatives to nursing homes and other institutions. As such, your Committee did not see fit to reduce the budget for the Adult and Community Care Services branch.

Department of Land and Natural Resources

Your Committee understands that further reductions to the Department of Land and Natural Resources may seriously impact the natural resources held in trust by the State, and has provided the funding necessary to ensure that these resources are conserved and protected for the benefit of the people and future generations.

To encourage economic development of commercial fisheries and an environmentally responsible aquaculture industry for Hawaii, your Committee has provided additional funds for the Commercial Fisheries and Aquaculture program. These funds will promote economic development and enhance public welfare by conducting research on bottom fish species and survey the impacts of shoreline fishing on marine sea turtles. Your Committee further has provided \$250,000 for the detection and eradication of newly invasive species thus highlighting the importance of preventing future damage to the environment in Hawaii.

To protect and enhance Hawaii's forest watersheds and unique native plant and animal species, your Committee has appropriated \$5.0 million in state and federal funds. These funds will support programs to protect and improve the condition of forests that benefit Hawaii's water supply as well as enhance the ecosystem to increase the population of Hawaii's threatened and endangered species.

Department of Public Safety

Your Committee is aware of the legal consequences that may result if the issue of prison overcrowding is not addressed and thus has provided over \$2 million to the Department of Public Safety to route 100 additional inmates to out-of-state facilities. In addition, \$215,498 has been provided for sex offender treatment programs to better identify problem offenders who should not be released on parole and ready those inmates whose success in treatment may significantly reduce their likelihood to re-offend after release. Since 1988, the number of sex offenders released from prison has doubled while the number returning to prison on new sex crime convictions has steadily decreased to a recidivism rate of zero in the past three years.

Due to the catastrophic events of September 11, the Federal Aviation Administration has required heightened security measures at the airport. To enhance security, your Committee has authorized 36 deputy sheriffs to monitor eight new posts at Honolulu International Airport. These additional law enforcement personnel will enhance public safety at one of the nation's busiest airports, and the key point of entry for visitors to our islands.

Department of Taxation

Your Committee recognizes the importance of generating revenues to offset decreases in expenditures and has appropriated \$25,000 to allow two teams of three senior auditors to be sent to the mainland. Your Committee anticipates a minimum of an additional \$3.5 million in projected revenue from audits performed.

Department of Transportation

Currently, some of the greatest areas of concern are our airports and air safety in general. Your Committee understands the importance of heightened security and has provided an additional \$10 million to the Department of Transportation to assist in addressing security needs at all airports statewide. To maintain safety on our State's runways your Committee has provided over \$4 million for specialized fire trucks to replace the current aging fleet. This will ensure compliance with federal regulations to keep our airports open for travel.

University of Hawaii

Your Committee recognizes that the University of Hawaii, the State's only public higher learning institution for students statewide, is also a nationally-recognized research institution and therefore a major economic contributor to our local economy.

Last year, the Legislature appropriated a one-time lump-sum amount of \$6 million for fiscal year 2001-2002 to the University of Hawaii with the caveat that it cannot be expended on non-recurring costs—with the exception of \$1,009,421 for the establishment of the Mauna Kea Management Authority and \$1,000,000 for the Department of Information and Computer Sciences. Your Committee was disappointed to learn early this year that the remaining \$3,990,579 was expended on recurring costs such as hiring personnel and establishing new programs.

While represented as a "flat budget request", in reality the University has requested an additional \$6 million for fiscal year 2002-2003. Not only did this skew the University's assertions of no-growth in general fund assistance, it has placed undue pressure on your Committee to take into account that without the additional \$6 million, the programs created may be forced to end—including eliminating filled positions. Furthermore, your Committee is concerned that these employees may or may not have been duly informed of the status of the funding that initially created their positions. Given that, your Committee strongly recommends that the University be prepared to look for alternative methods of funding if it wishes to continue these initiatives.

Your Committee has decided to deny the University's \$6 million request in additional funding at this time. However, additional funding has been appropriated in H.B. No. 2564, H.D. 2, S.D.1.

Your Committee also recognizes that the University is still in the early stages of solidifying its autonomous status and will inevitably take additional time to become more financially self-sufficient. Your Committee appreciates the efforts of the University's new administration to continue the hard work of its predecessor. It will therefore remain open and flexible on the needs of the University and plans to continually review this situation until the end of this session.

Capital Improvements Program

During the Regular Session of 2001, the Legislature appropriated \$500 million for various construction projects. Another \$100 million was appropriated during the Third Special Session of 2001, bringing the total amount of general obligation bond funded projects authorized for the fiscal biennium to \$600 million.

In addressing the Governor's additional \$900 million dollar CIP request, your Committee considered that a potential \$1.5 billion in new construction projects may prove too large an investment in capital at one time. Not only would this saddle the State with too much debt, it may create artificially high demand, which may in turn cause project bids to increase. Secondly, careful consideration must be given to correlating increases to operating costs for any new facilities constructed. Thirdly, while public funded construction may serve as a means to stimulate economic growth, there are some indications that privately-funded construction projects are on the rise. Providing additional tax credits as incentives for such projects may be the more appropriate method to stimulate growth in this sector.

However, your Committee recognizes that opportunities exist where it makes sense to invest in the State's physical infrastructure. As such, your Committee finds it reasonable to authorize an additional \$360 million in new expenditures on construction. Your Committee views any stimulative effect this additional authorization of construction may have on the economy as an added benefit of sensible investment in the State's infrastructure.

Almost three-fourths of the additional construction expenditures your Committee authorizes invest directly in the State's educational infrastructure. Your Committee sets aside \$215 million for the repair, maintenance, and improvement of our State's public schools. An additional \$32 million is also provided by your Committee for the repair and upgrade of University of Hawaii facilities. Much of the remaining new construction expenditures your Committee provides are for the health and safety needs of various facilities and institutions statewide.

Conclusion

Your Committee approached the onerous task of the review of this supplemental budget request with great vigor. In the end, your Committee believes it was a healthy, necessary exercise, as continual and thorough budget review only leads to a more efficient and effective product for 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. 1800, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1800, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 13. Noes, none. Excused, 2 (Buen, Hemmings).

SCRep. 3270 Judiciary on H.B. No. 1758

The purpose of this measure is to allow law enforcement officials to use a copy, facsimile telecommunication, or other reliable reproduction of a domestic abuse protective order in conjunction with the service of a notice process.

Your Committee received testimony in support of this measure from the Honolulu Prosecuting Attorney, Volunteer Legal Services Hawaii, Women In Need, Domestic Violence Clearinghouse and Legal Hotline, and an individual. The Public Defender expressed concerns.

This measure is intended to update current court practices by providing that a copy, facsimile telecommunication, or other reliable reproduction may be used by law enforcement officials in lieu of a hard copy, for purposes of enforcing domestic abuse protective orders. Use of electronic copies would greatly expedite the service and enforcement of protective orders, which would expedite the protection of the victim.

Your Committee has amended this measure, on the recommendation of the Honolulu Prosecuting Attorney, by changing "law enforcement official" to "law enforcement officer as defined in section 701-118" and making a conforming amendment.

Your Committee has not changed the effective date of February 30, 3025, to continue discussion on this measure in conference to clarify the specific application of an electronic copy of a domestic abuse protective order and whether it satisfies the requirement of personal service upon the respondent or service by regular mail upon the police, or both.

As affirmed by the record of votes of 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. 1758, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1758, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3271 (Joint) Judiciary and Ways and Means on H.B. No. 2300

The purpose of this measure is to amend the Judiciary Appropriations Act of 2001 (Act 1, Special Session Laws of Hawaii 2001), to provide necessary funds for the operation and capital improvement costs for the Judiciary for fiscal biennium July 1, 2001, to June 30, 2003.

Your Committees received testimony in support of this measure from the Judiciary, Hawaii State Bar Association, and an individual.

Your Committees have carefully considered and analyzed each funding adjustment requested by the Judiciary and amended the Judiciary budget accordingly. Your Committees recognize that unlike other departmental budgets the vast majority of the Judiciary budget goes toward meeting fixed and statutorily mandated expenses. Therefore, your Committees have not made any reductions from the Judiciary base budget.

In light of the current status of Hawaii's economy, your Committees have increased the Judiciary biennium budget by \$522,792 in general funds, and \$1,983,523 in special funds for fiscal year 2002-2003.

For fiscal year 2002-2003, your Committees have appropriated general funds to the Judiciary in the following amounts:

- (1) \$138,200, for the Hawaii State Law Library System to provide patrons access to the most current legal information;
- (2) \$30,000, for renovations to the Waianae District Court to provide a facility that more accurately reflects the needs of the community;
- (3) \$68,000, for the relocation of the Adult Probation Division due to the termination of its lease;
- (4) \$48,000, for domestic violence intervention services to enhance treatment, education, and support to those involved in domestic violence;
- (5) \$200,000, for guardian ad litem and attorney fees to provide advocates for children who are victims of child abuse or neglect; and
- (6) \$38,592, for increased risk management costs.

Your Committees have also provided an increase of 4.5 permanent positions in the first and third Judicial circuits.

Your Committees have appropriated to the Judiciary, from the Computer System Special Fund, the following amounts:

- (1) \$162,054, for equipment to create a local area/wide area network at the Kaneohe district court to increase operational efficiency;
- (2) \$48,689, for a permanent Webmaster position to develop and maintain the Judiciary's Internet website to keep the information on the website current and accurate, and to make the website more user friendly for public access to the courts;
- (3) \$472,780, to replace the outdated financial management and accounting system which is unable to comply with the latest requirements of the Governmental Accounting Standards Board; and
- (4) \$1,300,000, to implement phase 1 of the Judiciary Information Management System which is to build a new statewide traffic case management system.

In the area of capital improvements, your Committees have appropriated \$24,600,000, in fiscal year 2002-2003 for the construction of new facilities and renovations to existing ones, allocated as follows:

- (1) \$20,000,000, for the development of a new courthouse complex on Hilo;
- (2) \$3,500,000, for the development of a new structure to house the Children's Justice Center on Oahu; and
- (4) \$1,100,000 for roof renovations to Kaahumanu Hale on Oahu.

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 H.B. No. 2300, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2300, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 13. Noes, none. Excused, 7 (Fukunaga, Ihara, Kawamoto, Matsuura, Nakata, Sakamoto, Hemmings).

SCRep. 3272 Judiciary on H.B. No. 683

The purpose of this measure is to enable the Department of Land and Natural Resources (DLNR) to deter violations of state parks statutes and rules under Chapter 184, Hawaii Revised Statutes, by civil or criminal action.

Your Committee received testimony in support of this measure from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds that violations of Chapter 184, Hawaii Revised Statutes, and the state parks rules are designated as petty misdemeanors and handled by the courts as criminal matters. However, some violations can best be dealt with as civil matters and be more effectively addressed through administrative proceedings. This measure provides the penalties and authorization to help address these issues swiftly, without being forced to always proceed in criminal court.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 683, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3273 Judiciary on H.B. No. 1716

The purpose of this measure is to require both the apartment owner and the board of directors to pay for their own costs in mediating a dispute between them, unless both agree that one party will pay all or a specified portion of the mediation costs.

Your Committee received testimony in support of this measure from the Mediation Center of the Pacific, Hawaii Council of Associations of Apartment Owners, Hawaiiana Management Company, Ltd., Hawaii Independent Condominium & Cooperative Owners, and six individuals.

Your Committee finds that the Real Estate Commission is currently undergoing a recodification review of the condominium law, and expects to submit draft legislation in response to the review in the 2003 Regular Session. While your Committee understands the Commission's preference to delay amendments to the law until that time, the current law does not specifically address the payment of costs for mediation. This has left interpretation of the law to the parties.

Your Committee notes the effective date of July 1, 2050, and agrees with the Committee on Commerce, Consumer Protection and Housing that the measure warrants further time for discussion before the adjournment of this 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. 1716, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3274 Judiciary on H.B. No. 2207

The purposes of this measure are to create the offense of health insurance fraud arising from acts or omissions related to health insurance claims, and to provide insurer's with a civil cause of action against person's who benefit from the offense or who allow the offense to occur.

Your Committee finds that this measure is intended to deter fraudulent health insurance claims by an insured or a provider, and to prevent health care providers from substantiating or allowing such fraudulent claims to be filed, by permitting civil claims against them.

According to the testimony of the Hawaii Medical Service Association on this measure before the Committees on Health and Human Services and Commerce, Consumer Protection and Housing, the current system of investigating health care fraud cases is quite comprehensive, with the involvement of the federal and state law enforcement. Therefore, providing insurers with a civil cause of action is not necessary. However, your Committee finds that the crux of a successful health insurance fraud prosecution lies in the first instance in the reporting of the fraud to authorities.

Your Committee has amended this measure by deleting its contents, inserting the definition of insurance fraud found in the motor vehicle insurance law to apply by reference in several chapters relating to health insurance and providing civil immunity to persons reporting fraud.

As affirmed by the record of votes of 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. 2207, 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. 2207, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3275 Judiciary on H.B. No. 2232

The purposes of this measure are to:

- (1) Increase the penalty for violations of the Whistleblowers' Protection Act by establishing a minimum fine of \$500 and increasing the maximum fine from \$500 to \$5,000 per violation;
- (2) Lengthen the statute of limitations for bringing a complaint of retaliation under the Whistleblowers' Protection Act from ninety days to two years;
- (3) Extend whistleblower protection to those who report or are about to report a violation or suspected violation to the employer; and
- (4) Expand the type of violations or suspected violations to include ordinances, regulations, and government contracts.

Your Committee received testimony in support of this measure from the Insurance Commissioner and Bank of Hawaii. Testimony in opposition was received from the Office of Information Practices. The law firm of Char Hamilton Campbell & Thom submitted comments.

Your Committee finds that the Whistleblowers' Protection Act was enacted to protect employees who report illegal activities performed by employers. The above-mentioned changes in the statute will be an important means of strengthening the rights and resolve of potential whistleblowers and thereby greatly enhance public trust in government and industry.

As affirmed by the record of votes of 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. 2232, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3276 Judiciary on H.B. No. 2301

The purpose of this measure is to clarify the State's "Driving Under the Influence" (DUI) laws.

Your Committee received testimony in support of this measure from the Honolulu Prosecuting Attorney, Honolulu Police Department, and MADD. The Judiciary submitted comments.

This measure:

- (1) Allows the combination of prior drug enforcement contacts with alcohol enforcement contacts when deeming a person a "repeat intoxicated driver";
- (2) Requires that sworn statements of a law enforcement officer or other person be considered if the officer or person is absent from the administrative revocation hearing;
- (3) Requires personal service upon a law enforcement officer to appear at an administrative revocation hearing or other person be made not later than forty-eight hours prior to the administrative revocation hearing;
- (4) Establishes that the absence of a subpoenaed officer or person constitutes good cause for the continuance of an administrative revocation hearing;
- (5) Clarifies that a person or minor who refuses to be tested for the presence of intoxicants at a traffic stop will not be issued a conditional permit to operate a motor vehicle; and
- (6) Makes other amendments to facilitate the proper administration of the State's DUI law.

Your Committee finds that when housekeeping amendments were enacted in 2000, language which provided that arrestees who refused to take a blood or breath test were not eligible to receive a conditional permit was inadvertently deleted. This measure corrects that error as it was not the intent of the legislature to delete that provision.

Your Committee further finds that the original intent of the administrative revocation law was to create a fair, but primarily expeditious process to remove dangerous impaired drivers from the streets as soon as possible. Due to the evolution of the law through judicial review, the responsibility on law enforcement officials has expanded to the reading of an exhaustive litany of any and all possible consequences covering all possible scenarios related to the arrestee's situation, including his or her driving history which may or may not be accurate or known to the police at the time of arrest.

This measure would allow the consideration of sworn statements in the absence of the law enforcement officer's presence at the administrative revocation hearing. The absence of police officer witnesses may be due to any number of legitimate reasons which may not be known to the hearing officer at time of hearing. Currently, the absence of a subpoenaed and served police officer at the hearing would cause a reversal upon judicial review, merely on the basis of the officer's unexplained non-appearance at time of hearing. This measure remedies that deficiency in the proceedings.

Your Committee has amended this measure to:

- (1) Include the specific language for the statement the law enforcement officer is required to read to the arrestee before administering a DUI test. This is the same language your Committee inserted into S.B. No. 2628, S.D. 2, a companion measure, on the recommendation of the Office of Administrative Driver's License Revocation; and
- (2) Change the effective date to October 1, 2050.

As affirmed by the record of votes of 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. 2301, 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. 2301, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3277 Judiciary on H.B. No. 2521

The purpose of this measure is to enable the Department of Health to respond rapidly and efficiently to emerging health problems before they develop into catastrophic health emergencies.

Current law grants the DOH the necessary powers to deal with a health emergency that results in a declaration of disaster by the Governor. However, your Committee finds that there are gaps in the DOH's authority to deal with serious and potential catastrophic situations before they reach the disaster level. This measure would:

- (1) Enable the DOH to form partnerships with health care facilities and providers to plan for and deliver services under circumstances where the Department's existing resources are inadequate;
- (2) Update and reform the quarantine laws to provide due process to potentially contagious individuals the Department might seek to isolate from the public;
- (3) Allow the DOH to sequester or isolate contaminated items or materials to protect the public from toxic or infectious substances; and
- (4) Enable disease investigators to obtain critical information to determine the cause and limit the impact of disease outbreak.

Your Committee further finds that in light of the September 11, 2001, attacks on the United States and the potential threat of bioterrorism, this measure is needed to ensure the safety of our citizens and the State.

Your Committee has amended this measure by providing in the new section added to chapter 325, Hawaii Revised Statutes, that the immunity from liability for simple negligence, applies to all persons performing care services and not only to those persons who are required to do so by their employment.

As affirmed by the record of votes of 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. 2521, 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. 2521, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Matsuura, Nakata).

SCRep. 3278 Ways and Means on H.B. No. 870

The purpose of this measure is to allow for the direct negotiation of leases or master leases on industrial parks developed under a joint venture or development agreement.

Your Committee is aware that the Department of Land and Natural Resources will seek to develop industrial parks under a joint venture or development agreement with a private developer or an association comprised of the tenants of the industrial park. Your Committee finds that the authority to develop industrial parks under a joint venture or development agreement is provided in section 171-135, Hawaii Revised Statutes, which also gives the Board of Land and Natural Resources exclusive authority to issue leases or master leases within the industrial park under the joint venture or development agreement. However, the statute is silent with respect to the disposition process for these leases or master leases. Your Committee finds that this measure is necessary to clarify this issue and will allow the Department of Land and Natural Resources to take a more proactive approach to managing public lands, including planning for their use in a more efficient and productive 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. 870, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Chun, Ige, Tam).

SCRep. 3279 Ways and Means on H.B. No. 2002

The purpose of this measure is to allow Kauai Beachfront Hotel to extend its ground leases with the State.

Kauai Beachfront Hotel is presently situated on state leased land in Wailua on the island of Kauai. Since the commencement of the leases in 1969, the hotel has faced its share of economic adversity including Hurricane Iniki and the slump following September 11. Despite the \$14,000,000 invested thus far by Kauai Beachfront Hotel in improvements and renovations, the hotel is still struggling to remain in business. A bank loan could provide the funds necessary for the hotel to remain open, but banks are reluctant to finance a property subject to a ground lease that is less than fifty years in duration. Additionally, the law does not allow lease extensions long enough to satisfy the needs of the hotel.

Your Committee finds that it is in the State's best interest to support Kauai Beachfront Hotel not only as an employer in a struggling island economy, but also as a member of a recovering tourism industry that is the island's primary economic engine. This bill would assist the hotel by allowing the State to renegotiate the ground leases to provide the necessary lease duration so that the hotel can qualify for a bank loan.

Your Committee has amended the bill by inserting a defective date in order to promote further 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 H.B. No. 2002, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2002, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Tam).

SCRep. 3280 Ways and Means on H.B. No. 2176

The purpose of this measure is to assist Maui farmers with marketing their produce by requiring the Agribusiness Development Corporation to develop a marketing plan and strategy for Maui's diversified agricultural sector.

Your Committee finds that diversified agriculture, which is replacing the large plantations of sugar and pineapple, can be more successful with a marketing plan that can meet local and foreign demand for the variety of foods grown by Maui farmers. Unlike the large pineapple and sugar plantations, diversified agriculture depends on many farmers producing a variety of different vegetables, fruit, flowers, and tropical plants. If each individual farmer has to develop a marketing strategy, there may be duplication of effort and overlapping of costs. This is where the Agribusiness Development Corporation can help to consolidate efforts for the benefit of the farmers. The Legislature will also be kept apprised of the success of these efforts through annual progress reports beginning with the 2003 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 H.B. No. 2176, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Kim, Tam).

SCRep. 3281 (Majority) Ways and Means on H.B. No. 2525

The purpose of this measure is to ensure that when contractors bid on public works construction projects, the bidding is done pursuant to standards that are fair, equitable, and uniformly applied.

Specifically, this bill:

- (1) Clarifies that Chapter 104, Hawaii Revised Statutes (wages and hours of employees on public works), applies to every public works contract in excess of \$2,000 regardless of whether prevailing wage, overtime, and other requirements are stated in a contract or specifications;
- (2) Declares that omission of these provisions shall not be used as a defense by a contractor who is not in compliance with Chapter 104, Hawaii Revised Statutes;
- (3) Authorizes the disclosure of the terms of a collective bargaining agreement to a federal or state agency authorized to enforce Chapter 104, Hawaii Revised Statutes; and
- (4) Requires that prior to the execution of any contract subject to Chapter 104, the governmental contracting agency shall require of and receive from each bidder, a signed affidavit attesting to the bidder's acknowledgment of and intent to comply with Chapter 104.

Chapter 104, Hawaii Revised Statutes, requires that prevailing wage, overtime, recordkeeping, and other provisions be inserted in every state and county public works contract over \$2,000. However, your Committee finds that problems have arisen when some state and county agencies have inadvertently omitted the specific provisions that require contractor compliance from their contracts and specifications. When these contractors are cited for violations, they assert that Chapter 104, does not apply to them because the specific provisions were not included in the contract.

Your Committee believes that this situation has created enforcement problems and erodes the leveling of the playing field for contract bidders since contractors who do not pay prevailing wages can underbid contractors who base their bids upon prevailing wages.

Upon further consideration, your Committee has amended this bill by clarifying that bidders are to submit a signed affidavit attesting to their knowledge of and intent to comply with Chapter 104, Hawaii Revised Statutes, at the time of bid submission, rather than "prior to the execution of any contract" in subsection 104-2(a), Hawaii Revised Statutes, on page 2, lines 16 to 20.

As affirmed by the record of votes of the members 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. 2525, 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. 2525, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Hemmings).

SCRep. 3282 (Majority) Ways and Means on H.B. No. 1950

The purpose of this measure is to establish a prescription drug expansion program under Medicaid to make prescription drugs more affordable for individuals with incomes at or below three hundred per cent of the federal poverty level.

Specifically, this bill statutorily requires the Department of Human Services to provide for an expansion of prescription drug benefits under the Medicaid program, which shall offer discounted prescription drugs to qualified individuals. All rebates from pharmaceutical manufacturers are to be deposited into a newly created Medicaid prescription drug rebate special fund, which is to be used to expand Medicaid prescription drug benefits. Upon termination of the expansion program, the balance in the fund is to revert to the general fund.

The bill further appropriates a blank amount for fiscal year 2002-2003 to the special fund as start-up costs providing \$1 for each prescription for a qualified individual, and for administration of the program, to be expended by the Department of Human Services. Finally, the bill requires that the appropriated amount be reimbursed by the Medicaid prescription drug expansion program by the end of fiscal year 2004-2005.

Upon further consideration, your Committee has amended this bill by specifying the appropriation amount at \$1,500,000.

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. 1950, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1950, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Tam).

SCRep. 3283 (Majority) Ways and Means on H.B. No. 2741

The purpose of this measure is to change the excise tax paid by wholesalers or dealers on cigarettes and tobacco products sold or used after June 30, 2002, to an unspecified amount per cigarette and to an unspecified percentage for other tobacco products.

Your Committee has amended this measure to raise the excise tax on cigarettes from five cents to ten cents, and to leave the excise tax percentage paid on other tobacco products at the current rate of forty per cent.

It is your Committee's intent that revenues raised by this measure will be used to offset moneys taken from the Hawaii Hurricane Relief Fund. Your Committee notes that its current financial plan includes this intent.

As affirmed by the record of votes of the members 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. 2741, 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. 2741, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 2 (Ige, Slom). Excused, 3 (Buen, Kim, Hemmings).

SCRep. 3284 (Majority) Ways and Means on H.B. No. 2381

The purpose of this measure, as referred to your Committee, was to establish a one-time tax amnesty period to encourage delinquent filers to reconcile their accounts with the State.

Prior to the hearing on this measure, your Committee circulated a Proposed S.D. 1 version that replaced the original contents of the measure with a new proposal to increase the State's liquor tax by 50%.

Testimony in support of the Proposed S.D. 1 was received from the Department of Taxation and the Department of Health.

Testimony in opposition to the Proposed S.D. 1 was submitted by the Distilled Spirits Council of the United States, a restaurant operator, the Legislative Center, Hawaii Beverage Guide, the Vice President and Executive Vice President of Southern Wine and Spirits of Hawaii, Gordon Biersch, Maui's Winery, Johnson Brothers of Hawaii, Jose's, Inc., Chili's Bar and Grill, Nashville Waikiki, M&S Brokerage, Inc., the Libertarian Party of Hawaii, the Hawaii Restaurant Association, Volcano Winery, the Hawaii Liquor Wholesalers Association, the Hawaii Hotel Association, the Wine Institute, the Hawaii Food Industry Association, and five concerned citizens. The Tax Foundation of Hawaii submitted comments.

Hawaii's looming budget deficit has been well documented, and your Committee has tried valiantly to search for additional sources of revenue to balance the budget. Even with further cuts to state government, raising the liquor tax is one part of a solution to raising additional revenues.

Your Committee recognizes that Hawaii's liquor tax is already among the highest in the nation, however, your Committee notes that the State Constitution requires a balanced budget, and so this increase is necessary. Also, your Committee notes that it is better to tax activities that are perceived as unhealthy or immoral in the community, rather than to impose a tax that affects everyone.

Your Committee amended this measure to increase the liquor tax by 25%, rather than 50%. Your Committee believes this amendment addresses some of the concerns raised and is a fair compromise.

As affirmed by the record of votes of the members 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. 2381, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2381, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 3 (Inouye, Kim, Slom). Excused, 2 (Ige, Hemmings).

SCRep. 3285 Ways and Means on H.B. No. 1357

The purpose of this measure is to make appropriations relating to health. In particular, the bill appropriates funds for ambulance services, dental service, emergency medical services, community health centers, respite care, sex abuse center, sign language interpreters, and a nursing scholarship program.

Upon further consideration, your Committee has amended this bill by deleting the contents and inserting provisions:

- (1) Requiring moneys in the hospital and medical facilities special fund to be expended by the Department of Health to offset education program expenses of the hospital and medical facilities branch;
- (2) Requiring moneys to be used to improve public outreach efforts and consultations to industries regulated, including educational programs;
- (3) Limiting the amount that may be used annually for education;
- (4) Requiring the Department of Health to submit an annual report to the Legislature concerning the status of the special fund;
- (5) Requiring that fines for violations of the adult residential care home law be deposited into the general fund; and
- (6) Requiring hospitals to provide for the security of personal effects of a patient that are necessary for the patient's health and well-being and that were in the patient's possession upon admission.

As affirmed by the record of votes of the members 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. 1357, 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. 1357, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Sakamoto, Tam).

SCRep. 3286 (Majority) Ways and Means on H.B. No. 2638

The purpose of this measure is to provide a universal and affordable system of providing long-term care for Hawaii residents.

Specifically, this bill enacts the Hawaii long-term care financing Act and creates the Hawaii long-term care benefits fund to hold the premiums and to pay benefits. The bill establishes a board of trustees to administer the fund.

The bill further establishes, beginning on July 1, 2003, a five-member interim board of trustees to be appointed by the Governor, to design a tax-based financing system, determine the amount and means of collection of a tax and the nature and amount of benefits, recommend a third party administrator, and conduct research to ensure the financing scheme is not preempted by or in violation of the Health Insurance Portability and Accountability Act or the Employee Retirement Income and Security Act. The bill requires the interim board of trustees to report to the Legislature before the convening of the Regular Session of 2003 on a financing plan.

The bill further appropriates a blank amount for fiscal year 2002-2003 for the interim board to carry out its work and to report findings and recommendations, including necessary proposed legislation, to the Legislature before the convening of the Regular Session of 2003.

Your Committee finds that there is a public need for an affordable and universal state-sponsored long-term care system and that this measure is an important first step in developing that 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 H.B. No. 2638, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 2 (Hemmings, Slom). Excused, 3 (Chun, Ige, Tam).

SCRep. 3287 Ways and Means on H.B. No. 1823

The purpose of this measure is to provide a general excise tax exemption for all sales of good and services made to the State, including sales on contracting.

The bill also repeals all exemptions to the central services expenses and departmental administrative expenses assessments and proposes an unspecified percentage for the current five per cent central services assessment.

Your Committee finds that reducing state expenditures remains a priority for the Legislature. One way to reduce state spending is to exempt the general excise tax on sales made to the State, especially sales relating to capital improvements. Since the tax is calculated into the cost of capital improvement projects, the tax necessarily increases the cost of not only the project itself, but also the cost of financing the project, as well as the resulting debt service.

This bill provides a general excise tax exemption for sales relating to capital improvement projects to reduce the cost of such projects to ultimately reduce state expenditures and the cost of state government.

The bill also takes effect on July 1, 2050, in order to promote continued 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 H.B. No. 1823, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Chun, Ige, Tam).

SCRep. 3288 Ways and Means on H.B. No. 2840

The purpose of this measure is to ensure that scarce state resources are devoted to core government functions as specified in the Hawaii state plan and functional plans, and to provide a mechanism by which all state government programs may be classified according to whether they implement core government functions.

Specifically, this measure:

- (1) Establishes within the Legislature, for administrative purposes, a temporary commission to be known as the core government functions advisory commission;
- (2) Specifies that the purposes of the advisory commission are to:
 - (A) Determine whether and to what extent state programs implement core government functions as specified in the Hawaii state plan and functional plans; and
 - (B) Recommend how core government functions can be improved through the elimination, reorganization, or improvement of programs deemed non-core programs or the redistribution of their resources, or both;
- (3) Requires the advisory commission to be composed of fifteen members selected as follows:
 - (A) One each to be appointed by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, the Chief Justice of the Supreme Court, and each of the mayors of the respective counties; and four to be appointed by the Governor;
 - (B) The Chair of the Senate Standing Committee on Transportation, Military Affairs and Government Operations; and
 - (C) The Chair of the House of Representatives Standing Committee on Legislative Management;
- (4) Requires the advisory commission to:
 - (A) Submit its findings and recommendations to the Legislature prior to the convening of the Regular Session of 2003; and
 - (B) Propose legislation to eliminate, reorganize, or improve designated programs or redistribute their resources, or both, in order to reduce the state operating budget for fiscal biennium 2003-2005;

and
- (5) Appropriates an unspecified sum to the Legislature in order to carry out the purposes of the advisory commission.

Your Committee has amended this measure by:

- (1) Appropriating the sum of \$1 to the Legislature in order to carry out the purposes of the advisory commission; and
- (2) Changing its effective date to July 1, 2020, in order to continue discussions on certain 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. 2840, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2840, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Chun, Ige, Tam).

SCRep. 3289 Ways and Means on H.B. No. 2752

The purpose of this measure is to require the Department of Commerce and Consumer Affairs to sanction the professional or vocational license of persons who have defaulted on their student loans or breached their repayment or scholarship contracts.

Your Committee finds that this measure will encourage repayment of student loans and deter future loan defaults. Your Committee further finds that timely and complete repayment will replenish funds for the issuance of loans to new borrowers and minimize the shifting of financial losses onto 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. 2752, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 12. Noes, none. Excused, 3 (Chun, Ige, Tam).

SCRep. 3290 Ways and Means on H.B. No. 1684

The purpose of this measure is to conform Hawaii laws to the federal Mobile Telecommunications Sourcing Act which mandates a method of sourcing the income received by wireless telecommunications companies and clarifies state taxing authority of the wireless telecommunications industry.

Your Committee finds that recent technological advances have provided residents with conveniences unimaginable a decade ago. The wireless telecommunications industry, in particular, is evolving rapidly, creating new and innovative services for consumers. The creation of these new services has required government to reassess the manner, method, and means of regulation. One issue that this measure addresses is the proper and equitable administration of taxes for wireless telecommunications services that are primarily used in this State but may originate and terminate in other states.

Your Committee has amended this measure by:

- (1) Revising the purpose section to further express and clarify the basis and intent of this measure;
- (2) Specifying that sections 239-A to 239-E in this measure apply to home service providers as defined in section 239-B;
- (3) Deleting the provisions that establish customers' procedures and remedies for correcting erroneously imposed taxes, charges, or fees included on a billing;
- (4) Providing that a home service provider shall be responsible for obtaining and maintaining the customer's place of primary use and prescribing how the place of primary use may be determined;
- (5) Codifying the provisions that provide that sections 239-A to 239-D are nonseverable against any final federal court judgment that substantially limit or impair their provisions;
- (6) Recasting the general excise and public service company tax provisions to clarify their imposition on the applicable gross income generated by interstate or foreign mobile telecommunications services with a place of primary use in this State regardless of the state in which the services originate and terminate;
- (7) Deleting the provisions relating to the imposition of tax on imported services; and
- (8) Making technical, nonsubstantive changes to reflect proper and preferred drafting style and provide further 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. 1684, 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. 1684, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, English, Ige, Kawamoto, Tam, Hemmings).

SCRep. 3291 Ways and Means on H.B. No. 2165

The purpose of this measure is to clarify that the Hawaii Teacher Standards Board has sole jurisdiction over the issuing, renewing, revoking, suspending, and reinstating of teacher licenses pursuant to chapter 302A, Hawaii Revised Statutes, part III, subpart D.

In addition, this measure:

- (1) Replaces the sum appropriated for fiscal year 2002-2003 to conduct the new functions of the Hawaii Teacher Standards Board with an unspecified amount; and
- (2) Requires the Department of Human Resources Development, in addition to the Department of Education, to facilitate the transfer or establishment of positions as required by the Hawaii Teacher Standards Board in order to carry out the Board's functions.

Your Committee has amended this measure by adding a provision to require all publishers of textbooks or other instructional materials sold to the State or any local education agency to furnish computer diskettes for literary subjects in the American Standard

Code for Information Interchange--or ASCII--from which braille versions can be produced. In addition, this provision requires these publishers to furnish computer diskettes in American Standard Code for Information Interchange for nonliterary subjects including natural sciences, computer science, mathematics, and music when braille specialty code translation software is available.

To prevent these requirements from becoming an economic burden on publishers of textbooks and other instructional materials written in the Hawaiian language, your Committee has specifically exempted these publishers from the foregoing requirements. Your Committee notes that many publishers of textbooks and other instructional materials written in the Hawaiian language are small businesses, and may not be financially able to comply with these requirements on a consistent 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 H.B. No. 2165, 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. 2165, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Tam).

SCRep. 3292 Ways and Means on H.B. No. 2420

The purpose of this measure is to make various amendments to update the procurement code.

In particular, this measure:

- (1) Amends chapters 103 and 103D, Hawaii Revised Statutes, to clarify and consolidate certain provisions in those chapters;
- (2) Establishes a new online bidding process;
- (3) Increases the small purchase procurement exception dollar ceilings from \$25,000 to \$100,000 for goods, services, or construction, and to \$250,000 for public school repair and maintenance projects;
- (4) Gives the awarding procurement officer the discretion to determine when bid security is required;
- (5) Establishes a procurement preference for state residents; and
- (6) Appropriates funds to the State Procurement Office to effectuate the purposes of this measure.

Your Committee agrees with the intent of this measure, and finds that amending the public procurement code in this manner will further the State's policy of ensuring fiscal integrity, responsibility, and efficiency in the procurement process by clarifying and modernizing the law governing procurement.

Upon further consideration, your Committee has made technical, nonsubstantive amendments 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 H.B. No. 2420, 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. 2420, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Ige, Kim, Tam).

SCRep. 3293 Ways and Means on H.B. No. 2844

The purpose of this measure is to place limits and restrictions on certain political contributions.

Specifically, the bill:

- (1) Limits political contributions to an aggregate of \$25,000 in any calendar year, provided that any contribution made in a non-election year shall be attributed to the year in which that election is held;
- (2) Provides that no state or national bank or labor organization may make a political contribution, except contributions to be used for political purposes to a separate segregated fund;
- (3) Provides that membership organizations, cooperatives, and corporations without capital stock may also use the separate segregated fund for political contributions; and
- (4) Restricts contributions by state and county contractors.

Your Committee finds that the political campaign contribution laws need an overhaul to address the widespread public belief that business entities making large contributions have an undue impact on politicians. By restricting campaign donations, the playing field between large and small donors will be leveled.

Your Committee has amended the bill by changing the reference to "immediate family" to "dependent family member". Your Committee raised concerns in attempting to clarify that only dependent family members, and not all immediate family members, should be included in the \$50,000 aggregate limit. More specifically questions were raised as to whether a spouse who independently earns income would be considered a dependent, or whether adult children living at home are dependents. Your Committee intends to explore this issue further during Conference meetings.

Your Committee also amended the bill by changing the owners whose ability to make political contributions is restricted to include only those owners who have at least a twenty-five per cent ownership interest.

As affirmed by the record of votes of the members 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. 2844, 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. 2844, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Chun, Ige, Sakamoto, Tam).

SCRep. 3294 Ways and Means on H.B. No. 2569

The purpose of this measure is to provide a General Excise Tax (GET) offset for taxes paid in another state to avoid constitutionally prohibited multiple taxation.

Testimony supporting this measure was received from the Department of Taxation. Comments on this measure were received from the Tax Foundation of Hawaii.

Your Committee notes that this measure is necessary to avoid possible constitutional problems resulting from the taxation of the same goods or services by Hawaii and another jurisdiction. While this does not occur with great frequency, the Department of Taxation presently has no tools to avoid a possible court case in this area. The provisions of this measure will give the Department of Taxation the appropriate language to address the possibility of double taxation in a manner similar to that provided the Department under section 238-3(a), Hawaii Revised Statutes.

Your Committee has amended this measure by replacing its contents with the Senate version, S.B. No. 2827, S.D. 1, which further clarifies that this measure provides a GET offset for taxes paid to another state that may be calculated by deduction, allocation, or any other method necessary to comply with the U.S. Constitution.

As affirmed by the record of votes of the members 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. 2569, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2569, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, English, Hanabusa, Ige, Sakamoto, Tam).

SCRep. 3295 Ways and Means on H.B. No. 2212

The purpose of this measure is to establish an invasive species administrator/coordinator position to coordinate state activities to fight invasive species.

Your Committee finds that there is widespread agreement among farmers, scientists, government agencies, business people, and others that stopping the influx of new invasive pests into the State is essential to Hawaii's future well-being. A 1994 report of the U.S. Office of Technology Assessment declared that Hawaii's invasive species problem was the worst in the nation. Each year an average of twenty new insects become established in our islands and for the past five years, an average of one hundred new alien plants are found annually in the State.

Just one of these insects or plants, as well as animals, can wreak havoc upon the State economically and environmentally - the Miconia plant costs \$1,000,000 to contain on Maui alone, and emotionally - the Caribbean Coqui frog invasion has caused sleepless nights for multitudes of residents on several islands.

The problem is exacerbated by the apparent inability of state agencies to coordinate their efforts to effectively control and eradicate these pests. Although there have been efforts in the past aimed at specific species, an administrative strategy and plan that accounted for all alien pests has been sorely lacking.

This bill provides the administrative mechanism to address this concern by establishing and authorizing an alien species administrator/coordinator to assign lead responsibility for specific invasive species to specific state departments. This assignment, as well as other proposed duties performed by the administrator/coordinator, will provide the accountability that is necessary to effectively fight invasive species in Hawaii.

The bill also provides authorities with access to private property to eradicate or control invasive species, appoints the invasive species coordinator as head of the Emergency Environmental Workforce, and makes an appropriation to effectuate the purposes of the measure.

Your Committee has amended the bill by:

- (1) Changing the expending agency to coincide with an amendment made in a prior draft of the bill concerning administrative attachment;
- (2) Clarifying enforcement provisions;
- (3) Changing the appropriation amount to \$1 for purposes of continued discussion; and
- (4) Making technical changes that have no substantive effect.

As affirmed by the record of votes of the members 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. 2212, 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. 2212, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Chun, Ige, Sakamoto, Tam, Hemmings).

SCRep. 3296 Ways and Means on H.B. No. 2843

The purpose of this measure is to amend certain aspects of the election law. More specifically, this bill requires:

- (1) All special elections to be conducted by mail;
- (2) Ballot recounts in close contests;
- (3) Separate ballots for each party; and
- (4) A public office to be forfeited as of the date of conviction of the office holder, instead of at the time of sentencing.

Your Committee finds that the election issues reflected in this bill have been of concern to many voters because of close election results, confusion about Hawaii's open primary, and recent developments over the unfortunate behavior of a few elected public officials. Your Committee notes that Hawaii's low ranking in electoral participation among the states may be partially explained by the nonresolution of some of these issues. In addition, the 2000 national presidential race also put a spotlight on the need for a means to resolve close election results.

Your Committee has amended this measure by clarifying the definition of "special elections" in section 1 by exempting special primary, special general, and special non-partisan elections from being conducted solely by mail.

As affirmed by the record of votes of the members 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. 2843, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2843, S.D. 2

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Chun, Ige, Sakamoto, Tam).

SCRep. 3297 (Joint/Majority) Commerce, Consumer Protection and Housing and Health and Human Services on H.B. No. 2065

The purpose of this measure is to transfer responsibilities for the oversight of prescriptive authority for advanced practice registered nurses (APRNs) and the designation of drug formularies from the Director of Commerce and Consumer Affairs and the Board of Medical Examiners, respectively, to the Board of Nursing.

Your Committees received testimony in support of this measure from the Board of Nursing, Hawaii Nurses' Association, Chapter of Pediatric Nurse Practitioners, University of Hawaii at Manoa, Hawaii Association of Nurse Anesthetists, Hawaii Government Employees Association, and twenty-nine individuals. The Hawaii Medical Association and Hawaii Society of Anesthesia opposed the measure.

Currently, all fifty states and the District of Columbia have some form of prescriptive authority for APRNs, and in the vast majority of these jurisdictions, prescriptive authority is granted by the nursing board. Hawaii is the only state in which APRNs are regulated by the nurses' regulatory board, APRN prescriptive authority is granted by the regulatory agency, and the drug formulary is designated by the physicians' regulatory board.

Your Committees find that placing oversight of prescriptive authority for APRNs with the Board of Nursing, as effected by this measure, is logical, appropriate, and efficient given the Board's responsibility for oversight of APRN practice, generally, and will eliminate the confusion that results from having three entities involved in the regulation of APRN prescriptive authority.

Further, while this measure places oversight of APRN prescriptive authority with the Board of Nursing, it provides for consultation and collaboration with other health professionals by establishing an advisory committee on formulary matters with representatives from related health fields, including medicine and pharmacy.

Your Committees have amended this measure by delaying its effective date to July 1, 2050, to ensure further discussion and by making a technical amendment to delete duplicative language.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2065, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2065, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, 1 (Chumbley). Excused, 3 (Fukunaga, Kim, Kokubun).

SCRep. 3298 (Joint) Commerce, Consumer Protection and Housing and Ways and Means on H.B. No. 2351

The purpose of this measure is to promote independence and openness in public access television governance.

The Kauai League of Women Voters, League of Women Voters of Hawaii, and two individuals supported this measure. The Department of Commerce and Consumer Affairs (DCCA), Olelo Community Television, and Hoike: Kauai Community Television opposed the measure. Common Cause of Hawaii and the Office of Information Practices submitted comments on this measure.

Your Committees find that public, educational, and governmental (PEG) access is best served by ensuring nondiscriminatory, diverse participation in the PEG access process, and that the State should not intervene in the governance of access organizations, unless they are in violation of statutory or contractual provisions. Therefore, this measure prohibits the appointment of members to the boards of public television access organizations by DCCA. In addition, this measure makes access organizations subject to the sunshine and information practices laws.

Your Committees have amended this measure by:

- (1) Redefining "access organization" as "PEG access organization";
- (2) Reorganizing proposed requirements relating to governance and compliance with sunshine and information practices laws in a new section governing PEG access organizations, that also includes requirements relating to funding and report filings with DCCA;
- (3) Amending the purpose language of this measure to conform to the above changes; and
- (5) Inserting an effective date of July 1, 2003.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2351, H.D. 1, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2351, H.D. 1, S.D. 2.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 8 (Chumbley, Chun, Ige, Inouye, Kokubun, Matsunaga, Sakamoto, Hemmings).

SCRep. 3299 Commerce, Consumer Protection and Housing on H.B. No. 2618

The purpose of this measure is to allow an insured individual to assign insurance benefit payments for dental services to a dentist who is not a participating provider with the insured's health plan.

Your Committee received testimony in support of this measure from the Hawaii Dental Association, Hawaii Dental Hygienists Association, and fifty-four individuals. Testimony in opposition was received from the Hawaii Medical Service Association, AlohaCare, Hawaii Government Employees Association, Hawaii Association of Health Plans, and Hawaii Pacific Health.

This measure allows a consumer who receives dental services from a dentist who does not participate in the consumer's insurance plan to assign the consumer's insurance benefit payments to the nonparticipating dentist. This measure does not mandate equal reimbursement for nonparticipating providers.

Your Committee finds that this measure will facilitate consumer access to dental care, particularly in geographic areas where the number of participating providers is small, or where specialized dental services are needed. Your Committee notes that a 1997 Legislative Reference Bureau review of assignment of payment statutes in seven other states did not report any negative impacts as a result of the enactment of these laws. Further, since then, five more states have enacted similar laws, and no state has rescinded its assignment of payment law.

Your Committee has amended this measure to:

- (1) Require that, prior to treatment, a nonparticipating dentist provide the insured with written disclosure that states that the dentist is not a participating provider and the insured will not be covered by the protections afforded to members of the dental services plan, and that provides a good faith estimate of the insured's out-of-pocket costs;
- (2) Require that the disclosure be provided to the insured separate from other information and signed by the insured prior to rendering service;

- (3) Provide that the insurer is not obligated to assign payments to the nonparticipating provider if the insurer has not received the signed disclosure; and
- (4) Require the insurer to provide the nonparticipating provider with a schedule of its eligible charges upon written request from the latter.

Your Committee also amended this measure by delaying its effective date to January 1, 2050.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2618, 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. 2618, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Kim).

SCRep. 3300 (Joint) Commerce, Consumer Protection and Housing and Judiciary on H.B. No. 2642

The purpose of this measure is to establish the Hawaii Home Loan Protection Act to prohibit predatory lending practices.

Your Committees received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Hawaii Coalition for Responsible Lending, Kokua Council, Legal Aid Society of Hawaii, AARP Hawaii, Hawaii State AFL-CIO, ILWU Local 142, HGEA-AFSCME, IBEW Local 1360, Self-Help, and ten individuals. The measure was opposed by First Hawaiian Bank, National Association of Industrial and Office Properties, Hawaii Bankers Association, Hawaii Financial Services Association, Hawaii Association of Mortgage Brokers, Title Guaranty Escrow Service, Inc., Mortgage Bankers Association of Hawaii, and the Chamber of Commerce of Hawaii. The Hawaii Credit Union League and Hawaii Association of Realtors offered comments on the measure.

According to testimony received by your Committees, "predatory lending" refers to a variety of deceptive or unfair mortgage practices that include asset-based lending (making loans to borrowers unable to make the required payments), loan "flipping" (refinancing a loan with no real benefit to the borrower only to collect more fees for the broker or lender), and "packing" (adding unnecessary fees or insurance). Prepayment penalties are used to inhibit a borrower from seeking a more affordable loan elsewhere. All predatory lending practices strip away home equity and cause people to lose their homes.

Abusive lenders and mortgage brokers target the vulnerable. Elderly homeowners are especially targeted because they often have substantial equity in their homes but have fixed or declining incomes. Unscrupulous lenders and brokers also target women, minorities, low-income households, people with limited education and English proficiency, the disabled, and people in crisis. In July 2001, it was reported that borrowers in the United States lose \$9.1 billion each year to predatory lenders.

Your Committees find that predatory lending is a serious problem in Hawaii. Attorneys who represent victims of predatory lending testified that they have met with dozens of victims of predatory lending practices throughout the State. Your Committees also heard from several Hawaii residents who have lost their homes as a result of predatory lending practices, including a senior citizen and several youngsters from a Big Island plantation community. Yet, currently, Hawaii has no law that specifically addresses predatory lending practices.

This measure prohibits credit provisions and practices commonly associated with predatory lending, including flipping, oppressive balloon payments, pyramiding late charges, and lending without due regard to repayment ability. It prohibits certain practices with respect to home loans, generally, and establishes additional prohibitions relating to high-cost home loans. The Act provides borrowers with the right to cure a default and to reinstate their loans before their homes are lost. To deter predatory lending practices, this measure also provides strong remedies, including a private right of action for substantial damages.

Opponents of this measure argue that its enactment will restrict the availability of subprime credit in this State, hurting consumers who are unable to qualify for prime interest rates. However, your Committees note that subprime credit continues to thrive in North Carolina which adopted the strongest predatory lending law in the country in 1999, while predatory lending in that state has diminished.

Your Committees have amended this measure by replacing its contents with language that represents a compromise between the proponents of this measure and the financial institutions industry. Your Committees recognize that this measure is a work-in-progress and that the parties continue to meet to discuss and develop a law that protects consumers against predatory lending, while balancing the needs of the industry and the subprime lending market.

Among other things, this amended measure:

- (1) Applies to loans that constitute a "mortgage" under the federal Home Ownership and Equity Protection Act;
- (2) Restricts the imposition of prepayment fees and penalties;
- (3) Requires a lender making a high-cost loan to provide the consumer with a written cautionary notice;
- (4) Prohibits lending without consideration of repayment ability;
- (5) Prohibits refinancing by a lender and mortgage broker within twelve months and twenty-four months, respectively, from the date of the original loan, and requires that upon refinancing the borrower receive additional proceeds or a lower interest rate;

- (6) Prohibits false, deceptive, or misleading representations regarding charges or fees;
- (7) Establishes conditions for the sale of credit insurance in conjunction with the making of a high-cost loan;
- (8) Requires that at a minimum, loan documents designate the loan's interest rate, except for variable rate mortgages, and principal amounts; and
- (9) Limits late payment fees and prohibits pyramiding of late fees.

As your Committees noted earlier, the measure's stakeholders continue to engage in discussion and compromise, including in regards to the enforcement provisions of this measure. Therefore, to facilitate further consideration of this matter, your Committees have inserted into this measure a delayed effective date of July 1, 2050.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2642, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2642, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair and the Majority Leader on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 6 (Chumbley, Chun, Hanabusa, Ihara, Matsunaga, Matsuura).

SCRep. 3301 Commerce, Consumer Protection and Housing on H.B. No. 2245

The purpose of this measure is to reform the leasehold renegotiation process by requiring that:

- (1) The fair market value per square foot be determined in conformance with the Uniform Standards of Professional Appraisal Practice;
- (2) Leasehold disputes be settled by a procedure selected by the lessee and not by arbitration; and
- (3) A one-time adjustment be imposed on all applicable leases renegotiated after January 1, 1990, to reflect the respective fair market values pursuant to this Act.

Testimony supporting this measure was received from the Hawaii Council of Associations of Apartment Owners, Institute of Real Estate Management, Bacon Universal, Gretzinger Corporation, Windward Business Center, LLC, Thomas Square Development, Waiakamilo Shopping Center, Waiālae Plaza, Mago's Pizza, Moilili Plaza, Snyder Family Trust/STI Industries, and thirty-six individuals.

Testimony opposing this measure was received from the Housing and Community Development Corporation of Hawaii, Castle & Cooke Properties, Inc., The Hallstorm Group, Inc., Hawaii Bankers Association, Loyalty Development Company, Ltd., The Estate of James Campbell, Kamehameha Schools, Queen Emma Foundation, Land Use Research Foundation of Hawaii, Howell & Associates, GRAPAC Properties, Maui Land & Pineapple Company, Inc., Appraisal Institute, Hawaii Association of Realtors, A & B Properties, Inc., Small Landowners of Oahu & Small Landowners Association, and eight individuals.

Your Committee finds that Hawaii's leaseholders are currently experiencing challenging economic times with the downturn in the state real estate market and overall economy. A substantial number of residential and commercial lessees, in particular, who entered into longer-term leases within the past couple of decades, are the hardest hit. Many are currently locked into paying high rents that do not reflect the current fair market values. This measure establishes a process that helps current and future lessees in ensuring lease rents are in parity with fair market values.

Your Committee recognizes that this measure is creating law that affects real property rights in a unique way. Therefore, your Committee formally requests that the Attorney General immediately review the provisions of this measure and provide an opinion on its legality and its compliance with the federal and state constitutions.

Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2020;
- (2) Adding a definition of "Uniform Standards of Professional Appraisal Practice" to section 519-1, Hawaii Revised Statutes; and
- (3) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2245, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2245, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, English, Matsunaga).

SCRep. 3302 Commerce, Consumer Protection and Housing on H.B. No. 1700

The purpose of this measure is to allow insurance policy advertising, information, and translation to be provided in languages other than English.

The Insurance Commissioner and State Farm testified in opposition to this measure. Your Committee received no favorable testimony and therefore held the measure.

Upon reconsideration, your Committee heard testimony relating to a proposed Senate draft that replaced the contents of this measure with language that temporarily reduces the minimum nonforfeiture interest rate for individual fixed annuity contracts from three per cent to one and one-half per cent.

State Farm Insurance Companies, Pacific Guardian Life Insurance Company, and the National Association of Insurance and Financial Advisors testified in support of the proposed draft.

The minimum nonforfeiture interest rate is the minimum interest rate guarantee that may be used in an individual fixed annuity contract to determine its cash value. This statutory rate is intended to represent the level below which interest rates are not expected to fall. The rate was established by the National Association of Insurance Commissioners (NAIC) model law in 1976 when interest rates were higher than current rates and were expected to continue at that level.

The three per cent minimum rate established in 1976 is not compatible with current economic and market conditions. Therefore, this measure seeks a temporary reduction in the rate to one and one-half per cent to provide immediate relief for the industry. Meanwhile the NAIC, which supports this change to the minimum interest rate and proposed a drop-dead date of July 1, 2004, intends to work with the industry in developing a long-term solution to the problem through its Life and Health Actuarial Task Force.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1700, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1700, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, English).

SCRep. 3303 (Majority) Ways and Means on H.B. No. 2451

The purpose of this measure is to establish a convention center enterprise special fund.

In addition, this measure assigns the responsibility to market, operate, manage, and maintain the convention center facility to the Hawaii Tourism Authority; requires the contract for management of the convention center facility to include marketing for all uses of the facility; and formally repeals the previous convention center authority law.

Your Committee finds that after the sunset of the previous convention center law on June 30, 2000, the Governor assigned the control and management of the convention center to the Hawaii Tourism Authority through Executive Order No. 3817, and that this measure formalizes that responsibility by statute. Your Committee finds that formalizing this responsibility will help to ensure the efficient management of the convention center.

Upon further consideration, your Committee has amended this measure by capping the transient accommodations tax revenues to be deposited in the newly created convention center enterprise special fund as follows:

- (1) A maximum of \$28,500,000 for calendar years 2002 and 2003; and
- (2) A maximum of \$29,000,000 for calendar years 2004 and subsequent years.

This amendment does not change the percentage allocation of transient accommodations tax revenues to the tourism special fund and the counties, but instead provides that of the transient accommodations tax collected revenues to be deposited into the new convention center enterprise special fund, amounts collected in excess of \$28,500,000 for calendar years 2002 and 2003 are to be deposited into the general fund, and amounts collected in excess of \$29,000,000 for calendar years 2004 and beyond are also to be deposited into the general fund.

Your Committee finds that currently, transient accommodations tax revenues that should be going toward operating the convention center are projected to be \$31,000,000 for one year. The convention center also anticipates generating approximately \$9,000,000 in other sources of revenues from operating the center, bringing the total anticipated revenues to \$40,000,000.

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. 2451, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2451, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, 1 (Hemmings). Excused, 4 (Chun, Ige, Sakamoto, Tam).

SCRep. 3304 Ways and Means on H.B. No. 2542

The purpose of this measure is to increase revenues for deposit into the boating special fund.

More specifically, the measure provides for the deposit into the boating special fund of fees and penalties relating to the regulation and use of vessels and small boat harbors, established by the Department of Land and Natural Resources. The measure also provides for an annual increase of the commercial gross revenue based fees, up to a maximum cap of three per cent of gross revenues. Finally, the measure prohibits any increase in the moorage fees for recreational vessels, without legislative approval.

Your Committee finds that moorage fees have remained a contentious issue. Your Committee further finds that small boat harbors are in desperate need of funding to improve deteriorating facilities. Your Committee believes that this measure provides a fair means of increasing revenues necessary for repair and maintenance of these facilities.

Your Committee has amended this measure by making the effective date defective.

As affirmed by the record of votes of the members 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. 2542, 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. 2542, H.D. 2, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Ige, Inouye, Kim, Hemmings, Slom).

SCRep. 3305 Ways and Means on H.B. No. 2821

The purpose of this measure is to abolish deputy director positions within state departments.

Additionally, the measure:

- (1) Prohibits state departments from employing public relations personnel; and
- (2) Converts the deputy for water resource management position to an executive officer position.

Your Committee finds that the deputy directors within the state departments provide invaluable assistance to the respective department's core missions and serve a necessary role as the director's representative or as the acting director of the department in the director's absence. However, because of this important role, your Committee believes that more oversight in their selection process is warranted.

Your Committee has amended this measure by:

- (1) Deleting provisions abolishing deputy positions within state departments;
- (2) Deleting the provision prohibiting state departments from employing public relations personnel;
- (3) Deleting the provision converting the deputy for water resource management position to an executive officer position; and
- (4) Requiring Senate confirmation of all first deputies and first assistants within state departments and of the Executive Director of the Hawaii Tourism Authority.

As affirmed by the record of votes of the members 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. 2821, 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. 2821, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.

Ayes, 11. Noes, none. Excused, 4 (Chun, Ige, Sakamoto, Tam).

SCRep. 3306 Ways and Means on H.B. No. 2570

The purposes of this measure are to:

- (1) Eliminate the three per cent capital goods excise tax credit rate set for 1987, and delete reference to a county general excise and use tax surcharge;
- (2) Exempt from capital goods excise tax credit recapture provisions, computer technology or equipment contributed to certain entities;
- (3) Delete the "actual invoice price of tangible personal property" as representing the cost upon which the tax credit shall be based; and
- (4) Include "canned computer software" as eligible depreciable tangible personal property after December 31, 2001.

Testimony supporting this measure was received from the Department of Taxation and Sato & Yamamoto, LLP. The Tax Foundation of Hawaii submitted comments on this measure.

Your Committee finds that this measure clarifies and simplifies the administration of the capital goods excise tax credit. It has been a continual mission of the State to nurture and support Hawaii's technology industry and the businesses that rely on the industry to provide needed products and services. This measure encourages the donation of computer technology or equipment to entities that need them by eliminating the recapture of the credit for those donations.

Your Committee has amended this measure by:

- (1) Applying the exemption from the recapture provisions only to computer equipment;
- (2) Clarifying that the costs for which another tax credit was claimed under chapter 235, Hawaii Revised Statutes, shall not be eligible for the capital goods excise tax credit;
- (3) Clarifying the educational entities to which a contribution may be made;
- (4) Adding to the qualifying educational donees of computer equipment:
 - (a) An educational institution, which normally maintains faculty and curriculum and normally has regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on;
 - (b) The community college system established under chapter 305, Hawaii Revised Statutes;
- (5) Clarifying that original use of the computer equipment must have been by the purchaser/donor;
- (6) Deleting the provision specifying that the computer equipment fit productively into the donee's education plan;
- (7) Redefining "canned computer software" as a pre-written set of instructions or statements, which is capable of causing a computer to indicate, perform, or achieve a particular function, task, or result that has a general applicability and has not been prepared at the special request of the purchaser to meet the purchaser's particular needs;
- (8) Deleting repeal of actual invoice price; and
- (9) Changing the effective date of this measure to December 31, 2050, for the purpose of furthering discussion on 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. 2570, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2570, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 8. Noes, none. Excused, 7 (Buen, Chun, Ige, Kokubun, Sakamoto, Tam, Slom).

SCRep. 3307 Ways and Means on H.B. No. 2576

The purpose of this measure is to encourage the use of high technology business investment tax incentives.

Specifically, the measure clarifies the application of certain high technology business investment tax incentives, by:

- (1) Amending the definition of "performing arts products" as it relates to commercial television and film products for sale or license to require that marketing opportunities and activities that support the growth and development of Hawaii's film industry were provided in the development of the product;
- (2) Amending the definition of "qualified research" as it relates to computer software to mean "the development and design of unique and specific code to create computer software applications and design databases for sale or license"; and
- (3) Including definitions of "nonfossil fuel energy" and "nonfossil fuel energy-related technology";
- (4) Providing for the recapture of the high technology business investment tax credit if a business has a taxable transfer and, if the credit is claimed, precluding other state income tax credits for the same investment;
- (5) Clarifying how partnerships, limited liability partnerships, limited liability companies classified as partnerships, and S-corporations may claim the tax credit;
- (6) Adding a new section to Chapter 206M, Hawaii Revised Statutes, relating to high technology development, that enables the High Technology Development Corporation to utilize federal funds for high technology-related projects;
- (7) Amending section 206M-3(a), Hawaii Revised Statutes, to enable the High Technology Development Corporation to accept and expend gifts, grants, or funds from various federal agencies; and
- (8) Appropriating funds for marketing high technology tax incentives.

Your Committee finds that Act 178, Session Laws of Hawaii 1999, and Act 297, Session Laws of Hawaii 2000, established various tax incentives to encourage the development of high technology businesses in the State. These acts provided investment and research credits as well as income exclusions providing tax relief to high tech businesses and individuals associated with high tech businesses. This measure refines these incentives in an effort to make them more understandable and useable.

Your Committee has amended the measure by deleting the \$1 appropriated for marketing tax incentives and by changing the effective date of the measure from July 1, 2050, to July 1, 2040.

As affirmed by the record of votes of the members 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. 2576, 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. 2576, H.D. 1, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Hemmings).

SCRep. 3308 (Majority) Ways and Means on H.B. No. 2654

The purpose of this measure is to establish a loss mitigation grant program, authorize the issuance of general obligation bonds for the Hawaii hurricane relief fund, transfer funds from the hurricane reserve trust fund to the general fund, and appropriate funds to various state programs.

Your Committee finds that following the September 11 incident, it is necessary to take unusual and, perhaps, painful steps to address the current budget shortfall and prevent further losses in vital state programs such as lower and higher education. Specifically, your Committee finds that it is necessary to make the best possible use of all available resources, including funds from the inactive hurricane reserve trust fund.

Your Committee has amended this measure as follows:

- (1) Replacing the contents of part I, on the pilot loss mitigation grant program, with a modified version of the grant program from S.B. No. 2172, S.D. 2. As amended, part I codifies the grant program in the Hawaii Revised Statutes, authorizes the Insurance Commissioner to spend \$30,000,000 from the loss mitigation grant fund for the grant program over a three-year period, and establishes a technical advisory committee. Furthermore, this measure authorizes moneys in the hurricane reserve trust fund to be deposited into the loss mitigation grant fund, and increases from \$5,000,000 to \$10,000,000 the amount of funds to be transferred from the hurricane reserve trust fund to the loss mitigation grant fund;
- (2) Amending part II by changing from \$100,000,000 to \$50,000,000 the authorization amount of the general obligation bonds to be used to recapitalize the hurricane reserve trust fund, and by making technical, nonsubstantive amendments;
- (3) Amending part III by changing from \$100,000,000 to \$55,072,973 the amount to be transferred from the hurricane reserve trust fund to the general fund; and
- (4) Replacing the contents of part IV, which makes appropriations for various state programs, with general fund appropriations totaling \$55,072,973 for Board of Education priorities, various education initiatives, restoration of reductions to the Department of Education's discretionary budget contained in H.B. No. 1800, S.D. 1, various grants-in-aid, a lump sum appropriation to the University of Hawaii, and partial annual payment of debt service for capital improvement projects related to the Department of Education.

As affirmed by the record of votes of the members 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. 2654, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2654, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, 6 (Chun Oakland, Ige, Inouye, Kim, Sakamoto, Slom). Excused, 1 (Hemmings).

SCRep. 3309 (Joint) Commerce, Consumer Protection and Housing, Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.C.R. No. 58

The purpose of this measure is to authorize an Auditor's study on the effectiveness and efficiency of the State's risk management and on the feasibility of implementing a state captive insurance company.

The Insurance Commissioner, while taking no position on the merits of the measure, testified that the Insurance Division was willing to provide assistance with the Auditor's study.

Subsequent to the hearing on the measure as received, your Committees heard testimony on a proposed Senate draft of the measure. As originally drafted, the proposed draft replaced the contents of this measure with language establishing a joint legislative investigative committee on petroleum fuel prices pursuant to chapter 21, Hawaii Revised Statutes.

Testimony in support of the proposed Senate draft was received from the Department of Business, Economic Development and Tourism (DBEDT) and an individual. Tesoro Hawaii Corporation, Western States Petroleum Association, and two individuals opposed the proposed Senate draft. The Legislative Reference Bureau testified that it had no objection to providing policy analysis and drafting support to the investigative committee as requested in the proposed concurrent resolution.

Your Committees heard testimony that legislative proceedings on gas prices in the nature of an investigative committee are unnecessary and that information on this issue, including information obtained in the Attorney General's investigation of the oil industry and the State's recently settled antitrust action against the oil companies is already available to the Legislature. Therefore, this measure has been amended to provide for the establishment of a joint legislative review committee to gather and review publicly available information, studies, and reports relating to petroleum fuel prices, to evaluate this information, and to develop legislation to address the problem of high fuel prices in the State.

In addition, this measure as amended:

- (1) Requests DBEDT to provide assistance in gathering, analyzing, and interpreting information submitted under the Petroleum Industry Reporting Act and to provide the committee with technical assistance;
- (2) Requests the Attorney General to provide the committee with copies of documents from its investigation of the petroleum industry;
- (3) Requests the Legislative Reference Bureau's assistance in conducting legal and policy analyses and in drafting legislation; and
- (4) Requires the joint legislative review committee to submit its findings and recommendations prior to the convening of the 2003 Legislature.

Finally, your Committees note that the title of this concurrent resolution has been changed to reflect its amended purpose.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 58, as amended herein, recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 58, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 12. Noes, none. Excused, 7 (Chumbley, Ihara, Kanno, Kim, Kokubun, Nakata, Tam).

SCRep. 3310 Commerce, Consumer Protection and Housing on S.C.R. No. 169

The purpose of this measure is to request the Public Utilities Commission (PUC) to establish the Power Quality Task Force (task force) to study power quality issues.

Your Committee received testimony in support of this measure from the Division of Consumer Advocacy, Hawaiian Electric Company, Hawaii Renewable Energy Alliance, Life of the Land, Kauai Electric, and an individual. Comments were submitted by the PUC.

This measure concerns electric power generation, delivery, responsibility, and quality, issues about which the general public and legislators are largely unsure. This measure is intended to help the electric power companies and alternative energy companies to plan for the future by studying the present system of electric power with a view towards evaluating the system and improving the quality of power to meet future needs of the State, and to respond to consumer complaints. The PUC would file interim reports to the Legislature prior to the 2003 and 2004 Regular Sessions and a final report prior to the 2005 Regular Session.

Your Committee has amended this measure to add a representative to the task force from each electric utility company in Hawaii.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 169, 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. 169, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Tam).

SCRep. 3311 Commerce, Consumer Protection and Housing on S.R. No. 105

The purpose of this measure is to request the Public Utilities Commission (PUC) to establish the Power Quality Task Force (task force) to study power quality issues.

Your Committee received testimony in support of this measure from the Division of Consumer Advocacy, Hawaiian Electric Company, Hawaii Renewable Energy Alliance, Life of the Land, Kauai Electric, and an individual. Comments were submitted by the PUC.

This measure concerns electric power generation, delivery, responsibility, and quality, issues about which the general public and legislators are largely unsure. This measure is intended to help the electric power companies and alternative energy companies to plan for the future by studying the present system of electric power with a view towards evaluating the system and improving the quality of power to meet future needs of the State, and to respond to consumer complaints. The PUC would file interim reports to the Legislature prior to the 2003 and 2004 Regular Sessions and a final report prior to the 2005 Regular Session.

Your Committee has amended this measure to add a representative to the task force from each electric utility company in Hawaii.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 105, 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. 105, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Tam).

SCRep. 3312 (Joint/Majority) Commerce, Consumer Protection and Housing and Health and Human Services on S.C.R. No. 134

The purpose of this measure is to urge the Governor to convene a task force to address the problem of transitional housing and social welfare facilities on Oahu.

Your Committees received testimony in support of this measure from the Honolulu Department of Community Services and Hawaii Youth Services Network. Testimony in opposition was received from the Housing and Community Development Corporation of Hawaii.

Your Committees find that, despite the State's efforts to date, there continues to be a huge unmet need for transitional housing for the homeless and others coming off welfare. About 1,200 families were cut from welfare in December 2001, and when combined with the economic effects of the downturn in the State's economy, the need for more transitional housing is evident.

In addition to housing, there exists inadequate funding of social services, community health services, and public safety services that serve the homeless, including homeless shelters.

In spite of the current lack of funding, this measure is intended to plan a blueprint for the future to provide for the housing and social and health needs of the homeless and others who have lost their homes.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection and Housing and Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 134 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.
Ayes, 7. Noes, 1 (English). Excused, 4 (Chumbley, Fukunaga, Kim, Kokubun).

SCRep. 3313 (Majority) Labor on S.C.R. No. 180

The purpose of this measure is to request a legislative audit of the alleged fiduciary violation of the Employees' Retirement System's Board of Trustees.

Your Committee has amended the measure by deleting its contents and inserting therefor, provisions that request the Legislative Reference Bureau to compare legislative proposals to allow employees to take sick leave to care for their families with Hawaii's Family Leave Law, as codified in chapter 398, Hawaii Revised Statutes.

Your Committee has also amended the title to reflect the measure's new purpose.

Testimony in support of the amended measure was received from the ILWU Local 142 and a private citizen. The Legislative Reference Bureau submitted comments.

Your Committee finds that Hawaii has a high percentage of two-wage earner families and a particularly high number of these families include school-age children. Parents in these families have a difficult time balancing their schedules even when family members are well.

When a parent, child, spouse, or reciprocal beneficiary becomes seriously ill, employees often use vacation leave to care for these individuals. Unfortunately, some employers do not allow employees to take their own sick leave to attend to sick family members.

To address this issue, an alternative was established in Hawaii in 1991 and codified as Chapter 398, Hawaii Revised Statutes, which allowed employees to take family leave. Hawaii's Family Leave Law entitles an employee to a total of four weeks of family leave during any calendar year upon the birth or adoption of a child or to care for the employee's child, spouse, reciprocal beneficiary, or parent with a serious health condition.

Your Committee further finds that measures have been introduced during the Regular Session of 2002 to allow employees to take sick leave to care for their families. Your Committee believes that in order to make informed decisions on this issue, more information and a comprehensive evaluation of the proposals are necessary.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 180, 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. 180, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Chumbley, Hanabusa, Ihara, Sakamoto).

SCRep. 3314 (Majority) Labor on S.R. No. 112

The purpose of this measure is to request a legislative audit of the alleged fiduciary violation of the Employees' Retirement System's Board of Trustees.

Your Committee has amended the measure by deleting its contents and inserting therefor, provisions that request the Legislative Reference Bureau to compare legislative proposals to allow employees to take sick leave to care for their families with Hawaii's Family Leave Law, as codified in chapter 398, Hawaii Revised Statutes.

Your Committee has also amended the title to reflect the measure's new purpose.

Testimony in support of the amended measure was received from the ILWU Local 142 and a private citizen. The Legislative Reference Bureau submitted comments.

Your Committee finds that Hawaii has a high percentage of two-wage earner families and a particularly high number of these families include school-age children. Parents in these families have a difficult time balancing their schedules even when family members are well.

When a parent, child, spouse, or reciprocal beneficiary becomes seriously ill, employees often use vacation leave to care for these individuals. Unfortunately, some employers do not allow employees to take their own sick leave to attend to sick family members.

To address this issue, an alternative was established in Hawaii in 1991 and codified as Chapter 398, Hawaii Revised Statutes, which allowed employees to take family leave. Hawaii's Family Leave Law entitles an employee to a total of four weeks of family leave during any calendar year upon the birth or adoption of a child or to care for the employee's child, spouse, reciprocal beneficiary, or parent with a serious health condition.

Your Committee further finds that measures have been introduced during the Regular Session of 2002 to allow employees to take sick leave to care for their families. Your Committee believes that in order to make informed decisions on this issue, more information and a comprehensive evaluation of the proposals are necessary.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 112, 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. 112, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 4 (Chumbley, Hanabusa, Ihara, Sakamoto).

SCRep. 3315 Transportation, Military Affairs, and Government Operations on S.C.R. No. 142

The purpose of this measure is to request that the Governor convene a task force to assess the feasibility of establishing a light rail system on Oahu.

Testimony in support of this measure was submitted by the Department of Transportation (DOT).

Your Committee finds that traffic congestion on Oahu has become unbearable, and that the State must examine alternative forms of transportation, in addition to TheBus. Therefore, your Committee supports the intent of this measure, so that the feasibility of a light rail system can be explored.

Your Committee also supports the collaborative efforts of the DOT and the City and County of Honolulu through the Oahu Metropolitan Planning Organization to examine additional possibilities for alternative transportation. While a light rail system may be advantageous, it is not the only possibility, and your Committee finds that the State must explore every possible method for reducing our reliance on automobiles.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 142 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3316 (Joint) Transportation, Military Affairs, and Government Operations and Health and Human Services on S.C.R. No. 121

The purpose of this measure is to request that the Legislative Reference Bureau (LRB) conduct a study of the current policies and criteria used by the Auditor in conducting sunrise reviews pursuant to Chapter 26H, Hawaii Revised Statutes (HRS).

The Department of Commerce and Consumer Affairs submitted comments on this measure.

Your Committees find that regulatory licensing is an exercise of the State's police power that should be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the licensed services.

The policies adopted by the Legislature in Section 26H-2, HRS, guide the Auditor in conducting the sunrise review of licensed programs. A study of these policies by LRB will help the Legislature determine whether the policies are appropriate.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 121 and recommend that it be referred to the Committee on Ways and Means.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 6 (Kanno, Kokubun, Menor, Tam, Hemmings, Hogue).

SCRep. 3317 Tourism and Intergovernmental Affairs on S.C.R. No. 151

The purpose of this measure is to proclaim September 2002 as "Voter Education Month".

Testimony in support of this measure was received from the Department of Education and Kids Voting Hawaii.

Your Committee finds that the well being of our communities depends on citizens – young and old – who are willing to participate actively in solving the issues facing society today. Active citizenship includes voting and voter education is one means of encouraging greater participation in the political process.

Your Committee is strongly supportive of the purpose of this measure and has amended it to correct the date of the primary election.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 151, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as S.C.R. No. 151, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3318 Tourism and Intergovernmental Affairs on S.R. No. 90

The purpose of this measure is to proclaim September 2002 as "Voter Education Month".

Testimony in support of this measure was received from the Department of Education and Kids Voting Hawaii.

Your Committee finds that the well being of our communities depends on citizens – young and old – who are willing to participate actively in solving the issues facing society today. Active citizenship includes voting and voter education is one means of encouraging greater participation in the political process.

Your Committee is strongly supportive of the purpose of this measure and has amended it to correct the date of the primary election.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs 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 Judiciary, in the form attached hereto as S.R. No. 90, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3319 Tourism and Intergovernmental Affairs on S.C.R. No. 163

The purpose of this measure is to request the Legislative Reference Bureau to conduct research and develop specific recommendations for webcasting, which would allow anyone with an Internet connection to listen or watch legislative proceedings live, or, at their election, later on an archived basis.

Testimony in support of this measure was received from the Department of Accounting and General Services, The League of Women Voters, Akaku: Maui Community Television, and Hawaii Public Access Media.

Your Committee finds that currently it is often difficult for community members interested in viewing legislative proceedings to access broadcasts of the proceedings. Rebroadcasts are usually scheduled during late hours, and there is no easy way to determine when a specific program may be aired.

Your Committee is strongly supportive of broader and easier access to legislative proceedings for members of the community who are unable to attend in person and must rely on some form of video or audio broadcasts. Your Committee is also committed to ensuring that residents of the Neighbor Islands – particularly in remote areas – have adequate access as well.

Your Committee has amended this measure to add the following:

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to ensure the full participation of the Neighbor Island access organizations in the research and development of its recommendations; and

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 163, 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. 163, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3320 Tourism and Intergovernmental Affairs on S.R. No. 101

The purpose of this measure is to request the Legislative Reference Bureau to conduct research and develop specific recommendations for webcasting, which would allow anyone with an Internet connection to listen or watch legislative proceedings live, or, at their election, later on an archived basis.

Testimony in support of this measure was received from the Department of Accounting and General Services, The League of Women Voters, Akaku: Maui Community Television, and Hawaii Public Access Media.

Your Committee finds that currently it is often difficult for community members interested in viewing legislative proceedings to access broadcasts of the proceedings. Rebroadcasts are usually scheduled during late hours, and there is no easy way to determine when a specific program may be aired.

Your Committee is strongly supportive of broader and easier access to legislative proceedings for members of the community who are unable to attend in person and must rely on some form of video or audio broadcasts. Your Committee is also committed to ensuring that residents of the Neighbor Islands – particularly in remote areas – have adequate access as well.

Your Committee has amended this measure to add the following:

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to ensure the full participation of the Neighbor Island access organizations in the research and development of its recommendations; and

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 101, 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. 101, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3321 Tourism and Intergovernmental Affairs on S.C.R. No. 164

The purpose of this measure is to request that the Joint Legislative Access Committee develop and adopt a long-term plan for the legislative broadcasting program, which includes a facility and infrastructure plan.

Testimony in support of this measure was received from The League of Women Voters, Akaku: Maui Community Television, and Hawaii Public Access Media.

Your Committee finds that the legislative broadcast program is vital to citizen participation and knowledge regarding the Hawaii State Legislature. Since the program began in 1994, new technologies offer more effective opportunities for public access to the legislative process.

Your Committee is strongly supportive of the plan outlined in this measure. Expanded technology – and greater public expectations regarding access to information – make this plan both timely and critical to the continued success of the program.

Your Committee has amended this measure to:

- (1) Add reference to Akaku: Maui Community Television in the fourth WHEREAS section;
- (2) Add references to problems of neighbor island coverage in the sixth WHEREAS and in a new seventh WHEREAS section;
- (3) Change the Joint Legislative Access Committee to the Legislative Reference Bureau (LRB) and add LRB to the list receiving a certified copy of the measure;
- (4) Reorder the components of the long-term plan to make an increase in neighbor island access the first priority, and expand on that component; and
- (5) Add an additional BE IT FURTHER RESOLVED clause to include participation of neighbor island access organizations.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3322 Tourism and Intergovernmental Affairs on S.R. No. 102

The purpose of this measure is to request that the Joint Legislative Access Committee develop and adopt a long-term plan for the legislative broadcasting program, which includes a facility and infrastructure plan.

Testimony in support of this measure was received from The League of Women Voters, Akaku: Maui Community Television, and Hawaii Public Access Media.

Your Committee finds that the legislative broadcast program is vital to citizen participation and knowledge regarding the Hawaii State Legislature. Since the program began in 1994, new technologies offer more effective opportunities for public access to the legislative process.

Your Committee is strongly supportive of the plan outlined in this measure. Expanded technology – and greater public expectations regarding access to information – make this plan both timely and critical to the continued success of the program.

Your Committee has amended this measure to:

- (1) Add reference to Akaku: Maui Community Television in the fourth WHEREAS section;
- (2) Add references to problems of neighbor island coverage in the sixth WHEREAS and in a new seventh WHEREAS section;
- (3) Change the Joint Legislative Access Committee to the Legislative Reference Bureau (LRB) and add LRB to the list receiving a certified copy of the measure;
- (4) Reorder the components of the long-term plan to make an increase in neighbor island access the first priority, and expand on that component; and
- (5) Add an additional BE IT FURTHER RESOLVED clause to include participation of neighbor island access organizations.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 102, 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. 102, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3323 Economic Development and Technology on S.R. No. 94

The purpose of this measure is to support economic diversification and technology industry development by disallowing the depletion of high technology special funds and cuts to program funds of State technology agencies.

Testimony supporting this measure was received from the Natural Energy Laboratory of Hawaii Authority and the High Technology Development Corporation.

Your Committee finds that the economy's reaction to the September 11th terrorist attacks has once again proven our over dependence on the tourism industry. It is vital that we continue to support diverse industries such as high technology that have already proven to make strides for our economy.

Your Committee has amended this measure by requesting high technology industry representatives, i.e., the Department of Business, Economic Development, and Tourism, High Technology Development Corporation, Hawaii Technology Trade Association, and the Natural Energy Laboratory of Hawaii Authority, to set the direction for the high technology industry, rather than request the Legislature to support the high technology industry. In particular, the industry representatives are to come together and develop a directional plan that shall be submitted to the Senate.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 94, 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. 94, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3324 Health and Human Services on S.C.R. No. 46

The purpose of this measure is to urge the Department of Education (DOE) to encourage the development and use of food gardens as a teaching tool.

The DOE submitted testimony in opposition to this measure.

This measure is targeted for elementary schools, where it is important for the students to learn about healthy eating. Food gardens would make students aware of the dietary importance and nutritional value of fruits and vegetables. While the DOE testified that

growing vegetables or having class vegetable gardens are presently integrated as appropriate into the nutrition studies, your Committee feels that the practice should become more widespread among the schools.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Education.

Signed by the Chair on behalf of the Committee.
Ayes, 4 . Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3325 Health and Human Services on S.R. No. 27

The purpose of this measure is to urge the Department of Education (DOE) to encourage the development and use of food gardens as a teaching tool.

The DOE submitted testimony in opposition to this measure.

This measure is targeted for elementary schools, where it is important for the students to learn about healthy eating. Food gardens would make students aware of the dietary importance and nutritional value of fruits and vegetables. While the DOE testified that growing vegetables or having class vegetable gardens are presently integrated as appropriate into the nutrition studies, your Committee feels that the practice should become more widespread among the schools.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 27 and recommends that it be referred to the Committee on Education.

Signed by Senator English on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3326 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on S.C.R. No. 48

The purpose of this measure is to request the Auditor to assess the social and financial effects of requiring health insurance coverage for naturopathic, acupuncture, and chiropractic services.

Testimony in support of this measure was submitted by the Hawaii Society of Naturopathic Physicians, the American Association of Naturopathic Physicians, three naturopathic physicians, Hawaii Acupuncture Association, Institute of Clinical Acupuncture and Oriental Medicine, a licensed acupuncturist, a licensed chiropractor, and many private individuals. Testimony in support of the intent of and requesting amendments to this measure was submitted by the Hawaii Medical Association and Kaiser Permanente.

Your Committees find that consumer demand for complementary medicine, which includes naturopathy, acupuncture, and chiropractic, has increased dramatically over the past three decades, growing into a multi-billion dollar industry. Your Committees further find that these alternatives to western medicine are rooted in health care systems that have evolved through thousands of years of ongoing practice on patients who have been successfully treated for myriad health concerns.

Your Committees have amended this measure by adding a BE IT FURTHER RESOLVED clause requesting the Auditor to consider the findings in prior impact assessments conducted pursuant to sections 23-51 and 23-52, HRS, specifically report no. 88-9 relating to chiropractic services, report no. 89-25 related to naturopathic care, and report no. 95-28 related to acupuncture services.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 48, as amended herein, recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 48, S.D. 1.

Signed by Senator English and Senator Menor on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Fukunaga, Kim, Kokubun).

SCRep. 3327 Health and Human Services on S.C.R. No. 115

The purpose of this measure is to request the Insurance Commissioner to perform an actuarial analysis of the utilization and rate impacts, if any, of reinstating naturopathy among the personal injury protection benefits in motor vehicle insurance.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs, University of Hawaii, John A. Burns School of Medicine, and Hawaii Society of Naturopathic Physicians. Your Committee received testimony in opposition to this measure from State Farm Insurance Companies.

Your Committee finds that presently, no reliable data exists to evaluate the claims of opposite sides of the debate over equal consideration of naturopathic medicine. The actuarial data will provide authoritative and objective guidelines by which a fair and informed decision can ultimately be made on the reinstatement of naturopathy in the motor vehicle personal injury protection insurance statute.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3328 Health and Human Services on S.C.R. No. 148

The purpose of this measure is to urge the Governor to designate the State Capitol building as a smoke-free workplace.

Testimony in support of this measure was submitted by the Maui County Council, Coalition for a Tobacco Free Hawaii, University Health Services-Manoa Health Education Center, the American Cancer Society, and an emergency room physician. The State Comptroller submitted testimony expressing concerns about the measure being more stringent than existing laws. The Department of Health agreed with testifiers regarding the need for enforcement of state smoking laws and regulations within the State Capitol.

Your Committee finds that smoking in the workplace has been an issue that has been addressed by the state government through state laws that affect both the public and private sector. Your Committee further finds that the regulation of smoking within the State Capitol building should be addressed within the parameters of existing law and in consultation with legislative leadership, since many legislative offices are located within the State Capitol.

Your Committee has amended this measure by:

- (1) Changing the TITLE to read "URGING THE DESIGNATION OF NON-SMOKING AND SMOKING AREAS WITHIN THE STATE CAPITOL.";
- (2) Changing the BE IT RESOLVED clause to request that the Governor, legislative leadership, and the Comptroller designate non-smoking and smoking areas on each floor within the State Capitol, pursuant to applicable laws and regulations; and
- (3) Adding the President of the Senate and the Speaker of the House of Representatives to receive copies of this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 148, as amended herein, and recommends that it be referred to the Committee on Transportation, Military Affairs and Government Operations, in the form attached hereto as S.C.R. No. 148, S.D. 1.

Signed by Senator English on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3329 Health and Human Services on S.R. No. 88

The purpose of this measure is to urge the Governor to designate the State Capitol building as a smoke-free workplace.

Testimony in support of this measure was submitted by the Maui County Council, Coalition for a Tobacco Free Hawaii, University Health Services-Manoa Health Education Center, the American Cancer Society, and an emergency room physician. The State Comptroller submitted testimony expressing concerns about the measure being more stringent than existing laws. The Department of Health agreed with testifiers regarding the need for enforcement of state smoking laws and regulations within the State Capitol.

Your Committee finds that smoking in the workplace has been an issue that has been addressed by the state government through state laws that affect both the public and private sector. Your Committee further finds that the regulation of smoking within the State Capitol building should be addressed within the parameters of existing law and in consultation with legislative leadership, since many legislative offices are located within the State Capitol.

Your Committee has amended this measure by:

- (1) Changing the TITLE to read "URGING THE DESIGNATION OF NON-SMOKING AND SMOKING AREAS WITHIN THE STATE CAPITOL.";
- (2) Changing the BE IT RESOLVED clause to request that the Governor, legislative leadership, and the Comptroller designate non-smoking and smoking areas on each floor within the State Capitol, pursuant to applicable laws and regulations; and
- (3) Adding the President of the Senate and the Speaker of the House of Representatives to receive copies of this measure.

As affirmed by the record of votes of the members of your Committee on Health and Human Services 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 Transportation, Military Affairs and Government Operations, in the form attached hereto as S.R. No. 88, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3330 Economic Development and Technology on S.C.R. No. 94

The purpose of this measure is to urge the Division of Boating and Ocean Recreation (DOBOR) to adhere to the State Auditor's recommendations to improve the DOBOR's administration of the boating program.

Testimony in support of this measure was received from the Hawaii Government Employees Association, Hawaii Boaters Political Action Association, Rainbow Yachts, Ala Wai Marina Board, Pacific Boats & Yachts, LLC, and four individuals. Your Committee received testimony in opposition to this measure from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds that repeated audits of DOBOR indicate that changes must be made in the boating program. By following the Auditor's recommendations, it will be possible to cut government costs while increasing services; reduce government debt; streamline and increase service to the public; reduce the number of lawsuits filed against DOBOR; create community involvement and new sources of revenue; and provide the opportunity for development of an effective statewide boating program.

Your Committee has amended this measure by:

- (1) Mentioning that the Board stated in a December 2001 meeting that the DOBOR will hold public hearings before any boating fee increase;
- (2) Requiring that the Board conduct public hearings jointly with the Senate Committee on Economic Development and Technology and House Committee on Economic Development and Business Concerns to investigate DOBOR's practices; and
- (3) Requiring a freeze on increases of boating fees until completion of the joint investigation.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 94, as amended herein, and recommends that it be referred to the Committee on Transportation, Military Affairs and Government Operations, in the form attached hereto as S.C.R. No. 94, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3331 Economic Development and Technology on S.C.R. No. 112

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism (DBEDT) to study the movement of capital out of the State by reviewing companies that are not based in Hawaii but provide services and products to Hawaii residents.

Testimony in support of this measure was received from the Hawaii Government Employees Association and an individual. Comments were received from the DBEDT.

Your Committee finds that for a number of years, our State has seen the introduction of an increasing number of firms from the continental United States and the rest of the world into our marketplace. In most cases, these firms do not retain their profits locally, but instead return such moneys to their offshore parent companies. Despite the tax revenue generated by these companies, Hawaii suffers a significant revenue drain from this flight of capital.

Your Committee has amended this measure by replacing its contents with provisions to establish a task force to develop and administer an economic development plan for the State.

Your Committee finds that a plan, with clear goals and objectives, is a necessary first step to action. The State desperately needs comprehensive economic development plan, so that we can explore ways to revive and sustain our sagging economy.

The task force proposed in the measure, as amended, will consist of representatives of the counties, the business community, academia, the Legislature, and the administration. With all of this brainpower together in one room, your Committee believes that we can solve the State's economic woes once and for all through development of a sound plan, with clear goals and objectives.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology 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 that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 112, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3332 Economic Development and Technology on S.C.R. No. 117

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to adopt rules for the management of boating, fisheries, and public use of the ocean and coastal areas with the following priorities:

- (1) Protection of natural resources;
- (2) Native Hawaiian practices;

- (3) Non-commercial recreational use;
- (4) Commercial recreational use; and
- (5) Non-recreational use.

Testimony in opposition to this measure was received from the Chairperson of the Board of Land and Natural Resources, Ocean Tourism Coalition, Paradise Cruise, Ltd., Aqua Lung Pacific, Trilogy Excursions, Capt. Andy's Sailing Inc., and HoloHolo Charters Inc.

Your Committee finds that the ocean and coastal areas must be prioritized to comply with constitutional mandates, to avoid user conflicts, and to continue the vitality of our ocean tourism industry.

Your Committee has amended this measure by requiring DLNR to conduct public hearings to provide information on existing and potential uses of coastal zone waters.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 117, as amended herein, and recommends that it be referred to the Committee on Water, Land, Energy and Environment, in the form attached hereto as S.C.R. No. 117, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3333 Economic Development and Technology on S.R. No. 64

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to adopt rules for the management of boating, fisheries, and public use of the ocean and coastal areas with the following priorities:

- (1) Protection of natural resources;
- (2) Native Hawaiian practices;
- (3) Non-commercial recreational use;
- (4) Commercial recreational use; and
- (5) Non-recreational use.

Testimony in opposition to this measure was received from the Chairperson of the Board of Land and Natural Resources, Ocean Tourism Coalition, Paradise Cruise, Ltd., Aqua Lung Pacific, Trilogy Excursions, Capt. Andy's Sailing Inc., and HoloHolo Charters Inc.

Your Committee finds that the ocean and coastal areas must be prioritized to comply with constitutional mandates, to avoid user conflicts, and to continue the vitality of our ocean tourism industry.

Your Committee has amended this measure by requiring DLNR to conduct public hearings to provide information on existing and potential uses of coastal zone waters.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 64, as amended herein, and recommends that it be referred to the Committee on Water, Land, Energy and Environment, in the form attached hereto as S.R. No. 64, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3334 Economic Development and Technology on S.C.R. No. 157

The purpose of this measure is to support economic diversification and technology industry development by disallowing the depletion of high technology special funds and cuts to program funds of State technology agencies.

Testimony supporting this measure was received from the Natural Energy Laboratory of Hawaii Authority and the High Technology Development Corporation.

Your Committee finds that the economy's reaction to the September 11th terrorist attacks has once again proven our over dependence on the tourism industry. It is vital that we continue to support diverse industries such as high technology that have already proven to make strides for our economy.

Your Committee has amended this measure by requesting high technology industry representatives, i.e., the Department of Business, Economic Development, and Tourism, High Technology Development Corporation, Hawaii Technology Trade Association, and the Natural Energy Laboratory of Hawaii Authority, to set the direction for the high technology industry, rather than request the

Legislature to support the high technology industry. In particular, the industry representatives are to come together and develop a directional plan that shall be submitted to the Legislature.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 157, 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. 157, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3335 (Joint) Education and Health and Human Services on S.C.R. No. 3

The purpose of this measure is to express support for the Temporary Assistance to Needy Families Reauthorization Act of 2001 (H.R. 3113).

Your Committees received testimony in support of the measure from the Department of Human Services, Hawaii State Commission on the Status of Women, National Association of Social Workers, Volunteer Legal Services of Hawaii, Legal Aid Society of Hawaii, and three private individuals.

Your Committees find that, although welfare reform has been successful in moving people off of the welfare rolls, it has failed to move people out of poverty. For example, 50% of former recipients live in poverty and 30% are unable to find jobs. H.R. 3113 would improve the quality of jobs available to low-income workers and expand their opportunities through education and training so that they may gain higher wage employment that offers good benefits.

Your Committees have amended the measure by suggesting the following amendments to the TANF Reauthorization Act of 2001 in the paragraph urging Hawaii's congressional delegation to support its passage:

- (1) Education should not exceed five years, coupled with at least a minimal employment requirement, to meet the definition of employment;
- (2) A mother's ability to stay home to care for her child should mirror the practice of the non-assistance community, usually no more than one year; and
- (3) The mandatory payment levels should be eliminated as this removes the block grant funding approach and would increase costs significantly.

Your Committees have further amended the measure by urging the retention of child support requirements within H.R. 3113 as their removal would severely impede attempts by households to gain economic self-sufficiency.

As affirmed by the records of votes of the members of your Committees on Education and Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.C.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.C.R. No. 3, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 11. Noes, none. Excused, 4 (Kawamoto, Menor, Nakata, Tam).

SCRep. 3336 (Joint) Education and Health and Human Services on S.C.R. No. 7

The purpose of this measure is to express support for the Temporary Assistance to Needy Families Reauthorization Act of 2001 (H.R. 3113).

Your Committees received testimony in support of the measure from the Department of Human Services, Hawaii State Commission on the Status of Women, National Association of Social Workers, Volunteer Legal Services of Hawaii, Legal Aid Society of Hawaii, and three private individuals.

Your Committees find that, although welfare reform has been successful in moving people off of the welfare rolls, it has failed to move people out of poverty. For example, 50% of former recipients live in poverty and 30% are unable to find jobs. H.R. 3113 would improve the quality of jobs available to low-income workers and expand their opportunities through education and training so that they may gain higher wage employment that offers good benefits.

Your Committees have amended the measure by suggesting the following amendments to the TANF Reauthorization Act of 2001 in the paragraph urging Hawaii's congressional delegation to support its passage:

- (1) Education should not exceed five years, coupled with at least a minimal employment requirement, to meet the definition of employment;
- (2) A mother's ability to stay home to care for her child should mirror the practice of the non-assistance community, usually no more than one year; and
- (3) The mandatory payment levels should be eliminated as this removes the block grant funding approach and would increase costs significantly.

Your Committees have further amended the measure by urging the retention of child support requirements within H.R. 3113 as their removal would severely impede attempts by households to gain economic self-sufficiency.

As affirmed by the records of votes of the members of your Committees on Education and Health and Human Services 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 Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 5 (Fukunaga, Kawamoto, Kokubun, Menor, Tam).

SCRep. 3337 (Joint) Education and Health and Human Services on S.R. No. 2

The purpose of this measure is to express support for the Temporary Assistance to Needy Families Reauthorization Act of 2001 (H.R. 3113).

Your Committees received testimony in support of the measure from the Department of Human Services, Hawaii State Commission on the Status of Women, National Association of Social Workers, Volunteer Legal Services of Hawaii, Legal Aid Society of Hawaii, and three private individuals.

Your Committees find that, although welfare reform has been successful in moving people off of the welfare rolls, it has failed to move people out of poverty. For example, 50% of former recipients live in poverty and 30% are unable to find jobs. H.R. 3113 would improve the quality of jobs available to low-income workers and expand their opportunities through education and training so that they may gain higher wage employment that offers good benefits.

Your Committees have amended the measure by suggesting the following amendments to the TANF Reauthorization Act of 2001 in the paragraph urging Hawaii's congressional delegation to support its passage:

- (1) Education should not exceed five years, coupled with at least a minimal employment requirement, to meet the definition of employment;
- (2) A mother's ability to stay home to care for her child should mirror the practice of the non-assistance community, usually no more than one year; and
- (3) The mandatory payment levels should be eliminated as this removes the block grant funding approach and would increase costs significantly.

Your Committees have further amended the measure by urging the retention of child support requirements within H.R. 3113 as their removal would severely impede attempts by households to gain economic self-sufficiency.

As affirmed by the records of votes of the members of your Committees on Education and Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 2, 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. 2, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 11. Noes, none. Excused, 4 (Kawamoto, Menor, Nakata, Tam).

SCRep. 3338 Education on S.C.R. No. 150

The purpose of this measure is to designate September 23-27, 2002, as "Kids Voting Hawaii Week."

Your Committee received testimony in support of the measure from the Department of Education and Kids Voting Hawaii.

Your Committee finds that voting, voter registration, and knowledge of civics is declining in the high schools. As representative democracy relies so heavily on citizen participation and the informed consent of the governed, it is imperative that this trend be reversed. This measure would provide one important means of significantly increasing the public profile of this crucial issue among new and future voters.

Your Committee further finds that it is the civic responsibility of public high school student leaders and students eligible to vote to participate in the Kids Voting Hawaii program encouraging youth to vote.

Your Committee has amended the measure by:

- (1) Adding a paragraph encouraging all public high schools to promote voter registration among eligible high school students during this week; and
- (2) Including all Department of Education area superintendents and public high school principals among those parties that will receive a certified copy of the 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. 150, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as S.C.R. No. 150, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Matsunaga, Menor).

SCRep. 3339 Education on S.R. No. 89

The purpose of this measure is to designate September 23-27, 2002 as "Kids Voting Hawaii Week."

Your Committee received testimony in support of the measure from the Department of Education and Kids Voting Hawaii.

Your Committee finds that voting, voter registration, and knowledge of civics is declining in the high schools. As representative democracy relies so heavily on citizen participation and the informed consent of the governed, it is imperative that this trend be reversed. This measure would provide one important means of significantly increasing the public profile of this crucial issue among new and future voters.

Your Committee further finds that it is the civic responsibility of public high school student leaders and students eligible to vote to participate in the Kids Voting Hawaii program encouraging youth to vote.

Your Committee has amended the measure by:

- (1) Adding a paragraph encouraging all public high schools to promote voter registration among eligible high school students during this week; and
- (2) Including all Department of Education area superintendents and public high school principals among those parties that will receive a certified copy of the 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.R. No. 89, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as S.R. No. 89, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Matsunaga, Menor).

SCRep. 3340 Health and Human Services on S.C.R. No. 35

The purpose of this measure is to request the Department of Human Services to establish a food assistance program.

Testimony in opposition to this measure was submitted by the Department of Human Services.

Upon further consideration, your Committee finds that long-term care for veterans residing in Hawaii is a critical issue that has been recognized by the U.S. Veterans' Administration and the Hawaii State Office of Veterans' Services. Your Committee further finds that the U.S. Veterans' Administration, in collaboration with the Hawaii Health Systems Corporation and the State Office of Veterans' Services, have been in discussions regarding the construction of a long-term care facility on the campus of Hilo Hospital to serve veterans residing in east Hawaii county.

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

- (1) A new TITLE reading: "SUPPORTING THE COLLABORATIVE EFFORTS AND THE PARTNERING INITIATIVES OF THE VETERANS' ADMINISTRATION (VA) STATE HOME CONSTRUCTION OFFICE IN WASHINGTON, D.C., THE HAWAII HEALTH SYSTEMS CORPORATION (HHSCR), THE HAWAII VA MEDICAL and REGIONAL OFFICE CENTER (VAMROC), AND THE HAWAII OFFICE OF VETERANS SERVICES, TO ESTABLISH A STATE-OF-THE-ART VA STATE HOME FACILITY ON THE CAMPUS OF THE HILO MEDICAL CENTER WHICH WILL PROVIDE CRITICALLY NEEDED, HIGH QUALITY, ACCESSIBLE LONG-TERM CARE SERVICES TO VA BENEFICIARIES RESIDING IN EAST HAWAII COUNTY.";
- (2) Two WHEREAS clauses expressing U.S. Congressional and Executive support for long-term care for veterans residing in East Hawaii county;
- (3) Two WHEREAS clauses regarding the need for long-term care of veterans residing in East Hawaii county;
- (4) Three WHEREAS clauses regarding the efforts of the Hawaii Health Systems Corporation, Hilo Medical Center, and various federal and state agencies in securing financing for a long-term care facility to be built on the campus of Hilo Hospital;
- (5) One WHEREAS clause indicating East Hawaii county community support for the long-term care facility;
- (6) One BE IT RESOLVED clause expressing the Hawaii Legislature's support and endorsement for the collaborative efforts to construct a 200-bed long-term care facility on the Hilo Hospital campus; and

- (7) One BE IT FURTHER RESOLVED clause requesting certified copies of the Concurrent Resolution be transmitted to interested parties.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 35, 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. 35, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3341 (Joint) Health and Human Services and Commerce, Consumer Protection and Housing on S.C.R. No. 64

The purpose of this measure is to request the establishment of a committee within the Department of Health to study state programs and services involved with or providing long-term care to Hawaii's elderly.

Testimony in support of this measure was submitted by the Executive Office on Aging, Hawaii Long Term Care Association, State Planning Council on Developmental Disabilities, Healthcare Association of Hawaii, and a private citizen.

Your Committees find that the urgent need to address the critical shortage of long-term care services in Hawaii has been established through various studies by both government and private organizations. Your Committees further find that myriad government and private programs offer long-term care to a continuum of clients, including the elderly and the disabled. Your Committees agree that the financing of these services is a critical factor in ensuring that there is adequate supply for the rapidly increasing demand for services. Your Committees further agree that a comprehensive study of all programs and services as well as their financing will assist the Legislature in proceeding with decisions regarding how to best address this problem.

Upon further consideration, your Committees have amended this measure by:

- (1) Amending the Title to read "REQUESTING A STUDY OF STATE PROGRAMS INVOLVED WITH OR PROVIDING LONG-TERM CARE SERVICES FOR HAWAII'S ELDERLY";
- (2) Changing the BE IT RESOLVED clause to add the following agencies and organizations to the study committee including the Department of Budget and Finance, Department of Taxation, county Area Offices on Aging, State Planning Council on Developmental Disabilities, Healthcare Association of Hawaii, and Hawaii Long Term Care Association;
- (3) Deleting the fourth, fifth and sixth BE IT FURTHER RESOLVED clauses; and
- (4) Changing the final BE IT FURTHER RESOLVED clause to add the following organizations to receive a copy of this measure: Department of Budget and Finance, Department of Taxation, county Area Offices on Aging, State Planning Council on Developmental Disabilities, Healthcare Association of Hawaii, and Hawaii Long Term Care Association.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce, Consumer Protection and Housing that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 64, 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. 64, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 3 (Fukunaga, Kim, Kokubun).

SCRep. 3342 Health and Human Services on S.R. No. 110

The purpose of this measure is to establish an interim working group to disseminate information regarding prescription drug card discount programs offered to senior citizens.

Testimony in support of this measure was submitted by the Hawai'i Pharmacists Association.

Your Committee finds that over the past year, major manufacturers of prescription medications have established discount programs for senior citizens due to the lack of drug coverage under Medicare and most other insurance programs. Your Committee further finds that many senior citizens are not aware of these programs, and thus, do not take advantage of the discounts offered under these programs. Your Committee agrees that an interim working group would go far to assist in educating seniors and others who provide care and assistance for our elders regarding the benefits of these programs.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 110, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3343 Health and Human Services on S.R. No. 68

The purpose of this measure is to convene an interim study by the Senate Committee on Health and Human Services to explore ways to maximize federal funding for health and human services programs.

Testimony in support of this measure was submitted by Hawaii Long Term Care Association, Hawaii Youth Services Network, Hawai'i Together, Blueprint for Change, National Association of Social Workers-Hawaii Chapter, and Parents and Children Together. The Legislative Reference Bureau submitted comments.

Your Committee finds that due to the tenuous financial condition presently being faced by our state government, many programs have faced budget cuts or have had to provide more services within existing resources. Your Committee further finds that while this has challenged the continuing operations of many programs, there are others that have sought and received federal funds to sustain them. Your Committee agrees that a statewide effort to maximize federal funding to supplement or leverage state funding should be pursued.

Your Committee has amended this measure by:

- (1) Adding the following organizations to the working group; the Hawaii Performance Partnership Board, Hawai'i Together, Blueprint for Change, and Hawaii Youth Services Network;
- (2) Requesting the working group report be submitted to the Senate rather than the Legislature; and
- (3) Requesting that certified copies of the measure be transmitted to the President of the Senate, the Legislative Reference Bureau, the Chair of the Committee on Health and Human Services, Hawaii Performance Partnership Board, Hawai'i Together, Blueprint for Change and Hawaii Youth Services Network.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 68, 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. 68, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3344 (Joint) Economic Development and Technology and Water, Land, Energy, and Environment on S.C.R. No. 159

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to convene a task force to determine the feasibility of establishing a freshwater fishery at the Wahiawa Reservoir. The task force will examine:

- (1) Previous attempts to develop a freshwater fishery;
- (2) Plans and proposals that could alter the water quality of the Reservoir;
- (3) Alternative species of fish that might be considered;
- (4) The potential market for and cost factors for establishing a fishery; and
- (5) Potential environmental and economic impacts.

Testimony in support of this measure was received from the Chairperson of the Board of Land and Natural Resources.

Your Committees find that there are certain opportunities for upgrading the recreational fishery and improving the surrounding area which the task force could address.

Your Committees have amended this measure by expanding task force membership to include representatives from general recreational fishers on the lake, North Shore Freshwater Anglers, the Association of Freshwater Sport Anglers, Castle & Cooke or its subsidiary Dole Corporation, and other parties the members feel would substantially add to the discussion.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.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 S.C.R. No. 159, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Ige, Ihara, Nakata, Slom).

SCRep. 3345 (Joint) Economic Development and Technology and Water, Land, Energy, and Environment on S.R. No. 97

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to convene a task force to determine the feasibility of establishing a freshwater fishery at the Wahiawa Reservoir. The task force will examine:

- (1) Previous attempts to develop a freshwater fishery;

- (2) Plans and proposals that could alter the water quality of the Reservoir;
- (3) Alternative species of fish that might be considered;
- (4) The potential market for and cost factors for establishing a fishery; and
- (5) Potential environmental and economic impacts.

Testimony in support of this measure was received from the Chairperson of the Board of Land and Natural Resources.

Your Committees find that there are certain opportunities for upgrading the recreational fishery and improving the surrounding area which the task force could address.

Your Committees have amended this measure by expanding task force membership to include representatives from general recreational fishers on the lake, North Shore Freshwater Anglers, the Association of Freshwater Sport Anglers, Castle & Cooke or its subsidiary Dole Corporation, and other parties the members feel would substantially add to the discussion.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 97, 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. 97, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Ige, Ihara, Nakata, Slom).

SCRep. 3346 Commerce, Consumer Protection and Housing on S.R. No. 45

The purpose of this measure is to request the auditor to conduct an impact assessment report of the social and financial impacts of mandating coverage for biologically based psychiatric and addiction disorders for all policies and contracts, hospital and medical service plan contracts, medical service corporation contracts, and health maintenance organization plans and contracts issued after December 31, 2002.

Testimony in support of this measure was received from the Hawaii Medical Association, Hawai'i Nurses Association, Hawaii Psychological Association, HGEA-AFSCME Local 142, and one individual.

Your Committee finds that at least thirty-one states, including Hawaii, have some form of mental health parity. Hawaii statutes, however, limit parity to persons with "serious mental illness", and this measure would assess the impact of expanding mental illnesses covered – as is the case in eight of those states.

Your Committee has amended this measure to:

- (1) Reference the correct Senate bill number requesting the mandated health coverage;
- (2) Broaden the range of disorders to be covered in the assessment to those disorders as listed in the *Diagnostic Statistical Manual of Mental Disorders, Fourth Edition*, and amend the title;
- (3) Request the Auditor to submit findings and recommendations to the Senate twenty days prior to the convening of the 2003 regular session.

Your Committee notes that S.B. No. 2095, which is cited in the measure, refers only to biologically based psychiatric and addiction disorders. However, studying all mental disorders would not add significantly to the assessment, and would provide vital additional information.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 45, 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. 45, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Kim).

SCRep. 3347 Transportation, Military Affairs, and Government Operations on S.C.R. No. 37

The purpose of this measure, as referred to your Committee, was to request Congress and the President of the United States to support legislation to repeal the Rescission Act of 1946 and the Second Supplemental Surplus Appropriation Rescission Act (1946), and to restore Filipino World War II veterans to full United States veterans' status and benefits.

Prior to the hearing on this measure, your Committee prepared a Proposed S.D. 1 which replaced the contents of the original measure with provisions requesting the Department of Health (DOH) and Department of Human Services (DHS) to conduct a study to determine an appropriate agency to oversee the funding and regulation of Adult Residential Care Homes (ARCH).

Testimony in support of the original measure was submitted by the Office of Veterans' Services. Testimony in support of the Proposed S.D. 1 was submitted by the Alliance of Residential Care Administrators and the Hawaii Coalition of Care Home Administrators. The DOH submitted testimony in opposition to the Proposed S.D. 1 version of this measure.

Your Committee finds that ARCH facilities serve an extremely important function in our State, by helping to care for persons who cannot feasibly live without assistance. Your Committee applauds the job done by the dedicated administrators of such care facilities.

Your Committee shares the community's concern, however, that while the DOH regulates ARCH facilities, the DHS is responsible for making payments for Medicaid clients who live in the facilities.

Your Committee finds that it would make more sense for a single agency to oversee the funding and regulation for these facilities. Your Committee further finds that any rules governing these facilities must be consistent with the goals and objectives of each Department.

Therefore, your Committee supports the Proposed S.D. 1 version of this measure, in order to increase the safety and efficiency of ARCH facilities.

Your Committee further amended this measure to include foster homes within the study. Foster homes serve a purpose similar to ARCH facilities, and your Committee believes that it makes sense to have a more integrated set of rules to cover ARCH facilities and foster homes.

Your Committee also amended this measure to direct the State Auditor to conduct the study, and to recommend integrated management strategies. The DOH testified that it lack the expertise to conduct the study. Your Committee believes that the Auditor should consult with the DOH and DHS, as well as relevant community groups, when conducting this study.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 37, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 37, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Menor, Taniguchi).

SCRep. 3348 Transportation, Military Affairs, and Government Operations on S.R. No. 17

The purpose of this measure, as referred to your Committee, was to request Congress and the President of the United States to support legislation to repeal the Rescission Act of 1946 and the Second Supplemental Surplus Appropriation Rescission Act (1946), and to restore Filipino World War II veterans to full United States veterans' status and benefits.

Prior to the hearing on this measure, your Committee prepared a Proposed S.D. 1 which replaced the contents of the original measure with provisions requesting the Department of Health (DOH) and Department of Human Services (DHS) to conduct a study to determine an appropriate agency to oversee the funding and regulation of Adult Residential Care Homes (ARCH).

Testimony in support of the original measure was submitted by the Office of Veterans' Services. Testimony in support of the Proposed S.D. 1 was submitted by the Alliance of Residential Care Administrators and the Hawaii Coalition of Care Home Administrators. The DOH submitted testimony in opposition to the Proposed S.D. 1 version of this measure.

Your Committee finds that ARCH facilities serve an extremely important function in our State, by helping to care for persons who cannot feasibly live without assistance. Your Committee applauds the job done by the dedicated administrators of such care facilities.

Your Committee shares the community's concern, however, that while the DOH regulates ARCH facilities, the DHS is responsible for making payments for Medicaid clients who live in the facilities.

Your Committee finds that it would make more sense for a single agency to oversee the funding and regulation for these facilities. Your Committee further finds that any rules governing these facilities must be consistent with the goals and objectives of each Department.

Therefore, your Committee supports the Proposed S.D. 1 version of this measure, in order to increase the safety and efficiency of ARCH facilities.

Your Committee further amended this measure to include foster homes within the study. Foster homes serve a purpose similar to ARCH facilities, and your Committee believes that it makes sense to have a more integrated set of rules to cover ARCH facilities and foster homes.

Your Committee also amended this measure to direct the State Auditor to conduct the study, and to recommend integrated management strategies. The DOH testified that it lack the expertise to conduct the study. Your Committee believes that the Auditor should consult with the DOH and DHS, as well as relevant community groups, when conducting this study.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Buen, Kanno, Menor, Taniguchi).

SCRep. 3349 Transportation, Military Affairs, and Government Operations on S.C.R. No. 116

The purpose of this measure is to request that the Department of Transportation (DOT) convene a task force to examine appropriate methods to regulate motorized devices on sidewalks, highways, and public areas.

Testimony in support of this measure was submitted by the DOT and the City and County of Honolulu Police Department. A concerned citizen submitted comments.

Your Committee finds that existing law is often outpaced by technological advances. Such is the case with personal transportation devices. While current law was drafted to apply to devices in existence when the laws were enacted, new technology requires that we examine our existing statutes to determine whether these new technologies can be accommodated.

One example is the recent Segway invention, which was demonstrated at the Capitol on March 28, 2002. The Segway is a two-wheeled, battery operated personal transportation device that transports a standing rider; it is unlike any vehicle currently on the market.

The Segway has generated much discussion regarding how to classify it and whether it should be subject to existing law. Your Committee finds that this issue requires further examination by persons within the DOT with expertise on the subject. Therefore, your Committee supports this measure.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 116 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3350 Transportation, Military Affairs, and Government Operations on S.R. No. 63

The purpose of this measure is to request that the Department of Transportation (DOT) convene a task force to examine appropriate methods to regulate motorized devices on sidewalks, highways, and public areas.

Testimony in support of this measure was submitted by the DOT and the City and County of Honolulu Police Department. A concerned citizen submitted comments.

Your Committee finds that existing law is often outpaced by technological advances. Such is the case with personal transportation devices. While current law was drafted to apply to devices in existence when the laws were enacted, new technology requires that we examine our existing statutes to determine whether these new technologies can be accommodated.

One example is the recent Segway invention, which was demonstrated at the Capitol on March 28, 2002. The Segway is a two-wheeled, battery operated personal transportation device that transports a standing rider; it is unlike any vehicle currently on the market.

The Segway has generated much discussion regarding how to classify it and whether it should be subject to existing law. Your Committee finds that this issue requires further examination by persons within the DOT with expertise on the subject. Therefore, your Committee supports this measure.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3351 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.C.R. No. 152

The purpose of this measure is to request the United States Congress to enact enabling legislation to permit state regulation of interisland air carriers by an air carrier commission pursuant to Act 332, Session Laws of Hawaii 1993.

Your Committees received comments on this measure from the Department of Transportation and Hawaiian Airlines.

The federal Airline Deregulation Act of 1978 prohibits states from regulating the routes, rates, or services of airlines operating in interstate commerce. Federal statutes and case law make clear that air travel between islands within Hawaii is considered interstate travel, and therefore the State cannot regulate its interisland carriers.

The State's powerlessness with regard to interisland air travel is troubling, because over 95% of persons traveling between islands do so by air. In addition, most perishable cargo is shipped between islands via air.

Although the proposed merger between Hawaiian airlines and Aloha airlines has been terminated, the concern it caused among government officials and the community underscores our State's reliance on interisland air travel.

Act 332 was enacted in 1993 to give the State some measure of control over interisland air travel, but Act 332 cannot be implemented without federal enabling legislation to exempt Hawaiian interisland air travel from the federal Airline Deregulation Act of 1978.

Your Committees believe that it makes no sense to classify interisland air travel as interstate travel. Furthermore, your Committees feel strongly that the State of Hawaii should have the authority to regulate interisland air travel, which is vital to the health, welfare, and safety of our residents. Therefore, your Committees support this measure, and strongly urge our Congressional representatives to do everything possible to support federal enabling legislation.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 152 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, 1 (Slom). Excused, 6 (Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 3352 (Joint/Majority) Transportation, Military Affairs, and Government Operations and Tourism and Intergovernmental Affairs on S.R. No. 91

The purpose of this measure is to request the United States Congress to enact enabling legislation to permit state regulation of interisland air carriers by an air carrier commission pursuant to Act 332, Session Laws of Hawaii 1993.

Your Committees received comments on this measure from the Department of Transportation and Hawaiian Airlines.

The federal Airline Deregulation Act of 1978 prohibits states from regulating the routes, rates, or services of airlines operating in interstate commerce. Federal statutes and case law make clear that air travel between islands within Hawaii is considered interstate travel, and therefore the State cannot regulate its interisland carriers.

The State's powerlessness with regard to interisland air travel is troubling, because over 95% of persons traveling between islands do so by air. In addition, most perishable cargo is shipped between islands via air.

Although the proposed merger between Hawaiian airlines and Aloha airlines has been terminated, the concern it caused among government officials and the community underscores our State's reliance on interisland air travel.

Act 332 was enacted in 1993 to give the State some measure of control over interisland air travel, but Act 332 cannot be implemented without federal enabling legislation to exempt Hawaiian interisland air travel from the federal Airline Deregulation Act of 1978.

Your Committees believe that it makes no sense to classify interisland air travel as interstate travel. Furthermore, your Committees feel strongly that the State of Hawaii should have the authority to regulate interisland air travel, which is vital to the health, welfare, and safety of our residents. Therefore, your Committees support this measure, and strongly urge our Congressional representatives to do everything possible to support federal enabling legislation.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 91 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 7. Noes, 1 (Slom). Excused, 6 (Kanno, Matsuura, Menor, Sakamoto, Tam, Hemmings).

SCRep. 3353 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.C.R. No. 158

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to secure space for the commercial haul out and dry docking of boats for safety and compliance inspections on the islands of Kauai and Maui.

Testimony in support of this measure was received from the DLNR, Paradise Cruise, Ltd., Trilogy Excursions, Capt. Andy's Sailing, Inc., and HoloHolo Charters, Inc.

Your Committees find that the United States Coast Guard requires all vessels in commercial operation to be inspected at least once every 18 months to determine their safety and seaworthiness. Inspection of a vessel's hull necessarily requires that the vessel is hauled out of the water, and if repairs are necessary, the vessel must be dry docked.

Currently, only the islands of Oahu and Hawaii have the facilities to accommodate the haul out and dry docking of vessels for inspections. Therefore, commercial boat operators on Kauai and Maui must make a long (and sometimes dangerous) channel crossing in order to receive an inspection.

DLNR testified that it is in the process of securing space on Kauai and Maui to haul out and dry dock vessels for inspection. Your Committees recognize DLNR's proactive approach to this issue, but believe that this measure will nonetheless assist in clearing any administrative hurdles.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 158 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Ihara, Kanno, Matsunaga, Menor, Nakata, Tam).

SCRep. 3354 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on S.R. No. 95

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to secure space for the commercial haul out and dry docking of boats for safety and compliance inspections on the islands of Kauai and Maui.

Testimony in support of this measure was received from the DLNR, Paradise Cruise, Ltd., Trilogy Excursions, Capt. Andy's Sailing, Inc., and HoloHolo Charters, Inc.

Your Committees find that the United States Coast Guard requires all vessels in commercial operation to be inspected at least once every 18 months to determine their safety and seaworthiness. Inspection of a vessel's hull necessarily requires that the vessel is hauled out of the water, and if repairs are necessary, the vessel must be dry docked.

Currently, only the islands of Oahu and Hawaii have the facilities to accommodate the haul out and dry docking of vessels for inspections. Therefore, commercial boat operators on Kauai and Maui must make a long (and sometimes dangerous) channel crossing in order to receive an inspection.

DLNR testified that it is in the process of securing space on Kauai and Maui to haul out and dry dock vessels for inspection. Your Committees recognize DLNR's proactive approach to this issue, but believe that this measure will nonetheless assist in clearing any administrative hurdles.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 95 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Ihara, Kanno, Matsunaga, Menor, Nakata, Tam).

SCRep. 3355 Transportation, Military Affairs, and Government Operations on S.C.R. No. 174

The purpose of this measure, as referred to your Committee, was to express the Legislature's support for traffic improvement and beautification at an intersection on Oahu.

Prior to the hearing on this measure, your Committee prepared a Proposed S.D. 1 that replaced the contents of the original measure with new contents requesting the Department of Transportation (DOT) to conduct a study regarding the inability of insulin users to obtain a commercial driver's license under federal law.

The DOT submitted testimony in opposition to this measure.

Your Committee finds that the federal law flatly prohibiting insulin users from obtaining a commercial driver's license is outdated and unfairly paints all diabetics with the same broad brush.

Your Committee believes that there may be instances in which it is appropriate for the DOT to grant a waiver to allow insulin users to operate commercial vehicles in intrastate commerce. Therefore, your Committee supports the intent of this measure.

Based on the DOT's testimony that it lacks the expertise to conduct such a study, however, your Committee amended this measure to direct the Legislative Reference Bureau to conduct the study.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 174, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 174, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3356 Transportation, Military Affairs, and Government Operations on S.R. No. 109

The purpose of this measure, as referred to your Committee, was to express the Legislature's support for traffic improvement and beautification at an intersection on Oahu.

Prior to the hearing on this measure, your Committee prepared a Proposed S.D. 1 that replaced the contents of the original measure with new contents requesting the Department of Transportation (DOT) to conduct a study regarding the inability of insulin users to obtain a commercial driver's license under federal law.

The DOT submitted testimony in opposition to this measure.

Your Committee finds that the federal law flatly prohibiting insulin users from obtaining a commercial driver's license is outdated and unfairly paints all diabetics with the same broad brush.

Your Committee believes that there may be instances in which it is appropriate for the DOT to grant a waiver to allow insulin users to operate commercial vehicles in intrastate commerce. Therefore, your Committee supports the intent of this measure.

Based on the DOT's testimony that it lacks the expertise to conduct such a study, however, your Committee amended this measure to direct the Legislative Reference Bureau to conduct the study.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S. R. No. 109, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 109, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3357 Transportation, Military Affairs, and Government Operations on S.C.R. No. 106

The purpose of this measure is to urge state agencies and businesses to recognize military personnel and their families as local residents, thereby qualifying them for certain kama`aina benefits and opportunities.

Your Committee received testimony in support of this measure from the Department of Defense, the Department of Business, Economic Development, and Tourism, and the Hawaii Chamber of Commerce.

Your Committee finds that local residents are often entitled to discounts and other benefits due to the fact that they reside in the State. To receive these discounts, local residents often must present a Hawaii driver's license.

Your Committee further finds that military personnel stationed in Hawaii, and their families, bring great social and economic benefit to the State. While military personnel and their families may not be permanent residents of Hawaii, they are an invaluable part of the local community.

Therefore, your Committee supports this measure wholeheartedly. Your Committee believes that military personnel and their families should be entitled to kama`aina benefits, and that, in addition, they should be viewed as an integral part of the local community.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 106 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3358 Transportation, Military Affairs, and Government Operations on S.R. No. 74

The purpose of this measure is to request that new state and county buildings be named in honor of Hawaii residents who have been awarded the Congressional Medal of Honor.

Your Committee received testimony in support of this measure from the Office of Veterans' Services.

Your Committee finds that those brave men and women who have served our country to protect the ideals of freedom and democracy deserve our utmost respect. Those whose deeds earned them the Congressional Medal of Honor are true American heroes.

Naming a new state or county building, especially a school, after these courageous men and women will serve as a lasting tribute to their heroism, and an inspiration to all those entering the building.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 74 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Tam, Hemmings).

SCRep. 3359 Tourism and Intergovernmental Affairs on S.C.R. No. 30

The purpose of this measure as received is to request a review of speed limits on public roads and streets under the jurisdiction of the City and County of Honolulu.

Prior to the hearing, your Committee circulated a proposed S.D. 1, which would request the Hawaii Tourism Authority to:

- (1) Reprioritize its resources to provide a significantly greater amount to business meetings, conventions, conferences, and incentive marketing and other efforts that will have a greater positive impact on the State's overall economy; and
- (2) Direct such marketing efforts to be undertaken in partnership with the Hawaii Convention Center in Honolulu, conference facilities offered by hotels on each island, nonprofit private sector technology initiatives, and conference facilities located at educational facilities such as the University of Hawai'i at Hilo, University of Hawai'i-Maui, and University of Hawai'i-Kauai.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority (HTA), University of Hawaii at Hilo Conference Center, Economic Development Alliance of Hawaii, Inc., Maui Economic Development Board, Inc., Kauai Economic Development Board, Pacific Missile Range Facility, Hawaii Activities and Tours Association, Charley's Taxi, King Auto Center, 101 Things to Do, Paradise Cruise, Ltd., Textron Systems Kauai, Trex Enterprises, and one individual.

Your Committee finds that there is widespread support for increased business-related marketing in order to expand Hawaii's image beyond "sun and surf" and brand Hawaii as more than a leisure destination. This broader market image would reflect the business opportunities that now exist, as well as contribute to further growth in this area.

Your Committee has heard that currently, about twelve to thirteen per cent of visitors come to Hawaii to attend conferences and meetings, conduct business, or for governmental or educational purposes. The HTA has set a goal of expanding that market to thirty per cent, and this measure will assist in meeting that goal.

Your Committee has further amended this measure to reflect this goal, adding language that the HTA achieve goals of a mix of thirty per cent in MCI marketing, as adopted in the Marketing Committee on August 29, 2001, to the first BE IT RESOLVED clause.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 30, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 30, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3360 Tourism and Intergovernmental Affairs on S.R. No. 11

The purpose of this measure as received is to request a review of speed limits on public roads and streets under the jurisdiction of the City and County of Honolulu.

Prior to the hearing, your Committee circulated a proposed S.D. 1, which would request the Hawaii Tourism Authority to:

- (1) Reprioritize its resources to provide a significantly greater amount to business meetings, conventions, conferences, and incentive marketing and other efforts that will have a greater positive impact on the State's overall economy; and
- (2) Direct such marketing efforts to be undertaken in partnership with the Hawaii Convention Center in Honolulu, conference facilities offered by hotels on each island, nonprofit private sector technology initiatives, and conference facilities located at educational facilities such as the University of Hawai'i at Hilo, University of Hawai'i-Maui, and University of Hawai'i-Kauai.

Testimony in support of this measure was received from the Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority (HTA), University of Hawaii at Hilo Conference Center, Economic Development Alliance of Hawaii, Inc., Maui Economic Development Board, Inc., Kauai Economic Development Board, Pacific Missile Range Facility, Hawaii Activities and Tours Association, Charley's Taxi, King Auto Center, 101 Things to Do, Paradise Cruise, Ltd., Textron Systems Kauai, Trex Enterprises, and one individual.

Your Committee finds that there is widespread support for increased business-related marketing in order to expand Hawaii's image beyond "sun and surf" and brand Hawaii as more than a leisure destination. This broader market image would reflect the business opportunities that now exist, as well as contribute to further growth in this area.

Your Committee has heard that currently, about twelve to thirteen per cent of visitors come to Hawaii to attend conferences and meetings, conduct business, or for governmental or educational purposes. The HTA has set a goal of expanding that market to thirty per cent, and this measure will assist in meeting that goal.

Your Committee has further amended this measure to reflect this goal, adding language that the HTA achieve goals of a mix of thirty per cent in MCI marketing, as adopted in the Marketing Committee on August 29, 2001, to the first BE IT RESOLVED clause.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 11, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 11, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3361 Tourism and Intergovernmental Affairs on S.C.R. No. 161

The purpose of this measure is to authorize and request that Governor Benjamin Cayetano, or his designee, take all necessary actions to establish a sister-state affiliation with the municipality of Tianjin of the People's Republic of China.

The Department of Business, Economic Development, and Tourism submitted comments on this measure.

Your Committee has heard that currently there are sixty sister relationships between the State and counties of Hawaii and various other geographic regions. In an effort to determine the status of these sister relationships, the Department of Business, Economic Development, and Tourism has organized a conference to be held in July 2002, and expects about twenty of these sister-affiliated regions to attend.

Your Committee commends the Department for this effort to determine how better to encourage and promote successful sister affiliations at both the State and county level, and urges the Department to use this opportunity to determine if there are sister affiliations that should be dissolved for any reason.

Your Committee recognizes that sister affiliations evolve over time and that completing the initial efforts to establish such affiliations may not be successful.

Your Committee has amended this measure accordingly, to add the following:

BE IT FURTHER RESOLVED that if by June 30, 2007, the sister-state affiliation with the municipality of Tianjin of the People's Republic of China has not reached a sustainable basis by providing mutual economic benefits through local community support, the sister-state affiliation shall be withdrawn; and

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 161, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 161, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3362 Tourism and Intergovernmental Affairs on S.R. No. 99

The purpose of this measure is to authorize and request that Governor Benjamin Cayetano, or his designee, take all necessary actions to establish a sister-state affiliation with the municipality of Tianjin of the People's Republic of China.

The Department of Business, Economic Development, and Tourism submitted comments on this measure.

Your Committee has heard that currently there are sixty sister relationships between the State and counties of Hawaii and various other geographic regions. In an effort to determine the status of these sister relationships, the Department of Business, Economic Development, and Tourism has organized a conference to be held in July 2002, and expects about twenty of these sister-affiliated regions to attend.

Your Committee commends the Department for this effort to determine how better to encourage and promote successful sister affiliations at both the State and county level, and urges the Department to use this opportunity to determine if there are sister affiliations that should be dissolved for any reason.

Your Committee recognizes that sister affiliations evolve over time and that completing the initial efforts to establish such affiliations may not be successful.

Your Committee has amended this measure accordingly, to add the following:

BE IT FURTHER RESOLVED that if by June 30, 2007, the sister-state affiliation with the municipality of Tianjin of the People's Republic of China has not reached a sustainable basis by providing mutual economic benefits through local community support, the sister-state affiliation shall be withdrawn; and

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 99, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 99, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3363 Hawaiian Affairs on S.C.R. No. 101

The purpose of this measure is to request that the Kaho'olawe Island Reserve Commission establish a task force to develop a plan for the utilization of alternate energy resources to address the current and future energy needs of the island of Kaho'olawe.

Testimony in support of the measure was received from the Department of Business, Economic Development, and Tourism and the Kaho`olawe Island Reserve Commission. However, both agencies noted that the establishment of such a task force and its attendant responsibilities would strain their existing resources.

Your Committee finds that on November 11, 2003, the U.S. Navy will return control of Kaho`olawe to the State as both a symbolic and tangible gesture with regard to perpetuating and strengthening the movements of native Hawaiian identity and cultural preservation.

Your Committee also finds that the Kaho`olawe Island Reserve Commission, through extensive public consultation, has developed several planning documents that provide for the safe use of select portions of the Kaho`olawe Island Reserve and the establishment of culture and education centers, operations facilities, overnight campsites, restoration areas, and cultural and wildlife preserves on the island.

Kaho`olawe is geographically and logistically isolated from the other Hawaiian islands and concerns have emerged regarding appropriate power sources and adequate fuel supplies to successfully maintain planned facilities and operations. In light of this concern and in keeping with the Kaho`olawe Island Reserve Commission's statutory mandate and vision to restore, preserve, and maintain a pristine natural environment on the island, the use of alternative energy resources for the island's power needs should be considered.

Your Committee believes that the State is in the unique position of establishing Kaho`olawe as a model project for alternate energy research and application which can be utilized to plan for the future power needs of not only Kaho`olawe, but the entire State as well. Currently, the Hawaii Natural Energy Institute, the Pacific International Center for High Technology Research, and the Natural Energy Laboratory of Hawaii, are leaders in the field of alternate energy research. These resources should be utilized to provide Kaho`olawe with a sound alternate energy future.

Your Committee has amended the measure by providing the task force with more time to complete the project and requiring an interim report to the Legislature in 2003 and a final report in 2004.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 101, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 101, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3364 Hawaiian Affairs on S.R. No. 54

The purpose of this measure is to request that the Kaho`olawe Island Reserve Commission establish a task force to develop a plan for the utilization of alternate energy resources to address the current and future energy needs of the island of Kaho`olawe.

Testimony in support of the measure was received from the Department of Business, Economic Development, and Tourism and the Kaho`olawe Island Reserve Commission. However, both agencies noted that the establishment of such a task force and its attendant responsibilities would strain their existing resources.

Your Committee finds that on November 11, 2003, the U.S. Navy will return control of Kaho`olawe to the State as both a symbolic and tangible gesture with regard to perpetuating and strengthening the movements of native Hawaiian identity and cultural preservation.

Your Committee also finds that the Kaho`olawe Island Reserve Commission, through extensive public consultation, has developed several planning documents that provide for the safe use of select portions of the Kaho`olawe Island Reserve and the establishment of culture and education centers, operations facilities, overnight campsites, restoration areas, and cultural and wildlife preserves on the island.

Kaho`olawe is geographically and logistically isolated from the other Hawaiian islands and concerns have emerged regarding appropriate power sources and adequate fuel supplies to successfully maintain planned facilities and operations. In light of this concern and in keeping with the Kaho`olawe Island Reserve Commission's statutory mandate and vision to restore, preserve, and maintain a pristine natural environment on the island, the use of alternative energy resources for the island's power needs should be considered.

Your Committee believes that the State is in the unique position of establishing Kaho`olawe as a model project for alternate energy research and application which can be utilized to plan for the future power needs of not only Kaho`olawe, but the entire State as well. Currently, the Hawaii Natural Energy Institute, the Pacific International Center for High Technology Research, and the Natural Energy Laboratory of Hawaii, are leaders in the field of alternate energy research. These resources should be utilized to provide Kaho`olawe with a sound alternate energy future.

Your Committee has amended the measure by providing the task force with more time to complete the project and requiring an interim report to the Senate in 2003 and a final report in 2004.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 54, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 54, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3365 Health and Human Services on S.R. No. 50

The purpose of this measure is to request a review of state youth services and study on consolidating youth services.

Testimony in support of this measure was submitted by the Office of Youth Services. Testimony expressing concerns about consolidating services was submitted by the Department of Health.

Your Committee finds that state services for children and youth are fragmented amongst various state agencies, thereby allowing jurisdictional issues to complicate providing necessary services to children. Your Committee further finds that it would be prudent for the Senate to review existing programs and services offered to children and make recommendations regarding the feasibility of consolidating such programs in order to expedite services to children.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 50 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Fukunaga, Kokubun, Hogue).

SCRep. 3366 (Joint) Economic Development and Technology and Tourism and Intergovernmental Affairs on S.R. No. 51

The purpose of this measure is to request the adoption of the economic plans of each county to stabilize and stimulate the State's economy as a means of stabilizing and stimulating the economy of the entire State.

Testimony supporting this measure was received from the Department of Business, Economic Development, and Tourism (DBEDT), Kauai Economic Development Board, and Hawaii Island Economic Development Board.

Your Committees find that while DBEDT's economic development strategy for the entire State encompasses business support, job creation, improving Hawaii's standard of living through diversifying the economy, expanding exiting businesses, and attracting new economic activity, there is a need for each county to maintain their own priorities and direction.

Your Committees support this measure, which will help to harmonize each county's individual priorities and direction with the State's overall economic development strategy.

Your Committees have amended this measure by inserting an additional clause to require the State to include plans, programs, and projects to boost the tourism industry within each county. The tourism sector is an important part of our State's economy, and your Committees believe that it must be integrated into each county's economic plan.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 51, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 51, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 5 (Ige, Ihara, Kawamoto, Matsuura, Sakamoto).

SCRep. 3367 Commerce, Consumer Protection and Housing on S.C.R. No. 17

The purpose of this measure is to request the auditor to conduct an impact assessment report of the social and financial impacts of mandating coverage for biologically based psychiatric and addiction disorders for all policies and contracts, hospital and medical service plan contracts, medical service corporation contracts, and health maintenance organization plans and contracts issued after December 31, 2002.

Testimony in support of this measure was received from the Hawaii Medical Association, Hawai'i Nurses Association, Hawaii Psychological Association, HGEEA-AFSCME Local 142, and one individual.

Your Committee finds that at least thirty-one states, including Hawaii, have some form of mental health parity. Hawaii statutes, however, limit parity to persons with "serious mental illness", and this measure would assess the impact of expanding mental illnesses covered – as is the case in eight of those states.

Your Committee notes that S.B. No. 2095, which is cited in the measure, refers only to biologically based psychiatric and addiction disorders. However, studying all mental disorders would not add significantly to the assessment, and would provide vital additional information.

Your Committee has amended this measure accordingly, to broaden the range of disorders to be covered in the assessment to those disorders as listed in the *Diagnostic Statistical Manual of Mental Disorders, Fourth Edition*, and to amend the title.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 17, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 17, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Kim).

SCRep. 3368 Judiciary on S.C.R. No. 9

The purpose of this measure is to extend the reporting date of the Task Force to Improve the Efficiency of Law Enforcement and Public Safety Agencies from November 1, 2001, to November 2, 2002.

Testimony in support of this measure was received from the Department of Public Safety (PSD).

The 2001 regular session passed S.C.R. No. 90, S.D. 1, H.D. 1, requesting the PSD to convene a task force of law enforcement and public safety agencies for the purpose of exploring and assessing ideas and methods to make law enforcement agencies more proactive, efficient, effective, and responsive to public safety concerns and issues.

Your Committee finds that the Task Force has been working toward its goal in earnest, but that it was unable to meet its November, 2001, reporting date. Your Committee supports this measure to extend that reporting date for an additional year.

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. 9 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Fukunaga, Hanabusa, Ihara).

SCRep. 3369 Economic Development and Technology on Gov. Msg. No. 187

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DIRECTORS OF THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

RICHARD HENDERSON, for a term to expire on June 30, 2004, MARNI HERKES, for a term to expire on June 30, 2003, and THOMAS P. WHITTEMORE, for a term to expire on June 30, 2006.

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Board of Directors of the Natural Energy Laboratory of Hawaii Authority (NELHA).

Your Committee received testimony in support of Marni Herkes from Strategic Visions International and Hafner Creative Communications, and in support of all three nominees from the Board of Directors of the NELHA.

Your Committee notes the following background and qualifications of the nominees:

Former Senator Richard Henderson's knowledge of the State and strong private business experience brings an opportunity for NELHA to expand into a greater variety of opportunities for economic diversity. His credibility as a statesman will enhance the Board of Directors and give greater diversity to an already diverse Board of Directors.

Marni Herkes brings a fresh outlook from the communities of Hawaii. Her expertise in all aspects of the business community and citizen groups will add a balance. She is widely respected for her community involvement and her understanding of how Hawaii business works.

Tom Whittemore has been serving as the Chairman of the Board of NELHA. Reappointment of Mr. Whittemore will endorse the path toward self-sufficiency for NELHA and continue to provide invaluable leadership and guidance.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3370 Economic Development and Technology on Gov. Msg. No. 188

Recommending that the Senate advise and consent to the nominations of the following:

STADIUM AUTHORITY

ALVIN S. NARIMATSU, HOWARD Y. IKEDA, and GILBERT M. KIMURA for terms to expire on June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Stadium Authority.

Your Committee received testimony in support of Howard Y. Ikeda from the Pacific Resource Partnership, 141 Communicator, and an individual; and in support of Gilbert M. Kimura from City Bank, JN Productions, Inc., Japan-Hawaii Economic Council, Panda Travel, Inc., Honolulu Japanese Chamber of Commerce, and an individual. Your Committee received testimony in support of all three nominees from the Stadium Manager of the Stadium Authority.

Your Committee notes the following background and qualifications of the nominees:

Alvin S. Narimatsu is the former president of the Hawaii Library Foundation and currently serves as one of its trustees, past trustee of the Hawaii 4-H Foundation, past member of the Waikiki Rotary Club, and former director of the Rotary Youth Leadership Association.

Howard Y. Ikeda has served on the board of directors for Territorial Savings and Loan Association, Waialae Country Club, Friends of Hawaii Charities Committee and Tournament Host for the Sony Open Hawaii, and the Kalihi YMCA. His professional affiliations include the American Institute of Certified Public Accountants, Hawaii Society of Certified Public Accountants, and the Hawaii Association of Public Accountants.

As the Regional Sales Manager of Japan Airlines, Gilbert M. Kimura understands the importance of diversifying Hawaii's economy and the impact foreign trends have on our global and state economies. He is a member of the Chamber of Commerce of Hawaii, HVCB Japan Sub-Committee, HVCB Marketing Advisory Committee, Hawaii Japanese Tourist Task Force Alliance, Japanese Chamber of Commerce, and the Hawaiian Tourism Authority's Hawaii Millennium Commission.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3371 Education on S.R. No. 67

The purpose of this measure is to request the University of Hawaii at Manoa Hamilton Library Preservation Department, in cooperation with the Legacy Foundation of the Pacific and other public and private entities, to establish a Hawaii media preservation and technology archiving applications pilot project.

Your Committee received testimony in support of the measure from the University of Hawaii at Manoa Library Preservation Department, Juniroa Productions Inc., two board members of the Legacy Foundation of the Pacific, an individual representing the Hawaiian Political Action Committee, and Hui Kakoo.

Your Committee finds that media preservation contributes to knowledge-rich economic diversification and leverages money already invested by the State in the media, museum, and archival industries. By preserving Hawaii's legacy in film, video, and audio, the State of Hawaii makes important statements that Hawaii is a precious place, that an informed and active citizenry is vital to democracy, and that one of the most accessible and appealing means of facilitating historical knowledge is through archival media. In many cases media is the only material representation of Hawaii's legacy and this fact will only become progressively more true in the future.

Your Committee further finds that, with our bombardment by mass media from outside of Hawaii, it is difficult for us to maintain our local values and perspectives without an adequate supply of local content media.

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. 67 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Matsunaga, Menor).

SCRep. 3372 Education on S.C.R. No. 131

The purposes of this measure are to request the Department of Education to:

- (1) Develop new standards for school administrators; and
- (2) Present a corresponding school administrator evaluation report to the Board of Education for their approval.

Your Committee finds that the timely processing of Department of Education facility projects is a more pressing public need than creating standards for public school administrators.

Your Committee has amended the measure by deleting its contents and inserting language that requests the development by the Department of Education of a comprehensive five year plan regarding urgently needed new school construction and renovation projects by school educational districts and schools, including a report of potential and innovative alternatives for fast-tracking the completion of these projects.

The measure, as amended, further includes language that details the potential implementation process of an innovative public-private construction financing mechanism for a new elementary school in a particularly fast-growing area, Leeward Oahu, and calls for the prerequisite support of the Department of Education, Department of Budget and Finance, Department of Accounting and General Services, and Department of Land and Natural Resources in this effort.

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. 131, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 131, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Matsunaga, Tam, Hogue).

SCRep. 3373 Education on S.R. No. 113

The purpose of this measure is to recognize the Orion Society for its commitment to nature through community involvement, art, and writing, and urging state agencies to encourage participation in the Orion Society's forgotten language tour.

Your Committee finds that, as no one testified in support to this measure, it should be used as a vehicle to facilitate solutions to a more pressing public need: budgeting, financing, and construction of new Department of Education facilities.

Your Committee has amended the measure by replacing its contents with the contents of the proposed draft of S.C.R. No. 131, S.D. 1, which requests the development by the Department of Education of a comprehensive five year plan regarding urgently needed new school construction and renovation projects by school educational districts and schools, including a report of potential and innovative alternatives for fast-tracking the completion of these projects.

The measure, as amended, further includes language that details the potential implementation process of an innovative public-private construction financing mechanism for a new elementary school in a particularly fast-growing area, Leeward Oahu, and calls for the prerequisite support of the Department of Education, Department of Budget and Finance, Department of Accounting and General Services, and Department of Land and Natural Resources in this effort.

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. 113, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 113, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Matsunaga, Tam, Hogue).

SCRep. 3374 Education on S.R. No. 96

The purpose of this measure is to request a management and financial audit of the Department of the Attorney General.

Your Committee finds that the timely processing of Department of Education facility projects is a more pressing public need than a management and financial audit of the Department of the Attorney General.

Your Committee has amended the measure by deleting its contents and inserting language that supports the implementation of Act 316, Session Laws of Hawaii, 2001, which created a comprehensive new system to manage the public school repair and maintenance process, including a key component of the system, the development of a comprehensive six year plan to repair and maintain public school facilities through the coordinated joint efforts of the Legislature, Department of Education, and Department of Accounting and General Services.

Your Committee has also noted the different areas of responsibility these agencies have in such a coordinated effort. For example, the Legislature is responsible for appropriating the necessary funding, the Department of Education is responsible for identifying educational needs, and the Department of Accounting and General Services is responsible for ensuring that the work gets done.

The measure, as amended, further includes language that calls for an innovative public-private construction financing mechanism for a new elementary school in a particularly fast-growing area, Leeward Oahu, as well as the prerequisite support of the Department of Education, Department of Budget and Finance, and Department of Accounting and General Services in this effort.

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. 96, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as S.R. No. 96, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Matsunaga, Menor).

SCRep. 3375 Education on S.C.R. No. 120

The purpose of this measure is to request the University of Hawaii at Manoa Hamilton Library Preservation Department, in cooperation with the Legacy Foundation of the Pacific and other public and private entities, to establish a Hawaii media preservation and technology archiving applications pilot project.

Your Committee received testimony in support of the measure from the University of Hawaii at Manoa Library Preservation Department, Juniroa Productions Inc., two board members of the Legacy Foundation of the Pacific, an individual representing the Hawaiian Political Action Committee, and Hui Kakoo.

Your Committee finds that media preservation contributes to knowledge-rich economic diversification and leverages money already invested by the State in the media, museum, and archival industries. By preserving Hawaii's legacy in film, video, and audio, the State of Hawaii makes important statements that Hawaii is a precious place, that an informed and active citizenry is vital to democracy, and that one of the most accessible and appealing means of facilitating historical knowledge is through archival media. In many cases media is the only material representation of Hawaii's legacy and this fact will only become progressively more true in the future.

Your Committee further finds that, with our bombardment by mass media from outside of Hawaii, it is difficult for us to maintain our local values and perspectives without an adequate supply of local content media.

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. 120 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Kawamoto, Matsunaga, Menor).

SCRep. 3376 (Joint) Health and Human Services and Education on S.C.R. No. 124

The purpose of this measure is to request the United Nations to consider the establishment in Hawaii of a Center for Health, Welfare, and Education of Children, Youth and Families for Asia and the Pacific.

Testimony supporting this measure was received from the Christian Science Committee on Publication for Hawaii and two individuals.

Your Committees find that securing and improving the health, welfare, and education of children and families are basic values shared by Hawaii and populations throughout the world. Hawaii's unique location bridging Asia and the mainland United States, and Hawaii's diverse culture make it an excellent location for world leaders to congregate and discuss international children's issues. Your Committees believe that this measure further promotes the well-being of the world's children and international relations.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 124 and recommend that it be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chairs on behalf of the Committees.
Ayes, 9. Noes, none. Excused, 6 (Fukunaga, Hogue, Ige, Kokubun, Matsunaga, Tam).

SCRep. 3377 Economic Development and Technology on S.C.R. No. 139

The purpose of this measure is to request the Legislative Reference Bureau to conduct a study on the effects of big box retailers on local small and medium retail businesses, including an inventory of present big box retailers and competitor small and medium locally-owned retail businesses, bankruptcy data, and comparative economic impacts of big box retailers on Hawaii's economy.

Testimony in support of this measure was received from the Legislative Information Services of Hawaii, and Hawaii Government Employees Association, and comments from the Department of Business, Economic Development, and Tourism. The Legislative Reference Bureau submitted comments.

Your Committee finds that under these harsh economic times, many small and medium-sized businesses in Hawaii have suffered. It is time to study the impact that big box retailers have on our local businesses due to the advantages that are gained from their ability to buy in bulk at much lower costs and thus pass their savings on to the consumers of Hawaii.

Your Committee has amended this measure by requesting the retail industry of Hawaii, as a whole and in cooperation with various business organizations such as the Retail Merchants of Hawaii, Small Business Hawaii, Hawaii Business Roundtable, Hawaii Business League, National Federation of Independent Businesses, and others to develop and report the direction of the retail industry of Hawaii, paying particular attention to the effects the recent introduction of big box retailers in Hawaii have had on our economy and on competing medium and small local businesses.

Your Committee finds that it should be the responsibility of the retail industry of Hawaii to report its objectives to the State for the State to decide how these objectives may benefit or conflict with the well being of various sized retail businesses in Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 139, 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. 139, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3378 Economic Development and Technology on S.C.R. No. 85

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to develop recommendations to provide equitable access to, and use of, the waters and beaches of the State for both organized water sports events and individual recreational users.

Testimony in support of the measure was received from the Chairperson of the Board of Land and Natural Resources, the Office of Hawaiian Affairs, and an individual.

Your Committee finds that although voluntary guidelines regarding sequential scheduling of certain areas for water sports events have worked well in the past for DLNR's Division of Boating and Ocean Recreation, it appears that more firm guidance in the form of administrative rules is necessary.

Your Committee has amended the measure by requesting that the Board of Land and Natural Resources conduct public hearings on the issue.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 85, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 85, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3379 (Joint) Education and Economic Development and Technology on S.C.R. No. 176

The purpose of this measure is to request the University of Hawaii, Department of Education, and Governor's Special Advisor for Technology Development to support and promote the Hawaii CubeSat Project.

Your Committees received testimony in support of the measure from the Governor's Special Advisor for Technology Development and Department of Education.

Your Committees find that the Hawaii CubeSat Project is a great example of using technology and providing hands-on experience for elementary and college students.

Your Committees have amended the measure, including the title, to request the parties to endorse rather than support the Hawaii CubeSat Project and similar projects.

As affirmed by the records of votes of the members of your Committees on Education and Economic Development and Technology 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 its adoption in the form attached hereto as S.C.R. No. 176, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Ige, Ihara, Hogue, Slom).

SCRep. 3380 Education on S.C.R. No. 132

The purpose of this measure is to request 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 received testimony in support of the measure from the Department of Education, Hawaii Youth Services Network, and 16 staff and students from public schools in the First Representative District.

Your Committee finds that this measure views youth, not as problems to be addressed, but as resources and partners in our efforts to solve community problems. It respects the contributions youth can make to the planning, operation, and evaluation of community organizations. The outcomes are increased organizational efficiency and provision of better programs for youth, as well as the personal growth of youth and adults.

Your Committee has amended the measure by inserting language strongly encouraging the Department of Education to examine these efforts as a potential model for other public schools in the district and throughout the rest of the 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. 132, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 132, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Matsunaga, Tam, Hogue).

SCRep. 3381 Education on S.R. No. 76

The purpose of this measure is to request 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 received testimony in support of the measure from the Department of Education, Hawaii Youth Services Network, and 16 staff and students from public schools in the First Representative District.

Your Committee finds that this measure views youth, not as problems to be addressed, but as resources and partners in our efforts to solve community problems. It respects the contributions youth can make to the planning, operation, and evaluation of community organizations. The outcomes are increased organizational efficiency and provision of better programs for youth, as well as the personal growth of youth and adults.

Your Committee has amended the measure by inserting language strongly encouraging the Department of Education to examine these efforts as a potential model for other public schools in the district and throughout the rest of the 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. 76, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 76, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Ige, Matsunaga, Tam, Hogue).

SCRep. 3382 Commerce, Consumer Protection and Housing on S.C.R. No. 16

The purpose of this measure is to authorize a sunrise review of hypnotherapist regulation.

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

State policy dictates that regulation of a profession or vocation only be undertaken where reasonably necessary to protect the health, safety, or welfare of consumers. Therefore, pursuant to section 26H-6, Hawaii Revised Statutes, a measure proposing to establish a new regulatory system must be referred by concurrent resolution to the Auditor for a "sunrise" analysis that sets forth the probable effects of the measure and assesses whether the measure is consistent with State regulatory policy.

Senate Bill No. 2497, as introduced this session, proposes to establish a hypnotherapist licensing system within DCCA. Therefore, this concurrent resolution refers the measure to the Auditor for a sunrise analysis.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 16 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chumbley, English).

SCRep. 3383 (Majority) Judiciary on S.C.R. No. 2

The purpose of this measure is to request Afghan government officials to appoint and include a significant number of Afghani women to positions in the provisional government of Afghanistan.

Testimony in support of this measure was received from the Hawaii State Commission on the Status of Women, Hawaii Women's Political Caucus, and one individual.

In supporting this measure, your Committee is in agreement with the preamble to the United National Convention on the Elimination of All Forms of Discrimination Against Women, which states, "Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields."

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. 2 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, 1 (Slom). Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3384 (Majority) Judiciary on S.R. No. 1

The purpose of this measure is to request Afghan government officials to appoint and include a significant number of Afghani women to positions in the provisional government of Afghanistan.

Testimony in support of this measure was received from the Hawaii State Commission on the Status of Women, Hawaii Women's Political Caucus, and one individual.

In supporting this measure, your Committee is in agreement with the preamble to the United National Convention on the Elimination of All Forms of Discrimination Against Women, which states, "Convinced that the full and complete development of a

country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.”

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. 1 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, 1 (Slom). Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3385 Judiciary on S.C.R. No. 100

The purpose of this measure is to request the Legislative Reference Bureau (LRB) to conduct a study of the guardian ad litem/attorney statutory fee requirements.

Testimony in support of this measure was received from the Judiciary.

Section 571-87, Hawaii Revised Statutes, which provides for the appointment and compensation of counsel or guardian ad litem, was enacted by Act 376, Session Laws of Hawaii 1987. The law has not been amended since to increase the fees. Your Committee believes that the time is proper for the LRB to review the fee system and to recommend statutory changes if appropriate.

Your Committee further finds that possible abuses of the fee system have been reported. Your Committee believes that these abuses should be investigated by the Auditor.

Your Committee has amended this measure by adding a directive to the Auditor to conduct an audit of the guardian ad litem fee system, to determine whether there are instances of irregularities such as families being coerced into paying the guardian ad litem for a favorable report and other pertinent matters of the system. Your Committee further amended this measure to require both the Auditor and the LRB to report to the 2003 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. 100, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 100, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3386 Judiciary on S.R. No. 55

The purpose of this measure is to request the Legislative Reference Bureau (LRB) to conduct a study of the guardian ad litem/attorney statutory fee requirements.

Testimony in support of this measure was received from the Judiciary.

Section 571-87, Hawaii Revised Statutes, which provides for the appointment and compensation of counsel or guardian ad litem, was enacted by Act 376, Session Laws of Hawaii 1987. The law has not been amended since to increase the fees. Your Committee believes that the time is proper for the LRB to review the fee system and to recommend statutory changes if appropriate.

Your Committee further finds that possible abuses of the fee system have been reported. Your Committee believes that these abuses should be investigated by the Auditor.

Your Committee has amended this measure by adding a directive to the Auditor to conduct an audit of the guardian ad litem fee system, to determine whether there are instances of irregularities such as families being coerced into paying the guardian ad litem for a favorable report and other pertinent matters of the system. Your Committee further amended this measure to require both the Auditor and the LRB to report to the 2003 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.R. No. 55, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 55, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3387 Judiciary on S.C.R. No. 150

The purpose of this measure is to designate September 23-27, 2002, as “Kids Voting Hawaii Week.”

Your Committee received testimony in support of the measure from the Department of Education and Kids Voting Hawaii.

Your Committee finds that voting, voter registration, and knowledge of civics is declining in the high schools. As representative democracy relies so heavily on citizen participation and the informed consent of the governed, it is imperative that this trend be reversed. This measure would provide one important means of significantly increasing the public profile of this crucial issue among new and future voters.

Your Committee further finds that it is the civic responsibility of public high school student leaders and students eligible to vote to participate in the Kids Voting Hawaii program encouraging youths to vote.

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. 150, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3388 Judiciary on S.R. No. 89

The purpose of this measure is to designate September 23-27, 2002, as "Kids Voting Hawaii Week."

Your Committee received testimony in support of the measure from the Department of Education and Kids Voting Hawaii.

Your Committee finds that voting, voter registration, and knowledge of civics is declining in the high schools. As representative democracy relies so heavily on citizen participation and the informed consent of the governed, it is imperative that this trend be reversed. This measure would provide one important means of significantly increasing the public profile of this crucial issue among new and future voters.

Your Committee further finds that it is the civic responsibility of public high school student leaders and students eligible to vote to participate in the Kids Voting Hawaii program encouraging youths to vote.

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. 89, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3389 Judiciary on S.C.R. No. 151

The purpose of this measure is to proclaim September 2002 as "Voter Education Month".

Testimony in support of this measure was received from the Department of Education, League of Women Voters of Hawaii, and Rotary International.

Your Committee finds that the well being of our communities depends on citizens, young and old, who are willing to participate actively in solving the issues facing society today. Active citizenship including voting and voter education is one means of encouraging greater participation in the political process.

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. 151, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3390 Judiciary on S.R. No. 90

The purpose of this measure is to proclaim September 2002 as "Voter Education Month".

Testimony in support of this measure was received from the Department of Education, League of Women Voters of Hawaii, and Rotary International.

Your Committee finds that the well being of our communities depends on citizens, young and old, who are willing to participate actively in solving the issues facing society today. Active citizenship including voting and voter education is one means of encouraging greater participation in the political process.

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. 90, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3391 Health and Human Services on S.C.R. No. 63

The purpose of this measure is to request the Governor to convene a state panel to develop a standard payment rate for mental health services provided to children under state contracts.

Testimony in support of this measure was submitted by Blueprint for Change and Hawaii Psychiatric Medical Association. Testimony in support of the intent of this measure was submitted by the Department of Health and the State Procurement Office.

Your Committee finds that currently there exist discrepancies in provider rates between state agency contracts for mental health services for children, resulting in some state programs not being able to procure services due to limited funds to pay for such services. Your Committee further finds that it is not in the State's best interest, nor does it serve the needs of our children, to allow for state agencies to compete for services for the same clientele. Your Committee is optimistic that the parties involved should be able to reach consensus on this issue.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 63 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (English, Fukunaga, Kokubun).

SCRep. 3392 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on S.C.R. No. 95

The purpose of this measure is to extend legislative support for the goals of the Hawai'i Watchable Wildlife Program and encourage collaboration among all government agencies, as well as non-profit organizations, and the private sector in promoting responsible wildlife viewing and nature-based tourism that benefit the people of Hawaii.

Testimony in support of this measure was received from the Department of Land and Natural Resources, Watchable Wildlife Incorporated, Hawai'i Watchable Wildlife Program, Annette's Adventures, Aqua Lung Pacific, and Paradise Cruise, Ltd.

Your Committees have heard that the Watchable Wildlife Program was started by Defenders of Wildlife, a non-profit group, in 1989, and has received substantial funding at a national level to create guidebooks for the public that identify the best places to watch wildlife in a state. Hawaii has incredible biological diversity and natural splendor that attracts large numbers of visitors to the islands each year, thereby enhancing the State's economy.

Your Committees find that involvement in the Watchable Wildlife Program will improve opportunities for everyone – residents and visitors – to experience Hawaii's unique environment and will increase the number of wildlife-oriented tourists. Over half of all states are now participants in this program and this resolution as the first step in getting Hawaii involved in the program.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 95 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 6 (Ihara, Kawamoto, Matsunaga, Matsuura, Nakata, Sakamoto).

SCRep. 3393 (Joint) Water, Land, Energy, and Environment and Tourism and Intergovernmental Affairs on S.R. No. 53

The purpose of this measure is to extend legislative support for the goals of the Hawai'i Watchable Wildlife Program and encourage collaboration among all government agencies, as well as non-profit organizations, and the private sector in promoting responsible wildlife viewing and nature-based tourism that benefit the people of Hawaii.

Testimony in support of this measure was received from the Department of Land and Natural Resources, Watchable Wildlife Incorporated, Hawai'i Watchable Wildlife Program, Annette's Adventures, Aqua Lung Pacific, and Paradise Cruise, Ltd.

Your Committees have heard that the Watchable Wildlife Program was started by Defenders of Wildlife, a non-profit group, in 1989, and has received substantial funding at a national level to create guidebooks for the public that identify the best places to watch wildlife in a state. Hawaii has incredible biological diversity and natural splendor that attracts large numbers of visitors to the islands each year, thereby enhancing the State's economy.

Your Committees find that involvement in the Watchable Wildlife Program will improve opportunities for everyone – residents and visitors – to experience Hawaii's unique environment and will increase the number of wildlife-oriented tourists. Over half of all states are now participants in this program and this resolution as the first step in getting Hawaii involved in the program.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Tourism and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 53 and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 6 (Ihara, Kawamoto, Matsunaga, Matsuura, Nakata, Sakamoto).

SCRep. 3394 Water, Land, Energy, and Environment on S.C.R. No. 21

The purpose of this measure is to authorize the Board of Land and Natural Resources to lease an easement covering a portion of submerged lands at Lahaina, Maui, Hawaii, for concrete pier and deck purposes pursuant to Section 171-53, Hawaii Revised Statutes.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee has heard that in 1988, Patrick J. Ballenger and Mariana Von Blom, Applicants, requested after-the-fact approvals for a concrete pier and deck encroachment on state submerged lands at Lahaina. The deck, extending forty feet seaward from the Applicant's property, is used as part of the Lahaina Fish Company restaurant. In 1989, the Board of Land and Natural Resources approved both a Conservation District Use Application and the issuance of a term, non-exclusive easement for the state submerged lands.

This measure will allow for the direct lease of the easement for submerged lands as required under Section 171-53, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 21 and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 3 (Ihara, Matsunaga, Nakata).

SCRep. 3395 (Joint) Water, Land, Energy, and Environment and Economic Development and Technology on S.C.R. No. 68

The purpose of this measure is to authorize the Board of Land and Natural Resources to designate approximately one hundred fifty acres of public lands in South Hilo as an industrial park.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR).

Your Committees understand that the subject area is located in the South Hilo industrial area south of the old Hilo Airport. The portions of the subject area that are adjacent or otherwise accessible to a public roadway are currently being used for various industrial purposes, including the JAS Glover quarry and concrete manufacturing operations, a Meadow Gold processing plant, a county baseyard, and a warehouse facility. State-owned lands to the north and east of the quarry site are vacant and available for expanded industrial uses, and development will require roadway improvements and utility infrastructure.

Your Committees have heard that DLNR envisions initially constructing the beginning portion of a main roadway that would run from Leilani Avenue along the southern portion of the Mana Quarry site. This alignment will allow the vacant areas surrounding the quarry site to be developed incrementally together with the necessary roadway improvements and utilities. The roadway and all other infrastructure would be constructed to county standards and dedicated to the County of Hawaii.

Your Committees find that designation of the subject area as an industrial park will assist DLNR in master planning the area as an industrial park and in constructing the needed infrastructure and access to serve the industrial park and other surrounding areas. Once the area is designated as an industrial park, DLNR may negotiate long-term leases with current tenants of the area, including JAS Glover, Ltd., which occupies approximately forty-five acres within the subject area under a month-to-month revocable permit and is agreeable to contributing towards the construction of portions of a main access roadway as a condition to the issuance of a long-term lease.

Your Committees have amended this measure to add the specified Tax Map Keys to the first BE IT RESOLVED clause.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Economic Development and Technology that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 68, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 68, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 4 (Ige, Ihara, Nakata, Slom).

SCRep. 3396 Economic Development and Technology on S.C.R. No. 136

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to adopt rules to reimburse lessees who have made permanent improvements to leasehold residences at Koke'e State Park.

Testimony in support of this measure was received from Friends of the Forest, Kikiaola Land Company, Ltd. and ten individuals. Comments were received from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds that the twenty-year leases that were executed through an auction process in 1985 are due to expire in 2005, at which time, the leased land, as well as all houses and improvements built by the lessees decades ago, must be surrendered to the State without any compensation to the owners. The auction in 1985 caused a great deal of anger and negativity in this small community when forty-three long-time Koke'e families who were outbid for their lease property were displaced. Your Committee believes the State should avoid further disruption to the community by providing reimbursements to lessees for permanent improvements or by extending the leases.

Your Committee has amended this measure by:

- (1) Requiring DLNR to conduct public hearings to review the lease agreements;

- (2) Requiring the DLNR to develop a comprehensive statewide master plan for the repair and maintenance of Hawaii's State Parks that shall include a statewide maintenance plan to address funding for the future of these types of leases throughout the State;
- (3) Requiring the DLNR to maintain and preserve state parks that have been designated as historic by its Historic preservation Division, i.e., Irwin Memorial Park;
- (4) Amending the title to reflect the addition of the state parks master plan; and
- (5) Making a technical, nonsubstantive change.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 136, 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. 136, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3397 Economic Development and Technology on S.R. No. 81

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to adopt rules to reimburse lessees who have made permanent improvements to leasehold residences at Koke'e State Park.

Testimony in support of this measure was received from Friends of the Forest, Kikiaola Land Company, Ltd. and ten individuals. Comments were received from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds that the twenty-year leases that were executed through an auction process in 1985 are due to expire in 2005, at which time, the leased land, as well as all houses and improvements built by the lessees decades ago, must be surrendered to the State without any compensation to the owners. The auction in 1985 caused a great deal of anger and negativity in this small community when forty-three long-time Koke'e families who were outbid for their lease property were displaced. Your Committee believes the State should avoid further disruption to the community by providing reimbursements to lessees for permanent improvements or by extending the leases.

Your Committee has amended this measure by:

- (1) Requiring DLNR to conduct public hearings to review the lease agreements;
- (2) Requiring the DLNR to develop a comprehensive statewide master plan for the repair and maintenance of Hawaii's State Parks that shall include a statewide maintenance plan to address funding for the future of these types of leases throughout the State;
- (3) Requiring the DLNR to maintain and preserve state parks that have been designated as historic by its Historic preservation Division, i.e., Irwin Memorial Park;
- (4) Amending the title to reflect the addition of the state parks master plan; and
- (5) Making a technical, nonsubstantive change.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 81, 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. 81, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Ihara, Slom).

SCRep. 3398 Commerce, Consumer Protection and Housing on S.C.R. No. 98

The purpose of this measure is to request the opening of a Public Utilities Commission (PUC) docket on standby charges imposed on distributed energy resources by public utilities and customer retention discounts offered by the utilities.

Hess Microgen LLC and two individuals testified in support of this measure. The PUC opposed the measure. Hawaiian Electric Company, Inc., Kauai Electric, and The Gas Company submitted comments.

Your Committee finds that opening a single docket to address issues raised by standby rates and customer retention discounts utilized by public utilities may not be appropriate or practical given the uniqueness of each utility and utility contract. However, there may be generic policy issues that are appropriate for examination by the PUC.

Your Committee has amended this measure to request that the PUC consider the feasibility and appropriateness of opening a docket on standby charges and customer retention discount issues, rather than open such a docket at this time. In addition, the title of this measure has been amended to reflect its amended purpose.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 98, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 98, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Matsunaga, Hogue).

SCRep. 3399 Commerce, Consumer Protection and Housing on S.C.R. No. 115

The purpose of this measure is to request an actuarial analysis of a personal injury protection benefits scheme under the motor vehicle insurance law that includes naturopathy.

The Insurance Commissioner, Hawaii Society of Naturopathic Physicians, and three individuals testified in support of this measure. State Farm Insurance Companies opposed the measure.

Currently, naturopathy is not included as a personal injury protection (PIP) benefit under the motor vehicle insurance law, although it was included as a benefit prior to reform of the motor vehicle insurance law in 1997, and even though other alternative treatments, such as chiropractic and acupuncture, are included as PIP benefits.

A measure introduced this session (H.B. No. 2206), proposed to reinstate naturopathy as a PIP benefit. Opponents of the measure argue that it will result in increased utilization rates, and in turn, increased premium rates. The measure's proponents counter that allowing naturopathy as one of the complementary alternative medicine (CAM) treatment options will not affect overall utilization rates since no increase is being sought in the current limit on CAM treatments of thirty visits.

Your Committee finds that in the absence of an impartial, actuarial analysis, the Legislature is unable to determine whether the reinstatement of naturopathy as a PIP benefit will affect utilization and premium rates. Therefore, this measure requests the Insurance Commissioner to conduct such an analysis and to report the Commissioner's findings to the Legislature.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 115 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Matsunaga, Hogue).

SCRep. 3400 Judiciary on S.C.R. No. 82

The purpose of this measure is to request the Attorney General to conduct an investigation of the Maui family court system for possible abuses.

Your Committee received testimony in support of this measure from the Parents for Justice and five individuals. Testimony in opposition was received from the Judiciary. The Ombudsman submitted comments.

Your Committee is concerned about the operation of the Maui family court system, as evidenced in testimony from a group of Maui residents and their exhaustive efforts to date to rectify what they perceive to be inequities occurring in the family court.

Your Committee believes that the Judiciary and the Attorney General should conduct their own investigations into the alleged abuses. Accordingly, your Committee has amended this measure as follows:

- (1) Changing references from "island" to "County" of Maui;
- (2) Deleting references to "Ombudsman" and a study by the Legislative Reference Bureau;
- (3) Requesting the Judiciary and the Attorney General to each conduct their own investigation and to report to the Legislature accordingly for the 2003 Session; and
- (4) Clarifying that Maui residents have tried indefatigably to obtain redress of their grievances but to no avail.

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. 82, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 82, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3401 Judiciary on S.R. No. 48

The purpose of this measure is to request the Attorney General to conduct an investigation of the Maui family court system for possible abuses.

Your Committee received testimony in support of this measure from the Parents for Justice and five individuals. Testimony in opposition was received from the Judiciary. The Ombudsman submitted comments.

Your Committee is concerned about the operation of the Maui family court system, as evidenced in testimony from a group of Maui residents and their exhaustive efforts to date to rectify what they perceive to be inequities occurring in the family court.

Your Committee believes that the Judiciary and the Attorney General should conduct separate investigations into the alleged abuses. Accordingly, your Committee has amended this measure as follows:

- (1) Changing references from "island" to "County" of Maui;
- (2) Deleting references to "Ombudsman" and a study by the Legislative Reference Bureau;
- (3) Requesting the Judiciary and the Attorney General to each conduct their own investigation and to report to the Senate accordingly for the 2003 Session; and
- (4) Clarifying that Maui residents have tried indefatigably to obtain redress of their grievances but to no avail.

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. 48, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 48, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Matsuura, Nakata).

SCRep. 3402 Ways and Means on S.C.R. No. 3

The purpose of this measure is to express support for passage of the Temporary Assistance to Needy Families Reauthorization Act of 2001 (H.R. 3113), which ensures post-secondary education for female TANF recipients.

The measure also suggests the following amendments to the TANF Reauthorization Act of 2001:

- (1) Education should not exceed five years, coupled with at least a minimal employment requirement, to meet the definition of employment;
- (2) A mother's ability to stay home to care for her child should mirror the practice of the non-assistance community, usually no more than one year; and
- (3) The mandatory payment levels should be eliminated as this removes the block grant funding approach and would increase costs significantly.

Your Committee finds that H.R. 3113 would improve the quality of jobs available to low-income female TANF recipients and expand their opportunities through education and training to ensure their long-term self-sufficiency.

As 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. 3, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3403 Ways and Means on S.C.R. No. 19

The purpose of this measure is to seek legislative approval of both the compensation plans and costs submitted by the personnel directors of the State, the Judiciary, the Hawaii Health Systems Corporation, and the counties, and the report published and submitted by the Public Employees Compensation Appeals Board.

Your Committee finds that the compensation plans and costs submitted should be approved.

As 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. 19, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3404 Ways and Means on S.C.R. No. 69

The purpose of this measure is to urge the allocation of additional funding for the Residential Alternative Community Care Program which, in turn, will result in increased levels of matching federal funds.

Your Committee finds that the additional funds, if allocated, will assist the State to meet the growing need for long-term care in a community-based family setting. The Residential Alternative Community Care Program provides individuals with an alternative to institutionalization, and all providers must meet stringent requirements set by the Program, the State, and the federal government with respect to the Medicaid Waiver 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 concurs with the intent and purpose of S.C.R. No. 69 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3405 Ways and Means on S.C.R. No. 157

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism; the High Technology Development Corporation; Hawaii Technology Trade Association; and the Natural Energy Laboratory of Hawaii Authority to set the direction for the high technology industry.

Specifically, the resolution requests the agencies and entities to collaboratively develop a plan to execute the direction that the industry should take.

Your Committee finds that Hawaii needs to broaden its economic base beyond tourism. High technology industries are generally non-polluting, high paying, and attract highly educated and trained employees. This State must provide incentives to encourage the high technology industry. The Department of Business, Economic Development, and Tourism, and other agencies and entities named in the resolution are connected to and aware of many opportunities that can engage the skills of businesses in the high technology industry. A report to the Legislature detailing the directional plan for high technology industry will help the Legislature develop legislation necessary to further support and assist the industry.

As 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. 157, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3406 Ways and Means on S.R. No. 94

The purpose of this measure is to request the Department of Business, Economic Development, and Tourism; the High Technology Development Corporation; Hawaii Technology Trade Association; and the Natural Energy Laboratory of Hawaii Authority to set the direction for the high technology industry.

Specifically, the resolution requests the agencies and entities to collaboratively develop a plan to execute the direction that the industry should take.

Your Committee finds that Hawaii needs to broaden its economic base beyond tourism. High technology industries are generally non-polluting, high paying, and attract highly educated and trained employees. This State must provide incentives to encourage the high technology industry. The Department of Business, Economic Development, and Tourism, and other agencies and entities named in the resolution are connected to and aware of many opportunities that can engage the skills of businesses in the high technology industry. A report to the Legislature detailing the directional plan for high technology industry will help the Legislature develop legislation necessary to further support and assist the industry.

As 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. 94, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3407 Ways and Means on S.C.R. No. 7

The purpose of this measure is to express support for passage of the Temporary Assistance to Needy Families Reauthorization Act of 2001 (H.R. 3113), to provide assistance to families with children.

The measure also suggests the following amendments to the TANF Reauthorization Act of 2001:

- (1) Education should not exceed five years, coupled with at least a minimal employment requirement, to meet the definition of employment;
- (2) A mother's ability to stay home to care for her child should mirror the practice of the non-assistance community, usually no more than one year; and
- (3) The mandatory payment levels should be eliminated as this removes the block grant funding approach and would increase costs significantly.

Your Committee notes that H.R. 3113 maintains the five-year lifetime limit on federal assistance, but improves upon the central goal of assisting recipients to achieve self-sufficiency through education, training, work supports, and access to high-wage jobs. H.R. 3113 also addresses barriers to economic self-sufficiency, such as domestic violence, mental or physical disability, and substance abuse, and restores full access to benefits for qualified immigrants.

Your Committee finds that H.R. 3113 provides for assistance to families with children in a fair and reasonable manner, while maintaining fiscal responsibility with respect to the cost of such 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 S.C.R. No. 7, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Ige, Kim).

SCRep. 3408 Ways and Means on S.C.R. No. 35

The purpose of this measure is to express the Legislature's support and endorsement for the collaborative efforts between the United States Veterans' Administration, the Hawaii Health Systems Corporation, and the State Office of Veterans' Services to construct a two hundred bed long-term care facility on the Hilo Hospital campus, to serve veterans residing in east Hawaii county.

Your Committee finds that east Hawaii county has the second largest population of VA beneficiaries outside of Oahu. Many of these beneficiaries are elderly and have limited income and limited access to long-term care services. Furthermore, the United States Veterans' Administration and the Hawaii State Office of Veterans' Services have expressed concern that the long-term care needs of these "mandated VA-eligible" veterans are not being adequately addressed.

Your Committee further finds that the federally funded VA State Home Construction Program is prepared to fund up to sixty-five per cent of all construction costs for a VA State Home facility on the campus of the Hilo Medical Center, while the Hawaii Health Systems Corporation is actively pursuing private development financing for the remaining thirty-five per cent balance of the construction project. Your Committee also notes that many east Hawaii county community leaders and residents have expressed strong support for the long-term care 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 concurs with the intent and purpose of S.C.R. No. 35, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3409 Ways and Means on S.C.R. No. 39

The purpose of this measure is to request a review of the Department of Accounting and General Services' performance information procurement system.

More specifically, this measure:

- (1) Requests the Comptroller to form an advisory committee to review and make recommendations to improve the Department of Accounting and General Services' performance information procurement system;
- (2) Requests the Comptroller to appoint representatives from construction industry employer organizations, construction employee organizations, and other interested construction industry organizations to the advisory committee; and
- (3) Requests the advisory committee to determine, among other things, whether the performance information procurement system has resulted in cost savings to the State, greater accountability by contractors, and a lower number of change orders; and
- (4) Requests the advisory committee to determine whether projects under the performance information procurement system are equitably and widely distributed, and whether alternative forms of outsourcing have produced comparable quality, timeliness, and work distribution.

Your Committee finds that the Department of Accounting and General Services initiated the performance information procurement system to ensure that the State's "low-bid" procurement system considered other relevant selection criteria, such as contractor performance and material quality, in addition to price. Your Committee believes that it is time to assess whether the performance information procurement system is meeting its goals of lower costs, greater accountability, fewer change orders, and better work product.

As 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. 39, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3410 Ways and Means on S.C.R. No. 48

The purpose of this measure is to request the Auditor to assess the social and financial effects of requiring health insurance coverage for naturopathic, acupuncture, and chiropractic services.

The Concurrent Resolution further requests the Auditor to consider the findings in prior impact assessments conducted pursuant to sections 23-51 and 23-52, Hawaii Revised Statutes, specifically Report No. 88-9 relating to chiropractic services, Report No. 89-25 relating to naturopathic care, and Report No. 95-28 relating to acupuncture services.

Your Committee requests that the subject matter committee Chair or Chairs hold an informational briefing after the audit is submitted to the Legislature. Your Committee is concerned that studies and audits are often reported but follow-up discussion is lacking on the audit's issues and findings. Your Committee finds that issues related to this Concurrent Resolution can be fully discussed and understood if subject matter Chairs hold informational briefings.

As 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. 48, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3411 Ways and Means on S.R. No. 19

The purpose of this measure is to request a review of the Department of Accounting and General Services' performance information procurement system.

More specifically, this measure:

- (1) Requests the Comptroller to form an advisory committee to review and make recommendations to improve the Department of Accounting and General Services' performance information procurement system;
- (2) Requests the Comptroller to appoint representatives from construction industry employer organizations, construction employee organizations, and other interested construction industry organizations to the advisory committee; and
- (3) Requests the advisory committee to determine, among other things, whether the performance information procurement system has resulted in cost savings to the State, greater accountability by contractors, and a lower number of change orders; and
- (4) Requests the advisory committee to determine whether projects under the performance information procurement system are equitably and widely distributed, and whether alternative forms of outsourcing have produced comparable quality, timeliness, and work distribution.

Your Committee finds that the Department of Accounting and General Services initiated the performance information procurement system to ensure that the State's "low-bid" procurement system considered other relevant selection criteria, such as contractor performance and material quality, in addition to price. Your Committee believes that it is time to assess whether the performance information procurement system is meeting its goals of lower costs, greater accountability, fewer change orders, and better work product.

As 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. 19, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3412 (Majority) Ways and Means on S.C.R. No. 58

The purpose of this measure is to establish a joint Senate-House legislative review committee to review petroleum fuel price issues.

This measure provides for the establishment of a joint legislative review committee to gather and review publicly available information, studies, and reports relating to petroleum fuel prices, to evaluate this information, and to develop legislation to address the problem of high fuel prices in the State. In addition, this measure:

- (1) Requests the Department of Business, Economic Development, and Tourism to provide assistance in gathering, analyzing, and interpreting information submitted under the Petroleum Industry Reporting Act and to provide the committee with technical assistance;
- (2) Requests the Attorney General to provide the committee with copies of documents from its investigation of the petroleum industry;
- (3) Requests the Legislative Reference Bureau's assistance in conducting legal and policy analyses and in drafting legislation; and
- (4) Requires the joint legislative review committee to submit its findings and recommendations prior to the convening of the 2003 Legislature.

Your Committee has amended this measure to:

- (1) Include additional facts on the issue of price control, including facts relating to the effects of the imposition and lifting of federal gasoline price controls on Hawaii's gasoline market in the 1970s;

- (2) Clarify that a legislative review would enable the Legislature to review data to develop appropriate and responsive legislation on the fuel price issue; and
- (3) Clarify the review committee's tasks by requesting the committee to propose remedies that would reduce gasoline prices in Hawaii, including but not limited to price caps and amendments to State laws that would facilitate the prosecution of oligopolies, and by deleting language that requests recommendations relating to the high cost of motor fuel, the causes of price differentials between gas in Hawaii and gas in other states, and the effects of the price differentials.

As 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. 58, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 58, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Kim).

SCRep. 3413 Ways and Means on S.C.R. No. 64

The purpose of this measure is to request the establishment of a committee within the Department of Health to study existing state programs and services involved with or providing long-term care to Hawaii's elderly.

Your Committee finds that the urgent need to address the critical shortage of long-term care services in Hawaii has been established through various studies by both government and private organizations. Your Committee further finds that a myriad of government and private programs offer long-term care to clients, including the elderly and the disabled.

Your Committee agrees that the financing of the continuum of services is a critical factor in ensuring that there is an adequate supply for the rapidly increasing demand for services. Your Committee further agrees that a comprehensive study of all programs and services, as well as their financing, will assist the Legislature in deciding how best to address this 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 concurs with the intent and purpose of S.C.R. No. 64, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3414 Ways and Means on S.C.R. No. 79

The purpose of this measure is to request the state Auditor to conduct a program and financial audit of the Department of Land and Natural Resources Historic Preservation Division.

The Historic Preservation Division is responsible for promoting the use and conservation of historic and cultural properties in Hawaii. The Division is also charged with maintaining a historic property inventory, nominating eligible properties to the National Register, preparing statewide historic preservation plans, administering federal assistance to preservation projects, and reviewing the effects of all federal undertakings on historic properties in Hawaii.

Your Committee finds that concerns have been raised about the management and operations of the Historic Preservation Division, including:

- (1) Lengthy delays in processing county, state, and federal project applications and permits;
- (2) Recurrent backlogs in reviewing compliance reports;
- (3) Difficulty in contacting staff for information or determinations;
- (4) Inconsistent and inequitable decisions made by the Division;
- (5) An absence of effective long- or short-term program planning; and
- (6) A lack of accountability in securing and expending federal and state funds.

Additionally, the Historic Preservation Division regulates, and is authorized to collect fees for certain archaeological work in Hawaii. Neither fees, nor the rules needed to administer such fees have yet to be formally adopted or collected.

Considering the problems faced by the Historic Preservation Division, your Committee finds that a program and financial audit of the Division is not only warranted, but necessary to insure the proper treatment of Hawaii's historic and cultural resources for the enrichment of Hawaii's people and visitors to our State.

Finally, your Committee requests that the subject matter committee Chair or Chairs hold an informational briefing after the audit is submitted to the Legislature. Your Committee is concerned that studies and audits are often reported but follow-up discussion is lacking on the audit's issues, findings, and recommendations. Your Committee finds that issues related to this Concurrent Resolution can be fully discussed and understood if subject matter Chairs hold informational briefings.

As 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. 79, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3415 Ways and Means on S.R. No. 38

The purpose of this measure is to request the state Auditor to conduct a program and financial audit of the Department of Land and Natural Resources Historic Preservation Division.

The Historic Preservation Division is responsible for promoting the use and conservation of historic and cultural properties in Hawaii. The Division is also charged with maintaining a historic property inventory, nominating eligible properties to the National Register, preparing statewide historic preservation plans, administering federal assistance to preservation projects, and reviewing the effects of all federal undertakings on historic properties in Hawaii.

Your Committee finds that concerns have been raised about the management and operations of the Historic Preservation Division, including:

- (1) Lengthy delays in processing county, state, and federal project applications and permits;
- (2) Recurrent backlogs in reviewing compliance reports;
- (3) Difficulty in contacting staff for information or determinations;
- (4) Inconsistent and inequitable decisions made by the Division;
- (5) An absence of effective long- or short-term program planning; and
- (6) A lack of accountability in securing and expending federal and state funds.

Additionally, the Historic Preservation Division regulates, and is authorized to collect fees for certain archaeological work in Hawaii. Neither fees, nor the rules needed to administer such fees have yet to be formally adopted or collected.

Considering the problems faced by the Historic Preservation Division, your Committee finds that a program and financial audit of the Division is not only warranted, but necessary to insure the proper treatment of Hawaii's historic and cultural resources for the enrichment of Hawaii's people and visitors to our State.

Finally, your Committee requests that the subject matter committee Chair or Chairs hold an informational briefing after the audit is submitted to the Legislature. Your Committee is concerned that studies and audits are often reported but follow-up discussion is lacking on the audit's issues, findings, and recommendations. Your Committee finds that issues related to this Resolution can be fully discussed and understood if subject matter Chairs hold informational briefings.

As 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 Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3416 (Majority) Ways and Means on S.C.R. No. 103

The purpose of this measure is to request the Auditor to review privatization contracts entered into by certain state and county agencies since the enactment of Act 90, Session Laws of Hawaii 2001.

In addition, this measure requests the Auditor to include a review of contract requirements and how well or poorly the contractor has fulfilled those requirements; the total indirect and direct costs of the contract; whether the contracted service is appropriate for continued privatization; and legislation enacted by state and local governments in other jurisdictions with similar privatization laws, to determine whether another approach might be applicable to Hawaii.

This measure also requests the Auditor to report findings and recommendations, including proposed legislation and recommended criteria for privatization contracts, to the Legislature before the 2003 Regular Session. Contracting agencies are requested to review outstanding contracts to determine whether they meet the criteria established by Act 90, and to hold public hearings before executing future privatization contracts.

Your Committee finds that Act 90 was enacted in part to resolve uncertainty generated by the Hawaii Supreme Court's decision in Konno v. County of Hawaii, 85 Haw. 61 (1997), regarding the government's ability to rely upon the private sector for services government needs or is required to provide.

Part II of Act 90 allowed certain state and county officials in whom procurement authority is vested by law to enter into contracts financed by public funds with private entities to obtain services from those entities, "when there is reasonable basis to believe that the service of equivalent or better quality than that which could be provided by a government agency can be provided at lower cost".

However, your Committee finds that concerns have been raised that under certain privatization contracts entered into pursuant to Act 90, private contractors have not been providing services of "equivalent or better quality" than the public agency could have provided at a lower cost. Your Committee agrees that there is a need for the Auditor to review these contracts to ensure that the State and counties are obtaining services of equivalent or better quality than that which was previously provided by state and county employees.

Your Committee requests that the subject matter committee chair or chairs hold an information briefing after the report is submitted to the Legislature. Your Committee expressed concerns that studies and audits are often reported but discussion is lacking on the issues and findings. Your Committee finds that issues related to this resolution can be fully discussed if subject matter chairs hold informational briefings.

As 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. 103, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, 1 (Slom). Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3417 Ways and Means on S.C.R. No. 109

The purpose of this measure is to request the Judiciary to report to the Legislature on its progress in meeting the requirements of Act 206, Session Laws of Hawaii 1998 on collection of crime victim compensation fees.

Specifically, the report is to address actual versus estimated compensation fee collections and the method of estimation, the number of eligible cases in which the fee was ordered, the number of eligible cases in which the fee was collected, the number of cases that were waived, and the basis for the waiver.

The Crime Victim Compensation Commission was established in 1967 to provide compensation to Hawaii's crime victims who experience financial hardship in paying for medical, mental health, funeral, and other expenses related to the crime. In 1998, the Legislature passed Act 206 to establish a mandatory crime victim compensation fee, to be assessed by the judge on each criminal who has the ability to pay. Prior to Act 206, the Commission was funded through legislative appropriations.

Your Committee finds that a discrepancy exists between the maximum amount that could be collected for the Commission, and the amount actually ordered to be paid by the judges. In 2001, there was a difference of about \$318,569, or one-third of the maximum amount. Some of this discrepancy can be accounted for through statutory exclusions, but the Commission's survey has also discovered cases where the judge simply did not order the defendant to pay, or where a waiver was granted without evidence of inability to pay. Your Committee finds that failure to collect the fee in all eligible and unexcused cases jeopardizes the ability of the fund to carry out its purpose. The study requested by this resolution will help the Legislature determine the state of compliance with Act 206.

As 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. 109 and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3418 Ways and Means on S.R. No. 58

The purpose of this measure is to request the Judiciary to report to the Legislature on its progress in meeting the requirements of Act 206, Session Laws of Hawaii 1998 on collection of crime victim compensation fees.

Specifically, the report is to address actual versus estimated compensation fee collections and the method of estimation, the number of eligible cases in which the fee was ordered, the number of eligible cases in which the fee was collected, the number of cases that were waived, and the basis for the waiver.

The Crime Victim Compensation Commission was established in 1967 to provide compensation to Hawaii's crime victims who experience financial hardship in paying for medical, mental health, funeral, and other expenses related to the crime. In 1998, the Legislature passed Act 206 to establish a mandatory crime victim compensation fee, to be assessed by the judge on each criminal who has the ability to pay. Prior to Act 206, the Commission was funded through legislative appropriations.

Your Committee finds that a discrepancy exists between the maximum amount that could be collected for the Commission, and the amount actually ordered to be paid by the judges. In 2001, there was a difference of about \$318,569, or one-third of the maximum amount. Some of this discrepancy can be accounted for through statutory exclusions, but the Commission's survey has also discovered cases where the judge simply did not order the defendant to pay, or where a waiver was granted without evidence of inability to pay. Your Committee finds that failure to collect the fee in all eligible and unexcused cases jeopardizes the ability of the fund to carry out its purpose. The study requested by this resolution will help the Legislature determine the state of compliance with Act 206.

As 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. 58 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, Chun, Ige, Kokubun, Tam).

SCRep. 3419 (Majority) Ways and Means on S.C.R. No. 112

The purpose of this measure is to request the establishment of a statewide unifying task force within the Department of Business, Economic Development, and Tourism, to develop and administer an economic development plan for the State.

In addition, this measure requests the task force to submit a status report to the Legislature regarding the strategic economic development plan within six months of the first meeting of the task force, and the final strategic economic development plan within one year after the first meeting of the task force.

Your Committee finds that, in the aftermath of the events of September 11, 2001, which had a significant negative impact on Hawaii's economy, there is an even greater need to explore ways to revive and sustain state economic development. Your Committee agrees with the intent of this measure, and finds that a unified effort among various levels of government, private sector councils, and the University of Hawaii to develop a strategic economic development plan will help to ensure Hawaii's future economic stability.

Upon further consideration, your Committee has amended this measure by changing the composition of the task force by deleting the Chairperson of the Economic Development and Business Concerns Committee of the House of Representatives, and inserting in its place representatives from the Senate and House of Representatives designated by the President of the Senate and the Speaker of the House of Representatives.

As 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. 112, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 112, S.D. 2.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, 1 (Slom). Excused, 2 (Ige, Kim).

SCRep. 3420 Ways and Means on S.C.R. No. 113

The purpose of this measure is to request the Auditor to audit the methods that state departments use to verify their ceded land revenues, if they hold any ceded land leases.

Specifically, this measure requests the Auditor to review the reliability and consistency of those methodologies under generally accepted accounting principles.

Your Committee finds that the State has a continuing obligation to accurately account for revenues derived from the public land trust.

Your Committee requests that the subject matter committee chair or chairs hold an information briefing after the Auditor's report is submitted to the Legislature. Your Committee expressed concerns that studies and audits are often reported but discussion is lacking on the issues and findings. Your Committee finds that issues related to this resolution can be fully discussed if subject matter chairs hold informational briefings.

As 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. 113 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3421 Ways and Means on S.C.R. No. 134

The purpose of this measure is to urge the Governor to convene a task force to address the continual need and unmet demand for transitional housing and social welfare facilities on Oahu.

Your Committee finds that the State is in dire need of more transitional housing for the homeless, especially in light of the hundreds of families recently cut from the welfare rolls and the lingering post-September 11 downturn in the economy. Your Committee also finds that the situation is further exacerbated by the lack of a coordinated and comprehensive plan to address the homeless problem in the State.

This Concurrent Resolution is a necessary step toward the development of a transitional housing plan formulated by all levels of government to ultimately provide more facilities and better services for the homeless.

Your Committee has amended the Concurrent Resolution to reflect the statewide nature of the homeless problem. Therefore the scope of the Concurrent Resolution has been expanded beyond Oahu to include the entire State.

Finally, your Committee requests that the subject matter committee Chair or Chairs hold an informational briefing after the Task Force's report is submitted to the Legislature. Your Committee is concerned that studies and audits are often reported but follow-up

discussion is lacking on the study's issues, findings, and recommendations. Your Committee finds that issues related to this Concurrent Resolution can be fully discussed and understood if subject matter Chairs hold informational briefings.

As 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. 134, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 134, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Buen, Ige, Kim).

SCRep. 3422 Ways and Means on S.C.R. No. 169

The purpose of this measure is to request the Public Utilities Commission to establish a Power Quality Task Force.

Your Committee finds that "power quality" refers to the existence or non-existence of voltage sags, surges, spikes, interruptions, and harmonics on an electric line that can lead to damaged electrical equipment and extensive loss in business productivity.

This Concurrent Resolution requests the Public Utilities Commission to establish a Power Quality Task Force to investigate and study power quality in Hawaii. The Task Force is requested to determine:

- (1) Who is currently measuring power quality, if anyone;
- (2) Whether power quality should be increased;
- (3) Which agency or agencies have regulatory authority over power quality;
- (4) What are the root causes of poor power quality;
- (5) Whether legislation is needed to improve power quality;
- (6) Whether equipment should be added to the electric grid to strengthen power quality;
- (7) What agency should handle poor power quality grievances;
- (8) Whether interconnection nodes should have monitoring devices to obtain power quality measurements; and
- (9) Whether such measurements can be used to determine whether non-utility generators increase or decrease power quality.

Your Committee finds that the reports requested of the Task Force in the next three years, should assist the State in determining whether further action should be taken to ensure that the quality of electrical power is adequate to satisfy the future needs of the State.

Your Committee requests that the subject matter committee Chair or Chairs hold an informational briefing after the Task Force's reports are submitted to the Legislature. Your Committee is concerned that studies and audits are often reported but follow-up discussion is lacking on the report's issues, findings, and recommendations. Your Committee finds that issues related to this Concurrent Resolution can be fully discussed and understood if subject matter Chairs hold informational briefings.

As 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. 169, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3423 Ways and Means on S.R. No. 105

The purpose of this measure is to request the Public Utilities Commission to establish a Power Quality Task Force.

Your Committee finds that "power quality" refers to the existence or non-existence of voltage sags, surges, spikes, interruptions, and harmonics on an electric line that can lead to damaged electrical equipment and extensive loss in business productivity.

This Resolution requests the Public Utilities Commission to establish a Power Quality Task Force to investigate and study power quality in Hawaii. The Task Force is requested to determine:

- (1) Who is currently measuring power quality, if anyone;
- (2) Whether power quality should be increased;
- (3) Which agency or agencies have regulatory authority over power quality;
- (4) What are the root causes of poor power quality;
- (5) Whether legislation is needed to improve power quality;

- (6) Whether equipment should be added to the electric grid to strengthen power quality;
- (7) What agency should handle poor power quality grievances;
- (8) Whether interconnection nodes should have monitoring devices to obtain power quality measurements; and
- (9) Whether such measurements can be used to determine whether non-utility generators increase or decrease power quality.

Your Committee finds that the reports requested of the Task Force in the next three years, should assist the State in determining whether further action should be taken to ensure that the quality of electrical power is adequate to satisfy the future needs of the State.

Your Committee requests that the subject matter committee Chair or Chairs hold an informational briefing after the Task Force's reports are submitted to the Legislature. Your Committee is concerned that studies and audits are often reported but follow-up discussion is lacking on the report's issues, findings, and recommendations. Your Committee finds that issues related to this Resolution can be fully discussed and understood if subject matter Chairs hold informational briefings.

As 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. 105, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (Buen, Chun, English, Ige, Kokubun, Tam).

SCRep. 3424 Education on S.C.R. No. 107

The purpose of this measure is to request the Legislative Reference Bureau to examine the feasibility of adding surfing as a competitive interscholastic sport.

Your Committee received testimony in opposition to the measure from the Department of Education. Comments were offered by the Legislative Reference Bureau.

Your Committee finds continuation of the discussion to advance the cutoff date for kindergarteners to be a more pressing public need than examining the feasibility of adding surfing as a competitive interscholastic sport. Therefore, your Committee has amended the measure by replacing its contents with language from S.B. No. 2032 to plan and consider an accelerated kindergarten age program and a possible two-tier kindergarten program.

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. 107, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 107, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Ige, Matsunaga, Tam, Hogue).

SCRep. 3425 (Joint) Education, Water, Land, Energy, and Environment and Hawaiian Affairs on S.C.R. No. 137

The purpose of this measure is to urge the Department of Land and Natural Resources (DLNR) to halt any further development on the summit of Mauna Kea and its surrounding lands until such time as the full impact of summit activity can be assessed.

Your Committees received testimony in support of the measure from the Office of Hawaiian Affairs, Sierra Club Hawaii Chapter, two members of the American Friends Service Committee, and five private individuals. Your Committees received testimony in opposition to the measure from the Director of the Institute for Astronomy of the University of Hawaii, Chief of Staff and Vice President for Legal Affairs of the University of Hawaii, and Chairperson of the Board of Land and Natural Resources. Comments were offered by the Office of Mauna Kea Management.

Your Committees acknowledge the tremendous spiritual and cultural importance of Mauna Kea, as well as its great environmental importance to the people of the island and State of Hawaii. Although many of these concerns were addressed in the 2000 development plan – which was generated over two years after considerable public input in response to the 1998 audit by the State Auditor – there remains an enduring belief among many members of the general public that current efforts to protect the unique resources of the mountain do not go far enough. Therefore, your Committees have attempted to balance a due respect for these ongoing concerns with a continuation of the extremely valuable scientific work in astronomy conducted at the summit – work that places Hawaii at the forefront of this science internationally.

Your Committees have amended the measure by:

- (1) Deleting erroneous references to the number and nature of astronomical observation constructions;
- (2) Making the University of Hawaii (UH) the lead agency in this effort, instead of DLNR, and requesting them to provide any necessary environmental assessments;
- (3) Requesting numerous reports from DLNR and Office of Mauna Kea Management (OMKM) regarding the conservation district, 2000 development plan, and 1998 Audit;

- (4) Requesting OMKM to provide for greater public input to the UH Board of Regents;
- (5) Requesting OMKM to place a representative of Kahu Ku Mauna on their board of directors and report back to the Legislature and Governor on the status of this effort; and
- (6) Making numerous 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 Water, Land, Energy and Environment and Hawaiian Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 137, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 137, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 7 (Chumbley, Hanabusa, Ige, Ihara, Matsunaga, Nakata, Hogue).

SCRep. 3426 Labor on S.C.R. No. 53

The purpose of this measure is to establish a panel to study and make recommendations on workforce issues affecting the nursing profession.

Testimony in support of the measure was received from the Healthcare Association of Hawaii, the Hawaii Government Employees Association, and the Hawaii Nurses' Association. The Department of Commerce and Consumer Affairs testified in opposition to the measure.

Your Committee finds that many states report current and projected shortages of registered nurses, primarily due to an aging workforce and recent declines in nursing school enrollments. Increases in demands for registered nurses and licensed practical nurses in nursing homes and home healthcare are expected to grow between twenty-one to thirty-five percent.

This projected shortage of nurses within our nation will have an adverse impact in Hawaii, due to the difficulty it presents in competing with other states for nurses. As such, your Committee believes that recruitment, retention, and utilization issues related to this critical workforce must be addressed in a systematic and comprehensive manner. However, your Committee believes that the measure, as received by your Committee, does not go far enough in finding a solution to a problem that is already upon us.

In light of this belief, your Committee has amended the measure by:

- (1) Deleting its contents and inserting therefor, provisions that require the Department of Commerce and Consumer Affairs to convene a working group to develop legislation that establishes a Center for Nursing in Hawaii; and
- (2) Amending the title of the measure to reflect its new purpose.

Your Committee realizes that the supply of nurses within the nation and Hawaii continues to be unpredictable and the demand will continue to grow due to the rapid aging of our population. Consequently, your Committee believes that establishing a Center for Nursing will allow Hawaii to develop a state response to the nursing shortage and proactively work to retain and attract nurses so that an adequate level of nursing care is maintained within our healthcare institutions.

As affirmed by the record of votes of the members of your Committee on Labor 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 its adoption in the form attached hereto as S.C.R. No. 53, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Kanno, Matsuura).

SCRep. 3427 (Joint) Education and Transportation, Military Affairs, and Government Operations on S.C.R. No. 127

The purpose of this measure is to urge adequate financial impact assistance for providing services to citizens of the Freely Associated States who reside in the State of Hawaii.

Your Committees received testimony in support of the measure from the Governor, Department of Education, and four private individuals.

Your Committees find that obtaining reimbursement for Compact-related costs is fundamentally a political process that will depend in part on the State's political will. The State will obtain adequate reimbursement only through a concerted and sustained effort. Since 1997, the Governor has been preparing annual Compact impact reports and urging Congress to reimburse the State for its Compact-related costs. This resolution sends a clear message to the Bush Administration and Congress that the State's legislative and executive branches speak with one voice on this issue, and that Compact aid is a top-priority issue for Hawaii.

Your Committees have amended the measure:

- (1) Urging the Bush Administration and the U.S. Congress to restore Freely Associated States citizens' eligibility for federal public benefits, such as Medicaid, Medicare, food stamps, public housing, and other federal benefits;

- (2) Noting that Guam has received financial impact assistance for the last ten years; and
- (3) Noting the effects of the nuclear testing program of the United States on Micronesia and the direct link between such testing and subsequent Micronesian emigration to Hawaii.

As affirmed by the records of votes of the members of your Committees on Education and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 127, 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. 127, S.D. 1.

Signed by the Chairs on behalf of the Committees.

Ayes, 10. Noes, none. Excused, 6 (Ige, Matsunaga, Tam, Taniguchi, Hemmings, Hogue).

SCRep. 3428 Commerce, Consumer Protection and Housing on Gov. Msg. No. 171

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF ACUPUNCTURE

JUNE S. TAKENO, for a term to expire June 30, 2004,

Your Committee received testimony in support of the nomination from the Department of Commerce and Consumer Affairs and two individuals.

June S. Takeno is a retired registered nurse with over thirty years of nursing experience. She has been active as a volunteer with numerous community organizations, including the Boy Scouts of America, Hawaii United Okinawa Association, the Neighborhood Watch Program, public school tutorial programs, and senior programs. Ms. Takeno has served as an interim member of the Board of Acupuncture since December 28, 2001.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Kim, Tam).

SCRep. 3429 Tourism and Intergovernmental Affairs on H.C.R. No. 28

The purpose of this measure is to request that the Governor take all necessary actions to establish a sister-state affiliation with the Province of Pangasinan.

Testimony in support of this measure was received from United Pangasinan of Hawaii, Urdaneta-Hawaii Club, Rosalenians of Hawaii, Alliance of Residential Care Administrators, and six individuals. The Department of Business, Economic Development, and Tourism submitted comments on this measure.

Your Committee has heard that currently there are sixty sister relationships between the State and counties of Hawaii and various other geographic regions. In an effort to determine the status of these sister relationships, the Department of Business, Economic Development, and Tourism has organized a conference to be held in July 2002, and expects about twenty of these sister-affiliated regions to attend.

Your Committee commends the Department for this effort to determine how better to encourage and promote successful sister affiliations at both the State and county level, and urges the Department to use this opportunity to determine if there are sister affiliations that should be dissolved for any reason.

Your Committee recognizes that sister affiliations evolve over time and that completing the initial efforts to establish such affiliations may not be successful.

Your Committee has amended this measure accordingly, to add the following:

BE IT FURTHER RESOLVED that if by June 30, 2007, the sister-state affiliation with the Province of Pangasinan has not reached a sustainable basis by providing mutual economic benefits through local community support, the sister-state affiliation shall be withdrawn; and

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 28, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 28, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 2 (English, Matsuura).

SCRep. 3430 Judiciary on H.B. No. 2307

The purpose of this measure is to establish the legal validity of electronic documents containing certification or a seal.

Your Committee received testimony in support of this measure from the Judiciary.

Act 282, Session Laws of Hawaii 2000, enacted chapter 489E, Hawaii Revised Statutes, the Uniform Electronic Transactions Act (UETA) to facilitate electronic commerce in the State. The UETA establishes the legal validity of electronic records, signatures, and contracts, and provides that if a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied through an electronic signature of the person authorized to perform such acts.

This measure further facilitates electronic commerce in the State by establishing the validity of electronic documents containing certification or a seal if the document contains the electronic signature or seal of an authorized official. Under this measure, agencies, such as the Judiciary, will be able to provide more efficient and timely service to consumers who request certified or sealed copies of documents, by providing the requested documents through electronic means, rather than by mail.

As affirmed by the record of votes of 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. 2307, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Matsuura).

SCRep. 3431 Judiciary on Jud. Com. No. 2

Recommending that the Senate consent to the nomination of the following:

HILARY B. GANGNES, to the District Court of the First Circuit;

Your Committee received testimony in support of the nominee from the Hawaii State Bar Association (HSBA), Administrative Judge of the District Court of the First Circuit, Office of the Public Defender, and four individuals.

The HSBA subjected the nominee to rigorous review and evaluation before rating the nominee as "highly qualified" for the position. That rating is the highest endorsement given by the HSBA for judicial appointment recommendations. The review includes a thorough evaluation of the nominee based on a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for Judicial Office. The guideline's criteria include: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

The nominee is currently a partner in the law firm of Bronster Crabtree & Hoshibata. She has been a per diem judge for the district court of the first circuit since 1997. In that capacity, she has adjudicated the same types of cases as a full time district court judge. Your Committee notes that the nominee was a law clerk in the Philadelphia Court of Common Pleas, Civil Division, and a law clerk to Chief Justice Ronald Moon of the Hawaii Supreme Court in 1990 to 1991. She was an editor of the Law Review at the University of Puget Sound School of Law (now known as Seattle University School of Law). She has received numerous professional honors and awards, including being named the Consumer Lawyer of the Year, 1997, by the Consumer Lawyers of Hawaii. She has been published in the Consumer Lawyers of Hawaii Law Reporter and in the Maritime Law Journal and Maritime Law Reporter, and she has been a panelist in numerous Hawaii law seminars. Your Committee notes her extensive involvement in community organizations and volunteer activities.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 3432 Judiciary on Jud. Com. No. 3

Recommending that the Senate consent to the nomination of the following:

PAUL T. MURAKAMI, to the District Family Court of the First Circuit;

Your Committee received testimony in support of the nominee from the Hawaii State Bar Association (HSBA), Chief Court Administrator of the First Judicial Circuit, Hawaii State Public Defender, and five individuals.

The HSBA subjected the nominee to rigorous review and evaluation before rating the nominee as "highly qualified" for the position. That rating is the highest endorsement given by the HSBA for judicial appointment recommendations. The review includes a thorough evaluation of the nominee based on a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for Judicial Office. The guideline's criteria include: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

The nominee is currently a per diem judge for the family court. Testimony indicated that his judicial temperament and relationship with the staff are excellent. He has handled all types of cases and maintained courtroom decorum. There has not been a single

complaint about the nominee in his work as a per diem judge. Your Committee notes that the nominee has volunteered in helping the Kids First Program of the Judiciary.

The nominee is licensed to practice law in Hawaii, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court. He has been a Grand Jury Council for the First Circuit, and serves on the Medical Claims Conciliation Panel and National Council of Juvenile and Family Court Judges.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 3433 Tourism and Intergovernmental Affairs on S.R. No. 73

The purpose of this measure as received is encourage concerts at the aloha stadium by Japanese pop groups to attract young Japanese fans and their parents as visitors to Hawaii.

Prior to the hearing, your Committee circulated a proposed S.D. 1, entitled:

URGING THE HAWAII TOURISM AUTHORITY TO DELAY ANY CONTRACT EXTENSIONS OR NEW CONTRACT AWARDS UNTIL THE SUCCESSORS TO THE CURRENT BOARD MEMBERS HAVE BEEN APPOINTED.

Testimony in support of the proposed S.D. 1 was received from Hawaii Tourism Authority (HTA), Molokai Aloha Festivals, and one individual. Tropicidilla Productions, L.L.C., submitted comments.

Your Committee finds that well over half of the board members of the HTA will be completing their terms in the next few weeks, and new appointees will be taking their places on the board. Your Committee is concerned that the new board will be bound by contract decisions made by the current board, including those decisions that the new board may not support.

Your Committee has heard that delaying contract decisions may hamper the effectiveness of the HTA if these decisions are not made in a timely and efficient manner. However, your Committee notes that some of the new board members are expected to be in place by early May and the rest by the first of July, and delaying any upcoming decisions for a few weeks should not compromise the HTA or the success of its ongoing marketing efforts.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 73, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 73, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 2 (English, Matsuura).

SCRep. 3434 Judiciary on Gov. Msg. No. 229

Recommending that the Senate advise and consent to the nomination of the following:

CIVIL RIGHTS COMMISSION

RICHARD TURBIN for a term to expire June 30, 2004,

Upon review of the testimony and statements submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Civil Rights Commission.

Testimony in support of the nominee was submitted by the Hawaii Civil Rights Commission, Dr. Martin Luther King, Jr. Coalition-Hawaii, and four individuals.

The nominee received a B.S. degree, magna cum laude, from Cornell University, and a Juris Doctor degree from Harvard University. He is in private practice and has been with the Legal Aid Society of Hawaii and Office of the Public Defender. The nominee has been an active member of the American Bar Association, having served on various practice sections. Significantly, the nominee was the Editor of the Harvard Civil Rights and Civil Liberties Law Review in 1968-1969, has been published in various professional journals, and has served as moderator of various law seminars.

Your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to foster and enforce civil rights laws.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 3435 Judiciary on Gov. Msg. No. 241

Recommending that the Senate advise and consent to the nomination of the following:

COMMISSION TO PROMOTE UNIFORM LEGISLATION

ELIZABETH KENT, for a term to expire June 30, 2006;

Upon review of the testimony and statements submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Commission to Promote Uniform Legislation (Commission).

Your Committee received testimony in support of the nominee from the Attorney General, Department of Human Services, and from a member of the Commission.

The nominee is being reappointed to the Commission. She received a Juris Doctor degree from the William S. Richardson School of Law, where she was a member of the Law Review and Moot Court Honors Board. She received a B.A. degree, magna cum laude, from the University of Colorado. The nominee is the past Director of the Judiciary's Center for Alternative Dispute Resolution, and is currently the Deputy Director of the Department of Human Services.

Your Committee finds that the nominee has been appointed based upon her credentials, integrity, and a desire to draft proposals for uniform and model laws on subjects where uniformity is desirable and practicable.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 3436 Judiciary on Gov. Msg. No. 260

Recommending that the Senate advise and consent to the nominations of the following:

DEFENDER COUNCIL

DANA S. ISHIBASHI and PAMELA E. TAMASHIRO, for terms to expire June 30, 2006,

Testimony in support of both nominees was received from Hawaii State Public Defender and a private individual. Testimony in support of Dana S. Ishibashi was received from the ILWU.

Both nominations are reappointments. They come highly recommended by the State Public Defender, whose office is under the Defender Council.

Nominee Ishibashi is in private practice and has been a Senior Felony Trial Attorney at the Office of the Public Defender. He has served as an Independent Grand Jury Counsel. He received his law degree from William S. Richardson School of Law, where he was an editor of the Law Review.

Nominee Tamashiro is in private practice and has been a Deputy Prosecuting Attorney for the Honolulu Department of the Prosecuting Attorney, and has served as First Deputy Corporation Counsel for the Honolulu Department of the Corporation Counsel.

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Defender Council.

Your Committee diligently questioned each nominee and finds that the nominees have been appointed based on their credentials, integrity, and a desire to improve the system of legal representation to the indigent in 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, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 3437 Labor on Gov. Msg. No. 185

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF TRUSTEES, HAWAII PUBLIC EMPLOYEES HEALTH FUND

TRACY K. CHANG, for a term to expire June 30, 2004,

Upon review of the testimony and statements submitted by the nominee, your Committee finds that Tracy K. Chang possesses the necessary character, experience, and qualifications to serve on the Board of Trustees of the Hawaii Public Employees Health Fund.

Testimony in support of the nominee was received from the Hawaii Government Employees Association.

Your Committee finds that Tracy K. Chang is employed by the Hawaii Government Employees Association as a legislative specialist. Prior to assuming responsibilities as a legislative specialist, Ms. Chang also served as a union agent. Ms. Chang holds a Juris Doctorate Degree from the Northwestern School of Law of Lewis and Clark College and a Bachelor of Arts Degree in Psychology from the University of Hawaii at Manoa.

Based on the foregoing, your Committee believes that Ms. Chang is qualified to serve as a Trustee of the Hawaii Public Employees Health Fund.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Kanno, Sakamoto).

SCRep. 3438 Labor on Gov. Msg. No. 184

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII PERFORMANCE PARTNERSHIPS BOARD

MARY ALICE EVANS, for a term to expire December 2, 2002;

MICHAEL T. FITZGERALD, for a term to expire June 30, 2004; and

AARON S. FUJIOKA, for a term to expire October 15, 2005;

Upon review of the testimony and statements submitted by the nominees, your Committee finds that Mary Alice Evans, Michael T. Fitzgerald, and Aaron S. Fujioka have the necessary character, experience, and qualifications to serve on the Hawaii Performance Partnerships Board.

Ms. Evans has worked for the State since 1972. She has worked to develop and support programs for low income communities, immigrants and refugees, inter-agency coordination of human services and employment services, resolution of Hawaiian claims, outcomes for children and youth, and electronic government.

Testimony in support of Ms. Evans was received from the Director of Business, Economic Development, and Tourism, the Governor's Special Assistant on Children and Families, and a Public Utilities Commissioner.

Michael T. Fitzgerald is currently the President and CEO of Enterprise Honolulu. Enterprise Honolulu is a private-sector economic development organization whose mission is the diversification of Oahu's economy through the creation of quality jobs and capital investment.

Testimony in support of Mr. Fitzgerald was received from the Director of Business, Economic Development, and Tourism and the Governor's Special Assistant on Children and Families.

Aaron S. Fujioka currently serves as the Administrator of the State Procurement Office and Chief Procurement Officer for DAGS. His background includes eighteen years in public procurement, contract management, planning and program development. He has also been the procurement manager with the State Procurement Office responsible for the State's procurement system for the purchase of health and human services for four years.

Testimony in support of Mr. Fujioka was received from the Director of Business, Economic Development, and Tourism, the Governor's Special Assistant on Children and Families, a Public Utilities Commissioner, the Acting Procurement Manager for Health and Human Services of the State Procurement Office, and the Support Services Administrator of the Department of Human Services' Social Services Division.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Kanno, Sakamoto).

SCRep. 3439 Agriculture on Gov. Msg. No. 172

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF DIRECTORS, AGRIBUSINESS DEVELOPMENT CORPORATION

WAYNE K. KATAYAMA, for a term to expire June 30, 2005,

Upon review of the testimony and statements submitted by the nominee, your Committee finds that he has the necessary character, experience, and qualifications to serve on the Agribusiness Development Corporation Board of Directors ("Board").

Testimony supporting the nominee was received from the Department of Agriculture, Agribusiness Development Corporation, Hawaii Farm Bureau Federation, Hawaii Agriculture Research Center, Kauai Economic Development Board, Meadow Gold Dairies, Pineapple Growers Association of Hawaii, and one individual.

Your Committee finds that Mr. Katayama has over thirty years experience in the agriculture industry and business operations, and currently serves as President of Kilauea Argonomics, Inc., which is a guava orchard and processing plant in Kauai. He is an active participant in numerous organizations including the Tropical Fruit Growers Association, Kauai Products Council, Hawaii Farm Bureau Federation, Kauai Visitors Bureau, and the Kauai chapter of the Hawaii Hotel Association.

With his diverse experience, he is intimately familiar with the history and current status of Hawaii's agriculture industry. In addition, Mr. Katayama has been involved in solving issues that face Hawaii's agriculture industry and is well prepared to address the future challenges.

Based upon the foregoing and the testimony submitted by the nominee, your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to improve Hawaii through his service on the Board.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Matsuura, Hogue).

SCRep. 3440 Health and Human Services on Gov. Msg. No. 261

Recommending that the Senate advise and consent to the nominations of the following:

POLICY ADVISORY BOARD FOR ELDER AFFAIRS

BARBARA K. IDETA, CAROL H. KIKKAWA-WARD, ROBERT P. TAKUSHI, and JOAN P. WHITE, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Barbara K. Ideta, Carol H. Kikkawa-Ward, Robert P. Takushi, and Joan P. White have the necessary character, experience, and qualifications to serve on the Policy Advisory Board for Elder Affairs (PABEA).

Your Committee received testimony from the Executive Office on Aging in support of the nominees.

Barbara K. Ideta is an experienced nurse and administrator, having served as Manager of Emergency Services at The Queens' Medical Center, Director of Nursing at Maunalani Hospital, Vice President, Nursing Director, Clinical Services at Kuakini Medical Center, and is presently a member of the Hawaii State Board of Nursing. Ms. Ideta is well acquainted with the health care needs of Hawaii's older adults and will bring this important perspective to her work on PABEA.

Carol Kikkawa-Ward was first appointed to PABEA in 1978 and has served several terms with the board since then. Ms. Ward currently works as a personal financial advisor, and has served as President of Interim Services of the Pacific, Inc., and Director of Community Health for the American Red Cross Pacific Division. She has an understanding of aging issues in Hawaii beginning with the early years of the Aging Network and continuing into the present, which gives her a broad knowledge and understanding of the health care needs of Hawaii's seniors.

Robert Takushi brings many years of broad-based state government experience to this appointment. He has served as deputy director of the Department of Budget and Finance, deputy director and director of the Department of Accounting and General Services, and spent many years working directly with the Legislature from budget analyst to his most recent job as Chief of Staff of the Hawaii State Senate from 1996-2000. Mr. Takushi is the only non-nurse candidate nominated for board appointment.

Joan White most recently served as vice president of the Healthcare Association of Hawaii (HAH), where her responsibilities included direct work with the organization's long-term care division to ensure that plans and objectives were attained. Before her tenure with HAH, she was Executive Director of the YWCA of O'ahu, served from 1984-1992, as Administrator for Planning and Development at Straub Clinic and Hospital. Joan's enthusiasm and diligence are apparent to all who have worked with her and will be an inspiration for her fellow board members of PABEA.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3441 Health and Human Services on Gov. Msg. No. 265

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DIRECTORS OF THE HAWAII HEALTH SYSTEMS CORPORATION

KENNETH H. SANDEFUR, for a term to expire June 30, 2004; and

RICHARD E. MEIERS, for a term to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Kenneth H. Sandefur and Richard E. Meiers have the necessary character, experience, and qualifications to serve on the Board of Directors of the Hawaii Health Systems Corporation.

Your Committee received testimony from Mr. Kenneth H. Sandefur in support of his nomination.

Kenneth H. Sandefur presently serves as Vice President for AT&T Hawaii, and is an active community leader presently serving on the Executive Committee of the Hawaii Business Roundtable and chair of the Hawaii Chamber of Commerce's Military Affairs Council. Mr. Sandefur has also served on the Boards of the Rehabilitation Hospital of the Pacific, Aloha United Way, American Red Cross, Assets School, Hawaii Heart Association, and Hawaii Visitors Bureau, among many others.

Richard E. Meiers holds a Bachelor of Arts degree from DePaul University and a Masters degree in Hospital Administration from Baylor University. Upon his retirement from the Medical Service Corps, Mr. Meiers was appointed as President and Chief Executive Officer of the Healthcare Association of Hawaii. He is an active community volunteer serving as a member of the Hawaii Health Council, School-to-Work Opportunities Executive Council, Rotary Club of Honolulu, Aloha United Way, and the Organ Donor Center of Hawaii, among many others.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3442 Health and Human Services on H.C.R. No. 12

The purpose of this measure is to express the legislature's support of the TANF (Temporary Assistance to Needy Families) Act of 2001.

Your Committee received testimony in support of this measure from the Department of Human Services, Hawaii State Commission on the Status of Women, National Association of Social Workers, Volunteer Legal Services of Hawaii, and an individual.

TANF is a federal welfare program for single parent families that replaced Aid to Families with Dependent Children. The change was made pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as the Welfare Reform Act, P.L. 104-193. This is a federal program paid for by federal funding. TANF in its current form is deficient in that, among other things, it does not provide for postsecondary education as qualifying for the work requirements to receive welfare benefits. The bill currently in the Congress, as introduced by U.S. Representative Patsy Mink, would redress the inequity. Your Committee urges the legislature to support Congresswoman Mink's bill.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 12, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3443 Health and Human Services on H.C.R. No. 53

The purpose of this measure is to request the Directors of Health and Commerce and Consumer Affairs to establish a task force to examine issues concerning the feasibility and advisability of regulating death care providers.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Department of Health (DOH), Moanalua Mortuary & Affordable Casket, and Hawaii Funeral Directors Association.

This measure is intended to address recent incidences of alleged improprieties in mortuary practices, particularly on the Big Island. Current law provides for the regulation of cemeteries and funeral trusts under chapter 441, Hawaii Revised Statutes (HRS), and of cremation and burials under chapter 469, HRS, relating to undertakers, embalmers, and funeral directors. However, your Committee believes that existing laws and regulations may be fragmented and ineffective in addressing current abuses. Therefore, a comprehensive review and study is warranted with a view towards possible legislation in the 2003 Session, based upon the report to the legislature from the task force.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 53, H.D. 1, and recommends that it be referred to the Committee on Commerce, Consumer Protection and Housing.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3444 Education on Gov. Msg. No. 259

Recommending that the Senate advise and consent to the nominations of the following:

STATE FOUNDATION ON CULTURE AND ARTS

MONA ABADIR for a term to expire on June 30, 2006;

MARY PHILPOTTS for a term to expire on June 30, 2005;

CHARLES M. FREEDMAN for terms to expire on June 30, 2002 and on June 30, 2006;

Your Committee received testimony in support of the nominees from the State Foundation on Culture and the Arts. Your Committee received testimony in support of Mona Abadir from the Fine Art Associates, Communications-Pacific, Inc., First Hawaiian Bank, Hawaii Theatre Center, and two private individuals. Your Committee received testimony in support of Charles M. Freedman from Hawaiian Electric Company, Inc., Graphic House, and a private individual.

Mona Abadir is one of the three founders of Honu Group, Inc., a prominent development and management company, and has been a leader in the field for the past 25 years. This company has sponsored numerous artistic events. She is also very active in the arts locally as a member of the Board of Trustees of the Contemporary Museum, Advisory Committee of the Honolulu Culture and Arts District, and numerous other arts organizations such as the Hawaii Consortium of the Arts, Honolulu Academy of Arts, Kumu Kahua Theatre, Iolani Palace, and Honolulu Printmakers.

Mary Philpotts, owner of Philpotts and Associates, Inc., is an icon in the design world who has received dozens of awards for commercial and residential interiors. She is affiliated with numerous professional organizations in interior design and has been extremely active in the community for the last two decades as a member of dozens of civic groups. She attended the Universities of Colorado and Hawaii.

Charles M. Freedman has ample experience in communications in both the public (serving two Lt. Governors and Governor Waihee) and private (with Hawaiian Electric Company, Inc.) sectors, as well as in the non-profit field (as a Peace Corps volunteer in Palau, Planning Director of Palau Community Action Agency, and Deputy Director of the Hawaii County Economic Opportunity Council). Mr. Freedman is also an early education advocate who served as a Board Member on KCAA Pre-schools (in addition to other non-profit boards of the Honolulu Media Council, Live Aloha, and Aloha United Way). He holds a Bachelor of Arts degree from Lafayette College.

Upon review of the statements and oral testimony submitted and presented by the nominees, your Committee finds that the nominees will work with compassion and commitment to assist in administering the government functions related to arts and culture. Your Committee further finds that these nominees will bring a renewed sense of purpose and direction to the State Foundation on Culture and the Arts. They can be expected to help create a superior state art museum that will anchor the development of a world class cultural and historical destination in the capitol district. They also expressed a welcome support for native Hawaiian arts and culture.

Your Committee further finds that the nominees have been appointed based upon their credentials, integrity, and desire to make Hawaii better through their participation on the State Foundation on Culture and the Arts Commission.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, Ige, Matsunaga, Menor).

SCRep. 3445 Education on Gov. Msg. No. 281

Recommending that the Senate advise and consent to the nominations of the following:

UNIVERSITY OF HAWAII BOARD OF REGENTS

EVERETT R. DOWLING and MYRON A. YAMASATO, for terms to expire on June 30, 2006;

Your Committee received testimony in support of the nominees from the President of the University of Hawaii. Your Committee received testimony in support of Everett Dowling from Imanaka, Kudo & Fujimoto. Your Committee received testimony in support of Myron A. Yamasato from the AIO Group.

Everett Dowling is President of Dowling Company, Inc., a Maui-based real estate development firm. He has a Bachelor of Arts degree in Economics/Business from Randolph-Macon College and a Master's of Business Administration degree from Babson College. He is a Board Member of Babson College and Ka Lima O Maui, as well as a member of numerous Maui and professional organizations.

Myron A. Yamasato is Chief Financial Officer of Waikoloa Land Company, a real estate development firm he has been with since 1981. Previous employment was also in the financial arena. He holds a Bachelor of Business Administration degree from the University of Hawaii.

Upon review of the statements and oral testimony submitted by the nominees, your Committee finds that the nominees will work with compassion and commitment to facilitate excellence in higher education in Hawaii. They will bring valuable expertise in finance and real estate development to the table as the University of Hawaii strives to become a world-class research university and the Manoa campus begins an ambitious redevelopment program. Their advocacy for the Big Island and Maui will provide much needed geographic balance to the Board of Regents, and ensure that campuses and community colleges on those islands are not neglected.

Your Committee further finds that the nominees have been appointed based upon their credentials, integrity, and desire to make Hawaii better through their participation on the University of Hawaii Board of Regents.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, Ige, Matsunaga, Menor).

SCRep. 3446 Education on Gov. Msg. No. 288

Recommending that the Senate advise and consent to the nomination of the following:

WESTERN INTERSTATE COMMISSION FOR EDUCATION

DORIS M. CHING, Ed.D., for a term to expire on June 30, 2006;

Your Committee received testimony in support of the nominee from the Director of Student Equity, Excellence, and Diversity at the University of Hawaii at Manoa, and Vice President for the Associated Students of the University of Hawaii.

Mrs. Doris M. Ching received a Bachelor of Science and a Master's in Education from the University of Hawaii, as well as a Doctorate in Education from Arizona State University. She has spent her entire career in the educational field, both as a teacher and administrator, including service as Vice President of Student Affairs of the University of Hawaii, a post she has held since 1986. Mrs. Ching is the first Asian-American President of the National Association for Student Personnel Administrators, an organization, which recently awarded her the 2002 Fred Turner Award for Outstanding Service. She is also recipient of numerous other awards as well, such as the Y.M.C.A. Outstanding Woman Award, U.H. Manager of the Year, and U.H. Distinguished Alumni. Mrs. Ching is also active in the community, working with the Aloha United Way and Hawaii Commission on National and Community Service.

Upon review of the statement and oral testimony submitted by the nominee, your Committee finds that the nominee will work with compassion and commitment to facilitate the improvement of education in Hawaii. Your Committee further finds that the nominee has been appointed based upon her credentials, integrity, and a desire to make Hawaii better through her participation on the Western Interstate Commission for Education.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, Ige, Matsunaga, Menor).

SCRep. 3447 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 274

Recommending that the Senate advise and consent to the nominations of the following:

MEDICAL ADVISORY BOARD

David A. Kaku, M.D., Kevin K. Lui, O.D., Samuel Dacanay, M.D., and David Mai, M.D., for terms to expire June 30, 2006,

Upon review of the statements and testimony submitted by and on behalf of the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Medical Advisory Board (Board). Your Committee notes that each candidate except for Dr. Dacanay currently serves on the Board.

Testimony in support of each of the nominees was submitted by the Department of Transportation.

Your Committee finds that Dr. Kaku practices with Neurology Associates, Inc., in Honolulu and is an Assistant Clinical Professor of Medicine at the University of Hawaii School of Medicine. Dr. Kaku received his Doctor of Medicine degree from Yale University School of Medicine. He is board certified by the American Academy of Psychiatry and Neurology and the American Board of Electro-diagnostic medicine.

Your Committee finds that Dr. Lui received his Doctor of Optometry from the Southern California College of Optometry. Dr. Lui is the President of Mid Pacific Eye Care in both Honolulu and Kailua. He holds licenses in optometrics in both Hawaii and California and is certified for therapeutic pharmaceutical agents in Hawaii.

Your Committee finds that Dr. Dacanay is a Cardiologist practicing with Pacific Cardiology in Honolulu. Dr. Dacanay is a graduate of the John A. Burns School of Medicine at the University of Hawaii. He is certified with the National Board of Medical Examiners, the American Board of Internal Medicine, and the American Board of Sub-specialties in Cardiovascular Diseases.

Your Committee finds that Dr. Mai is a Physician of Ophthalmology. He received his medical degree from Yale University School of Medicine. Dr. Mai is presently self-employed (in partnership) at Island Eye Center.

The experience and knowledge that David A. Kaku, M.D., Kevin K. Lui, O.D., Samuel Dacanay, M.D., and David Mai, M.D. possess will be very valuable to the Medical Advisory Board and to the Department of Transportation.

Your Committee finds that each of the nominees has been appointed based upon his credentials, integrity, professional ability, and a desire to improve health care in Hawaii through service on the Board.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Taniguchi, Hemmings).

SCRep. 3448 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 286

Recommending that the Senate advise and consent to the nominations of the following:

COMMISSION ON TRANSPORTATION

Kazu Hayashida, for a term to expire June 30, 2004;

Harold K. Kageura, for a term to expire June 30, 2005; and

James C. Pacopac, William H. Crozier III, Kirk T. Tanaka, and Norman K. Tsuji, for terms to expire June 30, 2006,

Upon review of the statements and testimony submitted by and on behalf of the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Commission on Transportation (Commission). Your Committee notes that Messrs. Crozier and Tsuji currently serve on the Commission.

Testimony in support of every nominee was submitted by the Department of Transportation (DOT).

Testimony in support of Mr. Pacopac's nomination was submitted by the Building Industry Association of Hawaii (BIA-Hawaii), the Kauai County Clerk's Office, the Estate of James Campbell, Okahara and Associates, Inc., and a concerned citizen.

Testimony in support of Mr. Hayashida's nomination was submitted by BIA-Hawaii, the Estate of James Campbell, Okahara and Associates, Inc., and two concerned citizens.

Testimony in support of Mr. Kageura's nomination was submitted by the Estate of James Campbell and Hawaiian Electric Company.

Your Committee finds the following regarding the nominees:

Mr. Pacopac, a resident of Honolulu, is an employee of Pacific Resource Partnership and is responsible for lobbying and Business Development. Mr. Pacopac is Pacific Resource Partnership's liaison with City, County, State and Federal levels of government. He is also a member of the Oahu Metropolitan Planning Organization.

Mr. Crozier is presently the Chairperson of the Commission. He has served on the Commission since 1998 and has a strong commitment to the DOT.

Mr. Tanaka resides in Wailuku, Maui and is a Civil Engineer with R. T. Tanaka Engineers, Inc. Mr. Tanaka is very active in professional and community organizations.

Mr. Hayashida, a former Director of Transportation with the DOT, has vast experience with the transportation needs of our citizens. His dedication to and knowledge of government will be an asset to the Commission.

Mr. Tsuji, a Kurtistown resident on the Island of Hawaii, is a retired DOT employee. Mr. Tsuji is very devoted to the transportation needs of the people of the State.

Mr. Kageura of Honolulu is a Power Supply Manager with Hawaiian Electric Company. His engineering assignments in New York, California, Singapore, Pakistan, Guam and Hawaii will be a great advantage to the Commission.

The knowledge and experiences of Messrs. Pacopac, Crozier, Tanaka, Hayashida, Tsuji and Kageura will be valuable to the Commission and the DOT. Your Committee finds that each of the nominees has been appointed based upon his experience, credentials, integrity, and a desire to improve transportation infrastructure in Hawaii through service on the Commission.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Taniguchi, Hemmings).

SCRep. 3449 Transportation, Military Affairs, and Government Operations on H.C.R. No. 34

The purpose of this measure is to request Congress and the President of the United States to support legislation to repeal the Rescission Act of 1946 and the Second Supplemental Surplus Appropriation Rescission Act (1946), and to restore Filipino World War II veterans to full United States veterans' status and benefits.

Testimony in support of this measure was submitted by five proud veterans and a concerned citizen.

Your Committee finds that the brave men and women who have fought for the United States and the causes of freedom and democracy deserve our utmost honor and respect. Unfortunately, your Committee finds that some World War II veterans of Filipino descent have been denied full veterans benefits under the Rescission Act of 1946 and its supplemental legislation.

Your Committee finds that as the veterans of World War II grow older, time is running out to take the proper action to provide the benefits that were promised by the United States and earned by those Filipino troops who fought as members of the United States Armed Forces in the Far East under General Douglas MacArthur.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 34, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Kanno, Menor, Taniguchi, Hemmings).

SCRep. 3450 Water, Land, Energy, and Environment on H.C.R. No. 103

The purpose of this measure is to request formation of a working group to discuss and analyze potential amendments to Hawaii's endangered species law, Chapter 195D, Hawaii Revised Statutes (HRS), to further the goals of protecting and promoting the recovery of Hawaii's unique and imperiled flora and fauna and the issues of conservation of threatened or endangered species on public lands.

Testimony in support of this measure was received from the Department of Land and Natural Resources and Earthjustice. The Hawaii Agriculture Research Center submitted comments.

Your Committee finds that this measure is in response to numerous issues and concerns raised during hearings on two measures introduced this session dealing with amendments to the state law on habitat conservation plans and safe harbor agreements. The law, chapter 195D, HRS, embodies the State's commitment to protect imperiled flora and fauna unique to Hawaii, and all parties have expressed their intent to consider any changes completely and carefully.

Your Committee has amended this measure to delete two WHEREAS clauses regarding the 1997 amendments and language on checks and balances with respect to unintentional actions, and to add the Department of Agriculture and the Department of Business, Economic Development, and Tourism to the agencies participating in the working group.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 103, 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. 103, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Kokubun, Matsunaga).

SCRep. 3451 Agriculture on H.C.R. No. 94

The purpose of this measure is to establish a task force on agricultural industry development.

Testimony supporting this measure was received from the Department of Agriculture, University of Hawaii College of Tropical Agriculture and Human Resources, Hawaii Farm Bureau Federation, and Land Use Research Foundation of Hawaii.

Your Committee finds that agriculture is a coveted Hawaii tradition. In fact, preservation and expansion of Hawaii's agriculture industry is mandated by the Constitution of the State of Hawaii. During this time of explosive growth in various industries, including finance, technology, telecommunications, health, and others, the State must take the time to ensure its responsibilities to the agriculture industry are met. The task force established by this measure brings the stakeholders together to discuss the relevant and important issues facing Hawaii's agriculture industry and to develop a framework for its success in the future.

Your Committee has amended this measure by adding that the long-term viability of agriculture depends also on factors that affect agricultural research and outreach. In addition, your Committee made technical, nonsubstantive changes for purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 94, 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. 94, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 3452 Commerce, Consumer Protection and Housing on Gov. Msg. No. 258

Recommending that the Senate advise and consent to the nominations of the following:

CONTRACTORS LICENSE BOARD

LESLIE ISEMOTO and ALVIN T. KOBAYASHI, for terms to expire June 30, 2006;

The Department of Commerce and Consumer Affairs, General Contractors Association of Hawaii, Hawaii Masons Union, and an individual testified in support of both nominees. Mr. Kobayashi's nomination was also supported by the International Brotherhood of Electrical Workers Local Union 1186, Operating Engineers Local Union No. 3, and the Hawaii Construction Industry Association.

Mr. Leslie Isemoto has been licensed as a general engineering and general building contractor since 1997. He has been employed with Isemoto Contracting Co., Ltd., since 1984 and is currently its president. Mr. Isemoto has been active with several contractors organizations, including the General Contractors Association of Hawaii and Hawaii Island Contractors Association. The nominee has served on the Contractors License Board (Board) since August, 1998.

Mr. Alvin T. Kobayashi has been licensed as a general engineering and general building contractor since 1976. He is president of Oahu Construction Co., Ltd., and been involved in the construction industry for forty-three years. Currently the nominee is president of the Building Industry Labor Association and holds a directorship with the Hawaii Construction Industry Association. Mr. Kobayashi has served on the Board since July, 1998, and is currently its vice-chairperson.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Chumbley, Tam, Hogue).

SCRep. 3453 Commerce, Consumer Protection and Housing on Gov. Msg. No. 262

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF ELECTRICIANS AND PLUMBERS

CAROL H. IGARASHI, for a term to expire June 30, 2005; and

SAM FAILLA and JUNE UYEHARA-ISONO, for terms to expire June 30, 2006;

The Department of Commerce and Consumer Affairs testified in support of the nominations of Sam Failla and June Uyehara-Isono. Two individuals testified in support of the nomination of Carol H. Igarashi.

Mr. Sam Failla is an electrical contractor with over thirty years of experience in the electrical profession. Mr. Failla currently sits on the boards of Pacific Electrical Contractors Association and Central Union Church, and is a past member of the board of directors for

the International Association of Electrical Inspectors. The nominee currently sits on the Board of Electricians and Plumbers, a position he has held since 1998.

Ms. Carol H. Igarashi is a legal assistant and administrator to the president and CEO of Hawaiian Electric Company, Inc. She has over thirty years of work experience in the public, private, and organized labor sectors. Ms. Igarashi was described by her supporters as a person of great integrity and fairness with a strong sense of public interest. The nominee has been active in various community service activities sponsored by her employer.

Ms. June Uyehara-Isono is an audiologist and president of Audiological Consultant and Services. She currently serves as vice chairperson for the Board of Electricians and Plumbers, and has been a board member since 1998.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3454 Commerce, Consumer Protection and Housing on Gov. Msg. No. 263

Recommending that the Senate advise and consent to the nominations of the following:

ELEVATOR MECHANICS LICENSING BOARD

PAUL W. CONDRY and KENNETH N. SHIIRA, for terms to expire June 30, 2006;

The Department of Commerce and Consumer Affairs testified in support of Mr. Condry's nomination. The Elevator Constructors Union, Local 126, testified in support of Mr. Shiira's nomination.

Mr. Paul W. Condry is an investigator with the United States Department of Labor and previously worked for the State Department of Labor and Industrial Relations. He currently serves as a public member of the Board, a position he has held since October, 2001.

Mr. Kenneth N. Shiira is a licensed elevator mechanic and an elevator service examiner for Otis Elevator. With approximately twenty-seven years of experience in the industry, Mr. Shiira has a knowledge and understanding of consumer safety issues related to the licensing of elevator mechanics.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3455 Commerce, Consumer Protection and Housing on Gov. Msg. No. 264

Recommending that the Senate advise and consent to the nominations of the following:

STATE BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

ROBERT Y. AKINAKA, ALFREDO G. EVANGELISTA, KEN K. HAYASHIDA, and LAUREL MAU NAHME, for terms to expire June 30, 2006;

The Department of Commerce and Consumer Affairs testified in support of the nominations of Mr. Hayashida and Ms. Nahme. Parker Ranch and two individuals testified in support of Mr. Akinaka's nomination.

Mr. Robert Y. Akinaka is a licensed civil engineer with over thirty years of experience in the engineering profession. Currently, he is president of Akinaka and Associates, Ltd. In the course of his professional career, Mr. Akinaka has planned and designed major water system facilities, highways, drainage and wastewater collection facilities, and planned developments.

Mr. Alfredo G. Evangelista is an attorney in private practice. As a member of the Real Estate Commission for the last six years, he is experienced in serving on a state regulatory board. Mr. Evangelista has an extensive history of community service with numerous organizations including the American Arbitration Association, Hawaii Episcopal Church, Filipino Chamber of Commerce, Honolulu Police Commission, and Na Loio No Na Kanaka.

Mr. Ken K. Hayashida is a structural engineer, licensed to practice in Hawaii, California, and Guam. He has eighteen years of experience in the engineering profession and is owner and president of a consulting structural and forensic engineering firm. Mr. Hayashida has served on the Board for the last four years.

Ms. Laurel Mau Nahme is a licensed architect who has practiced in the State for over twenty years. She is a member of the American Institute of Architects and the American Society of Interior Designers. Ms. Nahme has served on the Board for the last four years.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3456 Commerce, Consumer Protection and Housing on Gov. Msg. No. 270

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DIRECTORS, HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

STEVEN J. NISHIMURA, for a term to expire June 30, 2004; and

AIPOPO AIPOPO, JR. and WESLEY R. SEGAWA, for terms to expire June 30, 2006;

The Housing and Community Development Corporation of Hawaii (HCDCH), and the Governor's Special Assistant on Housing testified in support of all the nominations. The Department of Human Services supported the nominations of Mr. Aipopo and Mr. Segawa. The Chair of the HCDCH Board testified in support of Mr. Aipopo and Mr. Nishimura. The Masons Union supported the nominations of Mr. Nishimura and Mr. Segawa. The Samoan Service Providers Association testified in favor of Mr. Aipopo's nomination.

Mr. Aipopo Aipopo, Jr. is a residential/community service advisor at Kalihi Valley Homes, with an extensive history of community service. Mr. Aipopo is president of the Samoan Service Providers and serves on the Kalihi Valley Neighborhood Board, Kokua Kalihi Valley Board, and Kalihi Palama Culture and Arts Board. He currently serves as the resident member of the HCDCH Board.

Mr. Steven J. Nishimura is a real estate appraiser/consultant and owner of an appraisal company. Mr. Nishimura has served as a volunteer with the Kiwanis Club of Kauai, West Kauai Jaycees, County of Kauai Salary Commission, and Easter Seal Society, among other organizations. The nominee served as a commissioner for the Hawaii Housing Authority prior to its consolidation with the Housing Finance and Development Corporation to form the HCDCH.

Mr. Wesley R. Segawa is an engineer and president of an engineering and construction management firm. He has served as the Board's Chair since 1998. The nominee has volunteered his time and services to numerous organizations, including the American Consulting Engineers Council, American Water Works Association, Hawaii Society of Professional Engineers, Boy Scouts of America, Kiwanis Club, YMCA, and the Japanese Chamber of Commerce.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chumbley, Tam, Hogue).

SCRep. 3457 Commerce, Consumer Protection and Housing on Gov. Msg. No. 273

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF MASSAGE THERAPY

VICKI VON STROHEIM-SEAY, MICHELLE NAKATA TAKEMOTO, and EMY M. YAMAUCHI, for terms to expire June 30, 2006;

The Department of Commerce and Consumer Affairs testified in support of the nominations.

Ms. Vicki Von Stroheim-Seay manages a staffing services business and has thirty years of experience in small business. She has served on the Board of Massage Therapy (Board) for the last four years and previously served on the Board of Electricians. In addition, the nominee has been a volunteer with Junior Achievement and the Girl Scouts.

Ms. Michelle Nakata Takemoto is a licensed massage therapist with national certification in therapeutic massage and bodywork. She is a member of the Association of Bodywork and Massage Professionals. Ms. Takemoto has served on the Board for the last four years.

Ms. Emy M. Yamauchi is a licensed massage therapist, with a variety of work experiences in retail and personnel services. Ms. Yamauchi has served as a massage therapist member of the Board for the last four years.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3458 Commerce, Consumer Protection and Housing on Gov. Msg. No. 275

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF MEDICAL EXAMINERS

G. MARKUS POLIVKA, for a term to expire June 30, 2003;

CULLEN T. HAYASHIDA, PH.D, for a term to expire June 30, 2005; and

MICHAEL H. DANG, M.D., and GREGORY PARK, M.D., for terms to expire June 30, 2006;

The Department of Commerce and Consumer Affairs testified in support of the nominations of Dr. Hayashida and Dr. Park.

Mr. G. Markus Polivka is president of Monarch Insurance Services, Inc. He has an extensive history of community involvement, including with the Bishop Museum, East West Center Foundation, Aloha Festivals, Friends of Iolani Palace, Children's Advocacy Center, and Easter Seals.

Dr. Cullen T. Hayashida holds a doctorate degree in sociology and is director of a home health care facility. Dr. Hayashida has been active with various community organizations, including the Moanalua Gardens Community Association, Hawaii Pacific Gerontological Society, and the Hawaii Assisted Living Options Task Force. The nominee has served as a public member of the Board of Medical Examiners (Board) for approximately five years.

Dr. Michael H. Dang is a licensed medical doctor in Hawaii and Texas, and has practiced thoracic and cardiovascular surgery in Hawaii since 1979. Dr. Dang's past professional positions include instructor in surgery at Baylor College of Medicine, and Chief of Thoracic and Cardiovascular Surgery of the Department of Surgery at Queen's Medical Center.

Dr. Gregory Park has been licensed to practice medicine in Hawaii since 1980 and has a private medical practice in internal medicine, primary care, and medical oncology. Dr. Park has served on the Board for the last four years.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3459 Commerce, Consumer Protection and Housing on Gov. Msg. No. 276

Recommending that the Senate advise and consent to the nominations of the following:

STATE BOARD OF NURSING

STEPHEN A. KULA, PH.D., BENJAMIN MERCADO, L.P.N., MARY FRANCES ONEHA, PH.D., and BARBARA ANN TANNER, R.N., for terms to expire June 30, 2005,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the State Board of Nursing ("Board").

Testimony supporting the nomination of all four nominees, was received from the Department of Commerce and Consumer Affairs.

Stephen A. Kula is currently President of Hospice Hawaii, Inc. He received Bachelor of Science and Master's of Science degrees from Colorado State University and his Ph.D. from Kennedy Western University. His community and professional affiliations include Hawaii Association for Home Care, Hawaii State Hospice Network, Honolulu Subarea Health Planning Council, and the Queen's Medical Center Cancer Institute. Mr. Kula has actively and productively served as a member of the State Board of Nursing since August 11, 2000.

Benjamin Mercado honorably served as a member of the Board for two terms ending in 1996. He is a licensed practical nurse currently working at the Department of Health – Public Health Nursing in Windward, Oahu.

Mary Frances Oneha has been in nursing for over twenty years. She obtained a Bachelor of Science in Nursing from the University of Hawaii, a Masters in Nursing from the University of Washington, and a Ph.D. in Nursing from the University of Colorado Health Sciences Center. Currently, Ms. Oneha serves as the Director of Case Management/Utilization at the Waianae Cost Comprehensive Health Center. Testimony supporting the nomination of Mary Frances Oneha, Ph.D., was received from three individuals.

Barbara Ann Tanner possesses a wealth of nursing and medical experience. She currently is a clinical assistant professor at the University of Hawaii at Manoa. She earned a Bachelor of Science in Nursing from the University of Colorado, a Pediatric Nursing Certificate and Masters of Science in Parent/Child Nursing from the University of Hawaii. Since 1965, she has worked as a nurse in various capacities, including working as a surgical floor registered nurse, nurse evaluator, and Department of Health public health nurse. She is very active in the community and contributes her time and nursing experience to various organizations. Testimony supporting the nomination of Barbara Ann Tanner, R.N., was received from one individual.

Based upon the foregoing and the testimony submitted by the nominees, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve the health and well-being of Hawaii's residents through their service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3460 Commerce, Consumer Protection and Housing on Gov. Msg. No. 277

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF EXAMINERS IN OPTOMETRY

JON M. ISHIHARA, O.D., and LEE T. NAKAMURA, for terms to expire June 30, 2006;

The Hawaii Optometric Association testified in support of Dr. Ishihara's nomination.

Dr. Jon M. Ishihara holds a doctor of optometry degree from the Pacific University College of Optometry. He has practiced optometry in the State for fourteen years and is a past president of the Hawaii Optometric Association.

Mr. Lee T. Nakamura is an attorney at law whose practice has included work in the area of medical malpractice. Mr. Nakamura is a lifelong resident of Hawaii with an interest in government operations and public service.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Lee T. Nakamura and Jon M. Ishihara, O.D., have the necessary character, experience, and qualifications to serve on the Board of Examiners in Optometry.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3461 Commerce, Consumer Protection and Housing on Gov. Msg. No. 278

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF PRIVATE DETECTIVES AND GUARDS

GEORGE FREITAS, STEVE GOODENOW, and GUY H. KAULUKUKUI, PH.D., for terms to expire June 30, 2004;

The Department of Commerce and Consumer Affairs testified in support of the nominations.

Mr. George Freitas is Chief of Police of the Kauai Police Department and, prior to his current appointment, served for almost thirty years in the Richmond Police Department. Chief Freitas currently serves as the Board's chief of police member.

Mr. Steve Goodenow is an investigator and security consultant with Goodenow Associates/Safeguard Services, Inc., and has worked in the guard and security industry since 1967. The nominee has been active with numerous professional organizations and has served as National Director for the National Association of Legal Investigators. Mr. Goodenow currently serves as the Board's guard industry member.

Dr. Guy H. Kaulukukui is a lecturer in economics at the University of Hawaii. His community service activities include serving as a board member for Ho'omana O'iwi. Dr. Kaulukukui currently serves as the Board's public member.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that George Freitas, Steve Goodenow, and Guy H. Kaulukukui have the necessary character, experience, and qualifications to serve on the Board of Private Detectives and Guards.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3462 Commerce, Consumer Protection and Housing on Gov. Msg. No. 279

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF PSYCHOLOGY

ALLYSON M. TANOUYE, PH.D., for a term to expire June 30, 2006;

Your Committee notes that Governor's Message No. 292 withdrew the nomination of Lester K.M. Leu from consideration by the Senate.

Your Committee received testimony in support of Dr. Tanouye's nomination from the University of Hawaii Dean of Students and five individuals.

Dr. Allyson M. Tanouye holds a doctorate degree in counseling psychology from the University of Missouri. She is director of the University of Hawaii Counseling and Student Development Center, a position she has held for the past seven years. Supporters of the nominee attested to her administrative leadership, clinical skills, personal integrity, creativity, and professionalism. Dr. Tanouye is a member of the American Psychological Association and Association of University and College Counseling Center Directors, and holds a directorship with the Association of Counseling Center Training Agencies.

Upon review of the testimony and written statements submitted by the nominee, your Committee finds that Allyson M. Tanouye, Ph.D., has the necessary character, experience, and qualifications to serve on the Board of Psychology.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3463 Commerce, Consumer Protection and Housing on Gov. Msg. No. 280

Recommending that the Senate advise and consent to the nominations of the following:

REAL ESTATE COMMISSION

LOUIS E. ABRAMS, KATHLEEN KAGAWA, PH.D., IRIS R. OKAWA, and VERN M. YAMANAKA, for terms to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Louis E. Abrams, Kathleen Kagawa, Iris R. Okawa, and Vern M. Yamanaka have the necessary character, experience, and qualifications to serve on the Real Estate Commission.

The nomination of Louis E. Abrams was supported by the Chair of the Kauai County Council, Hawaii Association of Realtors, and Na Pali Properties, Inc. The nomination of Kathleen Kagawa was supported by Aczon Construction, Ltd., Abe Lee Realty, Coldwell Banker Pacific Properties, The Pacific Resource Partnership, and an individual. Iris Okawa's nomination was supported by the Department of Commerce and Consumer Affairs, Hawaii Association of Realtors, and Na Pali Properties, Inc. The Hawaii Association of Realtors testified in support of the nomination of Vern M. Yamanaka.

Mr. Louis E. Abrams is the president and principal broker of Charlee and Associates in Koloa, Kauai, where he oversees the property management division, as well as provides consulting services on investment properties and commercial development. He is a past president of the Kauai Board of Realtors and served on the Kauai County Planning Commission from 1993 to 1996.

Dr. Kathleen Kagawa has worked in the real estate industry for over fifteen years and has been the principal broker of her own firm since 1989. The nominee has experience in real property brokerage, real estate development, and property management.

Ms. Iris R. Okawa is an attorney with The Pacific Law Group, concentrating in business and corporate law. In the course of her law practice, Ms. Okawa has had experience working on real estate-related issues. The nominee has served as a public member of the Real Estate Commission since July, 1998, and is currently the vice chair of the Commission's Laws and Rules Review Committee.

Mr. Vern M. Yamanaka is the president and principal broker of Yamanaka Enterprises, Inc., president of Hiromu Yamanaka Realty, and vice president of Kapoho Properties. The nominee is a past president of the Hawaii Island Board of Realtors and has served as a national director for the National Association of Realtors.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3464 Health and Human Services on Gov. Msg. No. 287

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF CERTIFICATION OF OPERATING PERSONNEL IN WASTEWATER TREATMENT PLANTS

MARSHALL LUM, for a term to expire June 30, 2003; and

CHARLES H. DAWRS and MYRON H. NOMURA, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Marshall Lum, Charles H. Dawrs, and Myron H. Nomura have the necessary character, experience, and qualifications to serve on the Board of Certification of Operating Personnel in Wastewater Treatment Plants.

Your Committee received testimony from the Department of Health in support of the nominees.

Marshall Lum has been employed by the Wastewater Branch of the Department of Health for 25 years of which 13 years have been in the position of supervisor of the Construction/Operations Section. This Section conducts operation and maintenance inspections of wastewater treatment facilities that involve interaction with operators of the wastewater treatment plants throughout the State. Mr. Lum is very knowledgeable of the responsibilities and duties of wastewater treatment plant operators. His experience and knowledge make Mr. Lum an asset to the Board.

Charles Dawrs has been employed by the County of Hawaii for 11 years as a wastewater treatment plant operator. He currently holds a grade 4 wastewater treatment plant operator license and works at the Hilo Wastewater Treatment Plant. Mr. Dawrs has great interest in the field of wastewater treatment and the advancement of wastewater treatment plant operators. He will be valuable as a member of the Board.

Myron Nomura has worked as an environmental engineer in the field of wastewater treatment for about 30 years. He was directly responsible for the operations of the Pearl Harbor wastewater treatment plant for several years and currently holds a grade 3 wastewater treatment plant operator license. Mr. Nomura has also been very active in the Hawaii Water Environment Association for over 20 years. Mr. Nomura's experience and interest in wastewater treatment makes him a valuable asset to the Board.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3465 Health and Human Services on H.C.R. No. 11

The purpose of this measure, as received by your Committee, is to encourage public schools to encourage increased calcium intake by female students.

Upon further consideration, your Committee developed and scheduled for public hearing a proposed Senate Draft No. 1, to request a Management Audit of the Department of Health's Dental Health Division.

Your Committee received testimony on the proposed Senate Draft No. 1 from the Department of Health asking that the audit be deferred until a statewide oral health plan is completed.

Your Committee finds that concerns have been raised by neighbor island residents indicating that the Department's dental health services are not accessible on the neighbor islands and portions of rural Oahu. Your Committee further finds that a management audit of the program will assist the Department in reviewing how the program's resources could be more efficiently and effectively managed so that dental services could be allocated on a more equitable basis throughout the State.

Your Committee, therefore, has amended this measure by deleting its substance and substituting therefor the contents of S.C.R. No. 160, Requesting a Management Audit of the Department of Health's Dental Health Division. Your Committee also made several technical non-substantive changes for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 11, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 11, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3466 Health and Human Services on H.C.R. No. 190

The purpose of this measure is to request the Patient Safety Task Force of the Healthcare Association of Hawaii to report to the Legislature on its efforts to reduce medical errors.

Testimony supporting this measure was received from the Healthcare Association of Hawaii.

Your Committee finds that deaths caused by medical errors are occurring at unacceptable annual rates. There must be additional vigilance in the provision of medical services to ensure the safety of patients and to reduce the number of tragic unnecessary deaths. Your Committee recognizes that the reduction of medical errors is not a simple task because of the complexity of health care organizations. Regardless, these medical errors need to be addressed directly and eliminated. With the creation of the Patient Safety Task Force, your Committee is optimistic that their work will improve the health and safety of the public. By requesting that they submit a progress report to the Legislature, this issue remains a priority and the public remains informed.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 190, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (English, Nakata).

SCRep. 3467 Economic Development and Technology on H.C.R. No. 150

The purpose of this measure is to request that the Governor appoint a biotechnology council to assess the status of the biotechnology industry and develop strategies to facilitate development of the industry in the State.

Your Committee received testimony in support of this measure from the College of Tropical Agriculture and Human Resources of the University of Hawaii, High Technology Development Corporation, and Pacific Health Community, Inc.

Your Committee finds that biotechnology will be the dominant science of this new century. By one estimate, it has the potential to add \$7.3 billion annually to Hawaii's economy by the year 2020. The growing biotechnology industry and its sectors – agriculture, marine sciences, human therapeutics, and the environment – are important sources of quality jobs and long-term economic growth in Hawaii. With its cluster of university research institutes, non-profit science centers, federal research funding, ideal climate, and a growing number of biotechnology firms, the growth potential for the local industry is substantial. Therefore, a biotechnology council is necessary to develop the biotechnology industry to its fullest and most profitable potential here in Hawaii.

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

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3468 Economic Development and Technology on S.R. No. 108

The purpose of this measure is to request the Governor to designate the month of August 2002 as the "Duke Paoa Kahanamoku Ho'olaulea" to commemorate his lifetime accomplishments as Hawaii's goodwill ambassador to the world of recreational ocean, family, and cultural activities.

Testimony in support of this measure was received from an individual.

Your Committee finds that Duke Paoa Kahanamoku is a Hawaii icon as a result of his exemplary contributions in athletics, culture, civics, and humanity. His legacy should be appropriately recognized and celebrated.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.R. No. 108 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3469 Agriculture on H.C.R. No. 70

The purposes of this measure are to:

- (1) Urge the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) to allocate funds and initiate planning for the eradication of fruit flies in Hawaii;
- (2) Urge APHIS to allocate funds to demonstrate the safety of using new pesticides, including spinosad; and
- (3) Request APHIS to work with various state departments and agencies, and agricultural organizations.

Testimony supporting this measure was received from the Department of Agriculture, University of Hawaii College of Tropical Agriculture and Human Resources, and Hawaii Farm Bureau Federation.

Your Committee finds that the agriculture industry represents a significant portion of Hawaii's economic base. Its potential to open new markets locally, nationally, and internationally continues to grow as the State further focuses on agricultural promotion, business development, and research. However, one major hindrance to expansion is pests, specifically fruit flies. Fruit flies cause substantial economic and environmental damage to Hawaii's agricultural industry. Past efforts have not been adequate to control fruit flies in the State. This measure requests assistance and resources from the federal government in eradicating fruit flies in the State to further ensure Hawaii's agriculture industry continues to grow.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 70, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Hanabusa, Kawamoto, Hogue).

SCRep. 3470 Transportation, Military Affairs, and Government Operations on H.C.R. No. 42

The purpose of this measure is to request the Department of Accounting and General Services (DAGS) to convene an advisory committee to make recommendations to improve the Performance Information Purchase System (PIPS).

Testimony in support of this measure was submitted by DAGS. West Pac Hawaii submitted testimony in opposition to this measure and Manufacturers Agency Pacific, Inc., submitted comments.

Your Committee finds that the implementation of PIPS must be evaluated to determine whether the system has met the goals of greater accountability, reduced costs, fewer change orders, and better overall work product. PIPS must also be reviewed to determine whether state contracts under PIPS are being awarded to only a small handful of contractors.

Therefore, your Committee supports this measure to form an advisory committee for that purpose. Your Committee notes that the advisory committee shall include representatives of construction industry employer organizations and employee organizations.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations 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 Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Menor, Taniguchi).

SCRep. 3471 Transportation, Military Affairs, and Government Operations on H.C.R. No. 121

The purpose of this measure is to request the United States Department of Defense to maintain the current structure of the United States Pacific Command.

Testimony in support of this measure was submitted by the Hawaii Chamber of Commerce and the Mestizo Association.

Your Committee finds that very recent developments concerning a proposal to alter the structure of the United States Pacific Command may not be in the best interest of our State. The U.S. Pacific Command, under its current structure, contributes approximately 15% of the state gross product and is the fourth largest employer in Hawaii.

In addition, altering the command structure could have unintended consequences in the Pacific region, by signaling to our adversaries that the United States is directing its military resources elsewhere. For these reasons, your Committee strongly supports the current structure of the U.S. Pacific Command.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 121, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Menor, Taniguchi).

SCRep. 3472 Education on H.C.R. No. 56

The purpose of this measure is to request the Social Science Research Institute of the University of Hawaii to conduct an assessment of the educational needs of the north Hawaii region.

Your Committee received testimony in support of the measure from the Director of the University of Hawaii at Manoa Social Science Research Institute and the Chancellor of the University of Hawaii at Hilo.

Your Committee finds that the north Hawaii region has unique educational needs due to its relative isolation and diverse demographics. A formal educational needs assessment by the Social Science Research Institute of the University of Hawaii could be an important step in the ongoing process of cultivating the economic and social well-being of 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. 56, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Kawamoto, Menor).

SCRep. 3473 Education on H.C.R. No. 43

The purpose of this measure is to request the Department of Budget and Finance to enter into a financing agreement for a new elementary school in Kahului, Maui.

Your Committee received testimony in support of the measure from the Department of Education.

Your Committee finds that central Maui is one of the fastest growing areas in the State and in great need of a new school. To address the community's urgent need for the school, real estate developer Maui Lani Partners is willing to donate land for a school and enter into a financing agreement under chapter 37D, Hawaii Revised Statutes. Cost effective public-private partnerships such as this one that maximize scarce public resources in high-need areas such as school construction should be encouraged.

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. 43, and recommends that it be referred to the Committee on Ways and Means.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Kawamoto, Menor).

SCRep. 3474 Economic Development and Technology on H.C.R. No. 117

The purpose of this measure is to request the Legislative Reference Bureau (LRB) to study the movement of capital out of the State, including a review of companies that are not based in Hawaii but provide services and products to Hawaii residents.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association and comments from LRB.

Your Committee has amended this measure by replacing its contents with the contents of Senate Concurrent Resolution No. 112, S.D. 2, which requests the formation of an economic development task force to develop and administer a statewide economic development plan. The task force is established within the Department of Business, Economic Development, and Tourism and is composed of various representatives from the government, business, and education sectors.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 117, 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. 117, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3475 Economic Development and Technology on H.C.R. No. 155

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to consider and address the concerns of Kokee State Park lessees with expiring State leases. Additionally, the DLNR is directed to provide a report to the Legislature on the status of the comprehensive master plan for Kokee State Park that addresses a state land-lease policy that would fairly and equitably meet the needs of lessees while protecting the State's interests.

Comments on this measure were received from the Chairperson of the Board of Land and Natural Resources.

Your Committee finds that Kokee State Park is home to threatened and endangered species, spectacular scenery and terrain, and over one hundred leaseholders who have used their own resources to improve State land. With the leases to expire on December 31, 2005, it is prudent for the State to determine how and if they will compensate lessees or extend the leases.

Your Committee has amended this measure by replacing its contents with the contents of Senate Concurrent Resolution No. 136, S.D. 1, for purposes of style. Additionally, this measure now includes a resolve that DLNR shall develop a statewide master plan for the repair and maintenance of Hawaii's State parks. Unlike the H.D. 1, this measure does not require DLNR to report to the Legislature on the status of the comprehensive master plan for Kokee and Waimea Canyon State Parks.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 155, 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. 155, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3476 Economic Development and Technology on H.C.R. No. 200

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to establish a task force to study the feasibility of establishing a freshwater fishery in the Wahiawa Reservoir, the findings and recommendations of which shall be submitted to the Legislature.

Testimony in support of this measure was received from the Chairperson of the Board of Land and Natural Resources, State Representative of District 40, Wahiawa Community & Business Association, Inc., Wahiawa Neighborhood Board, and an individual.

Your Committee finds that there are major opportunities for upgrading recreational fishery and improving the surrounding area that such a task force could profitably address.

Your Committee has amended this measure by having the Chairperson of the Board of Land and Natural Resources, rather than the Governor, appoint the members of the task force. Technical, nonsubstantive changes have also been made.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 200, 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. 200, H.D. 1, S.D. 1.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3477 Education on H.C.R. No. 187

The purpose of this measure is to request the Auditor to evaluate the operational efficiency and programmatic effectiveness of the State's integrated special education database system.

Your Committee received testimony in support of the measure from a special education teacher and a private individual. Your Committee received testimony in opposition to the measure from the Department of Education.

Your Committee finds that the State's integrated special education database system is not based on common personal computer programming principles and has no word processing functions built-in. This makes it cumbersome to use from the simple standpoint of data entry and significantly distracts already overextended special education teachers from their primary mission of serving special education children.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 187, H.D. 1, and recommends that it be referred to the Committee on Health and Human Services.

Signed by the Majority Leader on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Kawamoto, Menor).

SCRep. 3478 (Majority) Education on H.C.R. No. 128

The purpose of this measure is to request the University of Hawaii to study the feasibility of permitting certain immigrant students who have not yet attained legal permanent resident status to attend the University of Hawaii (UH) at the resident tuition rate.

Your Committee received testimony in support of the measure from the UH.

Your Committee finds that the constitutional autonomy of the UH must be respected, particularly as this measure could potentially lead to a reduction in tuition revenues should the UH decide to permit certain immigrant students who have not yet attained legal permanent resident status to attend at the resident tuition rate. However, this measure merely requests a study and does not mandate the UH to perform any action. More importantly, the UH testified in support of the measure, noting that state legislation recently passed in California and Texas allows such immigrants to pay resident tuition rates. Like Hawaii, these states have large immigrant communities who have historically and currently contributed to the strength of their communities. Such contributions should be respected and encouraged by providing greater access to higher education for them.

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. 128, and recommends that it be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, 3 (Chumbley, English, Hogue). Excused, 2 (Kawamoto, Menor).

SCRep. 3479 Education on H.C.R. No. 101

The purpose of this measure is to request a working group to be convened to evaluate and recommend measures to encourage the use of safety programs such as the Eddie Eagle program for firearm safety.

Your Committee received testimony in support of the measure from the Hawaii Rifle Association, Lessons in Firearms Education Hawaii, and two teachers. Your Committee received testimony in opposition to the measure from the Attorney General.

Your Committee finds that, unfortunately, most gun violence occurs in the home. Therefore, all efforts to promote firearm safety should be encouraged to minimize tragic and unnecessary injuries and deaths. These initiatives are also best accomplished through education rather than regulation. However, the Crime Prevention and Justice Assistance Division of the Department of the Attorney General testified against the measure, which named them as the leader of the working group, due to policy and resource issues.

The Crime Prevention and Justice Assistance Division of the Department of the Attorney General believes that the Eddie Eagle program for firearm safety unfairly puts the onus of gun safety on children who accidentally find guns, rather than on the adult owners of the guns, where it more properly and legally resides. They also note that the three staffers of the Community and Crime Prevention Branch, who would be assigned the task of leading the working group, already have their hands full implementing existing crime prevention programs and projects like the McGruff, Take a Bite Out of Crime campaign, the McGruff Truck Program, community mobilization, and other crime, drug, and violence prevention trainings.

For these reasons, your Committee requests the Committee on Judiciary to determine a more appropriate administrative home for the program should they decide to pass the 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 H.C.R. No. 101, H.D. 1, and recommends that it be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 2 (Kawamoto, Menor).

SCRep. 3480 Commerce, Consumer Protection and Housing on H.C.R. No. 75

The purpose of this measure is to authorize a sunrise review of the regulation of athlete agents.

The Department of Commerce and Consumer Affairs (DCCA), University of Hawaii, and Hawaii Commission on Uniform State Laws testified in support of this measure.

House Bill No. 1824 proposes to regulate athlete agents by requiring their registration with DCCA. Proponents of the measure submit that an agent's recruitment of an athlete while the athlete is still enrolled in school may cause substantial eligibility problems for both the athlete and the school. In addition, student athletes are vulnerable to being taken advantage of by unscrupulous individuals.

State policy dictates that regulation of a profession or vocation only be undertaken where reasonably necessary to protect the health, safety, or welfare of consumers. Therefore, pursuant to section 26H-6, Hawaii Revised Statutes, a measure proposing to establish a new regulatory system must be referred by concurrent resolution to the Auditor for a "sunrise" analysis that sets forth the probable effects of the measure and assesses whether the measure is consistent with State regulatory policy. This concurrent resolution refers H.B. No. 1824 to the Auditor for a sunrise analysis.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 75, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Matsunaga, Tam).

SCRep. 3481 Commerce, Consumer Protection and Housing on H.C.R. No. 118

The purpose of this measure is to express the Legislature's support for the State's application for a federal grant to revitalize Kuhio Park Terrace.

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

Kuhio Park Terrace (KPT) is one of the State's most troubled public housing projects. Built in 1965, KPT consists of six hundred fourteen units in two sixteen-story high-rise towers and fourteen low-rise buildings. HCDCH has worked with KPT residents and community stakeholders to prepare a master plan that will transform KPT into a vibrant, supportive, and sustainable community. Costs for the total revitalization effort, which includes the \$12 million Ka Hale O Kameha'ikana Resource Center, total approximately \$88.4 million.

In 2001, HCDCH applied for a \$35 million HOPE VI grant from the United States Department of Housing and Urban Development (HUD) to help fund the revitalization project. The application was not approved and HCDCH has reapplied for the grant. This measure declares the Legislature's support for the KPT revitalization project and urges HUD to act favorably on the State's grant application.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 118, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Kim, Matsunaga, Tam).

SCRep. 3482 Commerce, Consumer Protection and Housing on H.C.R. No. 131

The purpose of this measure is to request an actuarial analysis of a personal injury protection benefits scheme under the motor vehicle insurance law that includes naturopathy.

The Hawaii Society of Naturopathic Physicians testified in support of this measure. State Farm Insurance Companies opposed the measure.

Currently, naturopathy is not included as a personal injury protection (PIP) benefit under the motor vehicle insurance law, although it was included as a benefit prior to reform of the motor vehicle insurance law in 1997, and even though other alternative treatments, such as chiropractic and acupuncture, are included as PIP benefits.

A measure introduced this session (H.B. No. 2206), proposed to reinstate naturopathy as a PIP benefit. Opponents of the measure argue that it will result in increased utilization rates, and in turn, increased premium rates. The measure's proponents counter that allowing naturopathy as one of the complementary alternative medicine (CAM) treatment options will not affect overall utilization rates since no increase is being sought in the current limit on CAM treatments of thirty visits.

Your Committee finds that in the absence of an impartial, actuarial analysis, the Legislature is unable to determine whether the reinstatement of naturopathy as a PIP benefit will affect utilization and premium rates. Therefore, this measure requests the Insurance Commissioner to conduct such an analysis and to report the Commissioner's findings to the Legislature.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 131, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Noes, none. Excused, 3 (Kim, Matsunaga, Tam).

SCRep. 3483 Hawaiian Affairs on H.C.R. No. 81

The purpose of this measure is to request that Volunteer Legal Services Hawaii convene a temporary advisory task force to study the legal ramifications of integrating the practice of hanai relationships into statutory law.

Testimony in support of the measure was received from the Department of Human Services and Volunteer Legal Services Hawaii.

The measure also requests that the task force review applicable case law, statutory law, and customary and traditional practices related to the hanai relationship, and to submit interim and final reports to the Legislature before the convening of the 2003 and 2004 Regular Sessions, respectively.

Your Committee finds that the ancient Hawaiian system of open adoption called "hanai", in which parents would give their babies to another, usually a relative, to rear and cherish, was recognized by early Hawaiian courts as not including some rights usually associated with an adoptive relationship, such as the right to inherit property.

Despite this historical usage, your Committee finds that it is not uncommon for families today to enter into a hanai relationship without a clear understanding of its legal ramifications. This raises questions as to legal custody and guardianship of the child, often causing problems for state agencies, the courts, and the families and children involved. Your Committee agrees that there is a need for a consistent policy on hanai relationships to protect and preserve the customs and traditions of Hawaiians pursuant to Article XII, Section 7 of the State Constitution.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 81, H.D. 1, and recommends that it be referred to the Committee on Judiciary.

Signed by the Chair on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3484 Hawaiian Affairs on H.C.R. No. 199

The purpose of this measure is to request that the Governor designate the month of August, 2002, as the "Duke Paoa Kahanamoku Ho'olaulea" to commemorate the achievements of Duke Paoa Kahanamoku.

Testimony in support of the measure was received from three private citizens.

Your Committee finds that in his youth, Duke Paoa Kahanamoku became a master surfer, utilizing a 16-foot long wooden surfboard that weighed 114 pounds, which eventually led to his current recognition as the "father of international surfing" and his selection to the International Surfing Hall of Fame.

Duke Paoa Kahanamoku's many other athletic accomplishments included setting United States records in the 50-yard and 100-yard freestyle swim, dominating the swimming events at the 1912 Stockholm Olympics, including setting the world record in the 100-meter freestyle; competing and winning gold, silver, and bronze medals in subsequent Olympic Games in 1920, 1924, and 1932; and being a charter member of the International Swimming Hall of Fame in 1965.

Your Committee also finds that on August 24, 2002, the 112th anniversary of his birth, the United States Postal Service will oversee the unveiling and dedication of the first date of issuance of a postage stamp bearing the likeness of Duke Paoa Kahanamoku for general circulation throughout the United States.

Your Committee believes that it is appropriate to commemorate the life of a man who for so long embodied the spirit of the Hawaiian people and their culture and who truly was an ambassador of aloha to the world.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 199, H.D. 1, and recommends that it be referred to the Committee on Economic Development and Technology.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3485 Water, Land, Energy, and Environment on H.C.R. No. 18

The purpose of this measure is to authorize the Board of Land and Natural Resources (Board) to lease an easement covering a portion of submerged lands at Lahaina, Maui, for concrete pier and deck purposes.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee finds that in 1988, the applicants requested after-the-fact approvals for a concrete pier and deck encroachment on state submerged lands at Lahaina. The deck, extending forty feet seaward from the applicant's property, is used as part of the Lahaina Fish Company restaurant. In 1989, the Board approved both a Conservation District Use Application and the issuance of a term, non-exclusive easement for the state submerged lands.

Your Committee supports this concurrent resolution to allow for the direct lease of the easement for submerged lands as required under Section 171-53, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 18, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Kokubun, Matsunaga).

SCRep. 3486 (Joint) Water, Land, Energy, and Environment and Economic Development and Technology on H.C.R. No. 17

The purpose of this measure is to authorize the Board of Land and Natural Resources to lease an easement covering a portion of submerged lands at Maunalua, Oahu, Hawaii, for maintenance of the Hawaii Kai Marina entrance channel purposes pursuant to section 171-53, Hawaii Revised Statutes.

Testimony in support of this measure was received from the Department of Land and Natural Resources (DLNR), Hawaii Kai Marina Community Association, and one individual.

Your Committees find that in 1995, the Legislature appropriated funds to dredge the entrance channel to the privately-owned Hawaii Kai Marina. In 1998, the DLNR accepted a Conservation District Use Application (CDUA) from its Division of Boating and Ocean Recreation as applicant to implement this dredging project.

At the CDUA public hearing in June 1999, three oral requests were made for a contested case. The Board of Land and Natural Resources (Board) granted standing to one of the petitioners, and contested case proceedings ensued. The Board issued a Decision and Order at the conclusion of the contested case hearing requiring that the Hawaii Kai Marina Association, among other things, obtain an easement from DLNR for all future dredging and maintenance of the sandbag groin.

Your Committees have amended this measure by clarifying that the approval provided in this measure is for the lease of a non-exclusive easement of submerged lands.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Economic Development and Technology that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 17, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 17, S.D. 1.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Chun, Ihara, Kim, Kokubun).

SCRep. 3487 (Joint) Water, Land, Energy, and Environment and Transportation, Military Affairs, and Government Operations on H.C.R. No. 21

The purpose of this measure is to authorize the Board of Land and Natural Resources (Board) to lease an easement covering a portion of submerged lands at Maunaloa, Oahu, for maintenance of breakwater purposes.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committees find that in the 1960s, Henry J. Kaiser constructed a private marina on fast and submerged lands in Hawaii Kai, including a breakwater and dredged channels constructed on state submerged lands. In March 2000, the Kaiser property was sold, and because the breakwater has deteriorated over the years, the new owner submitted a request to DLNR to repair the breakwater and dredge the harbor and channel.

After the Department of the Attorney General determined that repair or use of the breakwater could not be made without the State's permission, an agreement was reached to issue a non-exclusive easement for the repair of the breakwater. In 2001, the Board approved issuance of a term, non-exclusive easement.

Your Committees support this concurrent resolution to allow for the direct lease of the easement for submerged lands as required under Section 171-53, Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Transportation, Military Affairs and Government Operations that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 21, and recommends its adoption.

Signed by the Chairs on behalf of the Committees.

Ayes, 8. Noes, none. Excused, 8 (Chun, Fukunaga, Ihara, Kanno, Kokubun, Matsunaga, Menor, Taniguchi).

SCRep. 3488 Commerce, Consumer Protection and Housing on Gov. Msg. No. 282

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY

LENHANH P. TRAN, M.D., ANA A. GAMBLE, FAYE A.T. MATSUNAGA, MARGARET K. WADA, and MONA S. TAKUMI for terms to expire on June 30, 2005.

Upon review of the testimony and statements submitted by the nominees, your Committee finds that they have the necessary character, experience, and qualifications to serve on the Board of Speech Pathology and Audiology ("Board").

Lenhanh P. Tran is a physician specializing in otolaryngology at Tripler Army Medical Center. She earned her Bachelor of Science degree in Biochemistry from the University of California at Davis and her Doctorate in Medicine from George Washington University. Ms. Tran is also an Assistant Professor at the University of Hawaii and the Uniformed Services University of Health Sciences in Bethesda, Maryland.

Ana A. Gamble is a Speech-Language Pathologist with the Department of Education. She earned a Bachelor of Science degree in Communication Disorders from Columbus College in Georgia and a Master of Science degree in Speech Pathology and Audiology from the University of Hawaii. In addition, Ms. Gamble actively participates in professional and community organizations including the Hawaii Speech-Language-Hearing Association, Hawaii Early Hearing Screening Project, and others.

Faye A.T. Matsunaga is an audiologist with the Department of Health. She earned Bachelor of Science and Master of Arts degrees in Speech Pathology and Audiology from the University of Hawaii and California State University – Los Angeles, respectively. She previously served diligently on the Board until July 1, 1999. Her professional affiliations include the American Speech-Language-Hearing Association and Hawaii Academy of Audiology. Testimony supporting Ms. Matsunaga's nomination was received from the Department of Commerce and Consumer Affairs.

Margaret K. Wada, a speech language pathologist, is a Supervisor with the Children with Special Needs Branch of the Department of Health. She earned Bachelor of Science and Master of Science degrees in Speech Pathology and Audiology from the University of Hawaii. Ms. Wada also is an instructor with the Speech Department at Honolulu Community College. Her professional affiliations include the American and Hawaii Speech Hearing Language Associations, Aloha State Association of the Deaf, Hawaii Services on Deafness, and Council for Exceptional Children. Testimony supporting Ms. Wada's nomination was received from two individuals.

Mona S. Takumi is an audiologist with Kaiser Permanente, Wailuku Clinic. She earned a Master of Science degree from the University of Hawaii. Her experience includes working as an audiologist at Tripler Army Medical Center and Kamehameha Schools and as a clinical supervisor at the University of Hawaii Speech and Hearing Clinic. Ms. Takumi's professional affiliations include the Hawaii Speech and Hearing Association and the American Academy of Audiology.

Based upon the foregoing and the testimony submitted by the nominees, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve speech pathology and audiology services in the State and the general health and well-being of Hawaii residents through their service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3489 Water, Land, Energy, and Environment on Gov. Msg. No. 176

Recommending that the Senate advise and consent to the nomination of the following:

KAHO`OLAWE ISLAND RESERVE COMMISSION

Charles P.M.K. Burrows, Ed.D, for a term to expire June 30, 2004,

Upon review of the testimony and statement submitted by the nominee, your Committee finds that Charles P.M.K. Burrows has the necessary character, experience, and qualifications to serve on the Kaho`olawe Island Reserve Commission.

Testimony in support of this nomination was received from the Kaho`olawe Island Reserve Commission.

Charles P.M.K. Burrows, Ed.D, is a former science teacher who recently retired after thirty-five years of committed service with the Kamehameha Schools. Throughout his tenure at his alma mater, he educated hundreds of Hawaiian children about the importance of protecting the natural resources of the islands, and he led the first access of Kamehameha students to Kaho`olawe in 1980. Dr. Burrows is president of Ahahui Malama i ka Lokahi, a native Hawaiian organization committed to environmental protection and natural resource preservation within a cultural context. Among his many projects is the rehabilitation of Kawai Nui Marsh on Oahu. Dr. Burrows brings both a scientific and a cultural perspective to the Commission during a period of transition and increasing restoration of the island.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 1 (Ihara).

SCRep. 3490 Water, Land, Energy, and Environment on Gov. Msg. No. 183

Recommending that the Senate advise and consent to the nominations of the following:

ENVIRONMENTAL COUNCIL

Faith Caplan, Gail L.G. Kaaialii, Ph.D., and Melissa Dumarán, for terms to expire June 30, 2006,

Upon review of the testimony and information submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the Environmental Council.

Testimony in support of the three nominees was received from the Office of Environmental Quality Control.

Testimony in support of the nomination of Faith Caplan was received from the County of Kauai Department of Water and one individual.

Testimony in support of the nomination of Gail L.G. Kaaialii was received from one individual.

Testimony in support of the nomination of Melissa Dumarán was received from The Coordinating Group on Alien Pest Species, Maui Invasive Species Committee, and four individuals.

Faith Caplan is Senior Planner with Helber Hastert & Fee, Planners Inc., and has worked on a variety of planning projects in Hawaii, including extensive work in hazardous and regulated materials (HAZMAT) projects. She has a master's degree in public health from the University of Hawaii and an undergraduate degree from Simmons College in Boston. Ms. Caplan is affiliated with the American Institute of Certified Planners and American Planning Association. Her professional registrations include Hazardous Waste Operations and Emergency Response Training, AHERA Certified Asbestos Inspector and Management Planner, Hawaii Asbestos Certification. Ms. Caplan has extensive experience in environmental and land use planning, HAZMAT assessment and management, and water quality assessment.

Gail L.G. Kaaialii, Ph.D., is Assistant Professor at Chaminade University and is active in faculty committee and advisor work. She holds undergraduate and graduate degrees in zoology from Duke University in North Carolina. In addition to teaching in the fields of biology and ecology, Dr. Kaaialii conducts research in marine invertebrate zoology, molecular/morphological evolution, and sea bird habitat conservation in the Western Pacific. She is an alternate member of the Northwestern Hawaiian Islands Reef Reserve Council, a member of the Oahu Invasive Species Community, Pacific Seabird Group, Society for the Study of Evolution, and Society of

Developmental Biologists, among others. Dr. Kaaialii is also active with Environmental Education Partners in the Community, and has published extensively.

Melissa Dumaran is Natural Resource Manager with the Hawaii Army National Guard's Environmental Office on Oahu. She holds a bachelor's degree in environmental studies from the University of Hawaii at Manoa. In her position, Ms. Dumaran is responsible for program and project administration, personnel management, field research and management, outreach and education, and grant writing. She has also worked as an environmental reviewer and environmental specialist, and conducted research in dry forest and coastal ecosystem restoration. Ms. Dumaran is a member of Hawaii Rare Plant Restoration Group, Maui and Oahu Invasive Species Committees, and Organizing Committee 2000 Conservation Conference. She is the recipient of two Pentagon awards for best conservation programs, as well as a National Guard Bureau Award.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Matsunaga, Nakata).

SCRep. 3491 Water, Land, Energy, and Environment on Gov. Msg. No. 234

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF LAND AND NATURAL RESOURCES

TOBY MARTYN, for a term to expire June 30, 2005; and

TIMOTHY E. JOHNS, for a term to expire June 30, 2006,

Your Committee notes that Governor's Message No. 250, withdrew the nomination of Virginia H. Goldstein from consideration by the Senate.

Upon review of the testimony and information submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the Board of Land and Natural Resources.

Testimony in support of both nominees was received from the Department of Land and Natural Resources. Testimony in support of Mr. Martyn was also received from Island Insurance Companies and two individuals.

Additional testimony in support of Mr. Johns was received from a member of the Board of Land and Natural Resources, the Water Commission, a Trustee of the Office of Hawaiian Affairs, PBR Hawaii, HGEA/AFSCME Local 152, BIA-Hawaii, Hawaii Agriculture Research Center, Okahara & Associates, Inc., Volunteer Legal Services Hawaii, and seven individuals.

Toby Martyn is Vice President, Investments, with A.G. Edwards & Sons, Inc., where he manages a full service retail brokerage office. Previously, he was President and co-founder of Hawaiian Capital Securities, an investment banking firm specializing in public finance and institutional and retail sales, Manager of the Tax-Exempt Portfolio Group at Benham Capital Group in Palo Alto, California, and Manager of the Tax-Exempt Fixed Income Department at Hawaiian Trust Company. Mr. Martyn recently served as a member of the Board of Trustees of the Employees' Retirement System. He is a graduate of the University of Florida, with a degree in business administration and finance.

Timothy E. Johns is Chief Operating Office, Estate of Samuel Mills Damon, and previously served as the Chairperson of the Department of Land and Natural Resources and Deputy Director of the Commission on Water Resource Management. In addition to several management positions with AMFAC/JMB Hawaii, Inc., he has also lectured in business law and was Director of Protection with The Nature Conservancy of Hawaii. Mr. Johns holds law and masters degrees from the University of Southern California and is active in a number of legal professional organizations. He is currently a member of the Board of Land and Natural Resources, Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve and Proposed National Marine Sanctuary Advisory Council, a recipient of Hawaii Audubon Society President's Award in 2000, and a Pacific Century Fellow. Mr. Johns is active in numerous community organizations.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Ihara, Matsunaga).

SCRep. 3492 Water, Land, Energy, and Environment on Gov. Msg. No. 235

Recommending that the Senate advise and consent to the nomination of the following:

NATURAL AREA RESERVES SYSTEM COMMISSION

James D. Jacobi, Ph.D., for a term to expire June 30, 2006,

Upon review of the testimony and information submitted by the nominee, your Committee finds that James D. Jacobi, Ph.D., has the necessary character, experience, and qualifications to serve on the Natural Area Reserves System Commission.

Testimony in support of this nomination was received from the Department of Land and Natural Resources, the Nature Conservancy of Hawaii, the Hawaii Stream Research Center, and two individuals.

James D. Jacobi, Ph.D., is Biologist and Senior Science Advisor, USGS, Pacific Island Ecosystems Research Center at Hawaii National Park. A graduate of the University of California, Riverside, he holds graduate degrees from the University of Hawaii at Manoa. Dr. Jacobi has over thirty years experience in Hawaii species and ecosystem conservation, alien species impacts, vegetation ecology, plant community mapping and GIS applications for conservation, species and community monitoring, forest bird populations, and conservation planning. He is a member of several professional societies, including the, Ecological Society of America, Pacific Science Association, Hawai'i Botanical Society, and Hawai'i Chapter of Wildlife Society, and has published extensively.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Matsunaga, Nakata).

SCRep. 3493 Water, Land, Energy, and Environment on Gov. Msg. No. 242

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF CERTIFICATION OF PUBLIC WATER SYSTEM OPERATORS

Ian Kagimoto, for a term to expire June 30, 2006,

Upon review of the testimony and information submitted by the nominee, your Committee finds that Ian Kagimoto has the necessary character, experience, and qualifications to continue to serve on the Board of Certification of Public Water System Operators.

Testimony in support of the nomination was received from the Department of Health.

Ian Kagimoto is President of Aqua Engineers, Inc., and General Manager of Poipu Water Reclamation Facility. A civil engineer, he also served five years as Chief of Operations of the Kauai County Department of Water. Mr. Kagimoto is a member of the American WaterWorks Association, Water Environment Federation, Hawaii Water Environment Association, and Kauai Operators Association, among others. He is also active in the community, serving on the Mayor's Hoolokahi Community Service Program, the County Wastewater Advisory Committee, and Kauai Chamber of Commerce. Mr. Kagimoto is currently completing this first four-year term on the Board and his experience and practical knowledge have added greatly to the Board's deliberations and decisions.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Ihara, Matsunaga, Nakata).

SCRep. 3494 Water, Land, Energy, and Environment on Gov. Msg. No. 271

Recommending that the Senate advise and consent to the nomination of the following:

KAHO'OLAWE ISLAND RESERVE COMMISSION

Noa Emmett Aluli, M.D., for a term to expire June 30, 2005,

Upon review of the testimony and information submitted by the nominee, your Committee finds that Noa Emmett Aluli has the necessary character, experience, and qualifications to serve on the Kaho'olawe Island Reserve Commission.

Testimony in support of this nomination was received from the Kaho'olawe Island Reserve Commission, Protect Kaho'olawe 'Ohana, and two individuals.

Noa Emmett Aluli, M.D., is the Medical Executive Director of Moloka'i General Hospital and a primary care physician with the Moloka'i Family Health Center. Dr. Aluli is a founding member of the Protect Kaho'olawe 'Ohana and has dedicated a large part of his life's work to stopping the bombing of the island and protecting and reviving its natural and cultural resources. Throughout the past twenty-six years he has been involved with the 'Ohana in the rededication of the cultural and religious sites on the island,

supervised and monitored archaeological, hydrological, biological, marine, and ordnance clearance studies of the island, helped install check dams, water catchments, and developed revegetation projects. From 1990 to 1993, he served as the Vice-chairman of the Kaho'olawe Island Conveyance Commission, was a member of the Governor's Kaho'olawe Planning Committee, and served on the Maui County Community Advisory Committee for the Kaho'olawe Community Plan. From 1993 through 2001, Dr. Aluli served as chairman of the Kaho'olawe Island Reserve Commission. Dr. Aluli is one of the leading experts on Kaho'olawe and its multi-faceted resources and needs.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Ihara, Kokubun, Matsunaga).

SCRep. 3495 Water, Land, Energy, and Environment on Gov. Msg. No. 272

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF LAND AND NATURAL RESOURCES

GERALD L. DE MELLO, for a term to expire June 30, 2006,

Upon review of the testimony and information submitted by the nominee, your Committee finds that Gerald L. De Mello has the necessary character, experience, and qualifications to serve on the Board of Land and Natural Resources.

Testimony in support of the nomination was received from the Department of Land and Natural Resources, a trustee of the Office of Hawaiian Affairs, ILWU Local 142, Japanese Chamber of Commerce & Industry of Hawaii, Okahara & Associates, Inc., Ala Kai Realty, Inc., William L. Moore Planning, four members of the University of Hawaii administration, and twelve individuals. `Ilio`ulaokalani Coalition and two individuals submitted testimony in opposition.

Gerald L. De Mello is Director of University Relations, University of Hawaii at Hilo, and has held various academic and administrative positions in the university system since 1969. He also served as Governor's Liaison Office for the Island of Hawaii from 1987 to 1990. Mr. De Mello is a graduate of Eastern Washington State University and holds a master's degree from the University of Hawaii Manoa. He is a member of the Hawaii Sociological Association, Hawaii Historical Society, Oral History Center, and Western Interstate Commission on Higher Education, among others. Mr. De Mello is active in the Downtown Hilo Association, several Chambers of Commerce, and Hospice Hawaii Board.

As affirmed by the record of votes of the members of your Committee on Water, Land, Energy and Environment that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 3 (Chun, Ihara, Matsunaga).

SCRep. 3496 Labor on Gov. Msg. No. 303

Recommending that the Senate advise and consent to the nomination of the following:

RONALD N. HIRANO, Board of Trustees, Deferred Compensation Plan, for a term to expire June 30, 2004,

Upon review of the qualifications and statement submitted by the nominee, your Committee finds that the nominee possesses the necessary character, experience, and qualifications to serve on the Board of Trustees of the Deferred Compensation Plan.

Ronald N. Hirano currently serves as the Executive Officer of the Aloha Tower Development Corporation. Prior to that, Mr. Hirano was a Deputy Director at the State Department of Transportation. Mr. Hirano possesses a bachelor of science degree in civil engineering from the University of Hawaii and is a member of the American Society of Civil Engineers. Your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to make Hawaii better through his participation on the Board of Trustees of the Deferred Compensation Plan.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Matsuura, Sakamoto).

SCRep. 3497 Economic Development and Technology on Gov. Msg. No. 266

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII TELEVISION AND FILM ADVISORY BOARD

BRENDA K.H. CHING, for a term to expire June 30, 2003; and

CHRISTOPHER LEE, for a term to expire June 30, 2006;

Testimony in support of both nominees was received from the Department of Business, Economic Development, and Tourism. Your Committee received testimony in support of Brenda K.H. Ching from the University of Hawai'i, Center for Labor Education & Research, Hawaii Building and Construction Trades Council, AFL-CIO, Chris Conybeare Productions, ILWU Local 142, and two individuals.

Brenda K. H. Ching is the founding executive director of the Screen Actors Guild (SAG) Hawaii and has sixteen years in the industry. Ms. Ching has a very close working relationship with members of the labor community. She is very active with the local and national boards of SAG, both of which closely monitor industry-related issues such as runaway production and legislation on the state and federal levels that affect television and film production.

Christopher Lee is a resident of Hawaii who is the former president of motion picture production of Columbia/Tri-Star. Mr. Lee's wealth of knowledge and experience in the industry as well as his Hollywood contacts are invaluable to the Board. He is responsible for the Academy-Award winning films "As Good as It Gets", "Jerry Maguire", and "Philadelphia".

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Brenda K. H. Ching and Christopher Lee have the necessary character, experience, and qualifications to serve on the Hawai'i Television and Film Advisory Board.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3498 Economic Development and Technology on Gov. Msg. No. 267

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DIRECTORS, HAWAII STRATEGIC DEVELOPMENT CORPORATION

GLENN S. YAMADA, for a term to expire June 30, 2003;

EDMUND C. ACZON, for a term to expire June 30, 2005; and

ALLAN S. KITAGAWA, for a term to expire June 30, 2006;

Testimony in support of all three nominees was received from the Department of Business, Economic Development, and Tourism. Your Committee received testimony in support of Glenn S. Yamada from American Savings Bank and Honolulu Japanese Chamber of Commerce. Your Committee received testimony in support of Edmund C. Aczon from American Public Works Association – Hawaii Chapter, HSI Mechanical, General Contractors Association of Hawaii, Hawaii Building and Construction Trades Council, AFL-CIO, Hawaii Construction Industry Association, Laborers-Employers Cooperation and Education Trust, the Pacific Resource Partnership, Armstrong Builders, Ltd., Islands of Paradise, PLA Incorporated, Umemoto Cassandro Design Corporation, Building Industry Association – Hawaii, Castle & Cooke, and three individuals.

As the Branch Manager for American Savings Bank's Pearlridge office, Glenn S. Yamada has an extensive banking background to bring to the Board. His experience is invaluable in setting the Corporation's future investment policies and decisions to assist in the development of new businesses to diversify Hawaii's economy. He also has a strong technology background having worked with a number of computer and data-related businesses. Mr. Yamada is also very active in community affairs with the Honolulu Japanese Chamber, the Honolulu Rotary Club, and Mililani Missionary Church.

Edmund C. Aczon brings to the Board a background combining extensive experience as a business owner and contractor. Equally important are his community activities. He has long been involved with construction and business-related organizations, serving at the highest levels, which include the Hawaii Construction Industry Association, the Building Association of Hawaii, Pacific Resources Partnership, Filipino Chamber of Commerce, as well as many others.

Allan S. Kitagawa is the long-standing Chairman of the Board and Chief Executive Officer of Territorial Savings and Loan Association, and as such brings an extensive business and financial management background to the Board. Additionally, he is a certified public accountant.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Glenn S. Yamada, Edmund C. Aczon, and Allan S. Kitagawa have the necessary character, experience, and qualifications to serve on the Hawai'i Strategic Development Corporation.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3499 Economic Development and Technology on Gov. Msg. No. 269

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DIRECTORS, HIGH TECHNOLOGY DEVELOPMENT CORPORATION

STACEY C. G. HEE and GAIL ANN M. HONDA, Ph.D., for terms to expire June 30, 2006,

Your Committee received testimony in support of both nominees from the High Technology Development Corporation. Testimony was received in support of Stacey C. G. Hee from the Representative from the Twenty-Fifth District, Bank of Hawaii, PacificNews.Net, Ho'ike.Net, Carlsmith Ball, LLP, and an individual.

Stacey C. G. Hee's legal background and expertise in real estate negotiations, leases, and general contracts, corporate and business law, and taxation are important to the Corporation's operations. She will be an asset to the Corporation and a contributing member of the Board of Directors.

Gail Ann M. Honda, currently the President and CEO of Global Optima, Inc., brings knowledge and expertise in the commercial high technology industry. She has assisted business professionals to learn and use technology to increase productivity. With a doctorate and master's degree from the University of Chicago, she is knowledgeable about the development of business and financial plans, which is an integral component to the success of start-up technology companies.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Stacey C. G. Hee and Gail Ann M. Honda have the necessary character, experience, and qualifications to serve on the Board of Directors of the High Technology Development Corporation.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Ihara, Kim).

SCRep. 3500 Labor on H.C.R. No. 130

The purpose of this measure is to request the Auditor to conduct a management and performance audit of the Employees' Retirement System (ERS).

Recent events regarding the ERS, especially the reported loss of \$1.4 billion due to poor investment performance, and questions regarding the retention of an underperforming investment firm with ties to a former ERS administrator, have brought to light some possible problems within the ERS that your Committee believes need to be examined through an audit.

Your Committee believes that an audit may help to improve the overall structural set-up, management, and efficiency of the ERS.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 130, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Matsuura, Sakamoto).

SCRep. 3501 Labor on H.C.R. No. 139

The purpose of this measure is to request that the Auditor conduct a study on Voluntary Employee Beneficiary Associations (VEBA) to determine their feasibility as viable health insurance plans for public employees, retirees, and their dependents.

The measure also requests that the Auditor include in the report, the ramifications of the coexistence of both a VEBA and the Hawaii Employer-Union Health Benefits Trust Fund, and whether this is a feasible option.

Your Committee finds that rising health care costs, inflation, and an aging workforce are seriously threatening the State's fiscal ability to provide health benefits to Hawaii's approximately 83,000 active and retired public employees, as well as their dependents. To safeguard the strength of the public employees health benefits system, the Legislature passed Act 88, Session Laws of Hawaii 2001 (Act 88), last year.

Act 88 created the Hawaii Employer-Union Health Benefits Trust Fund (Trust Fund), which is to be implemented starting July 1, 2003. Under Act 88, all public employees and retirees will be grouped into one large pool of consumers, thereby increasing the trust fund's ability to negotiate lower health insurance rates.

Your Committee also finds that under section 501(c)(9) of the Internal Revenue Code, an employee organization may authorize the establishment of a tax-exempt VEBA to provide life, sick, accident, medical, or other benefits to members of the VEBA and their dependents.

Your Committee further finds that while proponents of VEBAs claim that having a smaller consumer pool and tailoring benefit packages will better control health care costs, maintaining both VEBAs and the newly-created Trust Fund may result in the duplication of services and add additional unforeseen costs to the State.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 139, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Matsuura, Sakamoto).

SCRep. 3502 Judiciary on H.C.R. No. 62

The purpose of this measure is to request the Department of Public Safety to compare recidivism rates for inmates transferred to mainland correctional facilities with similarly situated inmates remaining incarcerated in Hawaii.

The intent of comparing recidivism rates is to ascertain whether or not it is worthwhile to continue to contract with private prisons on the mainland to house Hawaii inmates.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 62, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Ihara, Kokubun).

SCRep. 3503 Judiciary on H.C.R. No. 81

The purpose of this measure is to request that Volunteer Legal Services Hawaii convene a temporary advisory task force to study the legal ramifications of integrating the practice of hanai relationships into statutory law.

Testimony in support of the measure was received from the Department of Human Services.

Your Committee finds that the ancient Hawaiian system of open adoption called "hanai", in which parents would give their babies to another, usually a relative, to rear and cherish, was recognized by early Hawaiian courts as not including some rights usually associated with an adoptive relationship, such as the right to inherit property.

Despite this historical usage, your Committee finds that it is not uncommon for families today to enter into a hanai relationship without a clear understanding of its legal ramifications. This raises questions as to legal custody and guardianship of the child, often causing problems for state agencies, the courts, and the families and children involved. There is a need for a consistent policy on hanai relationships to protect and preserve the customs and traditions of Hawaiians pursuant to Article XII, Section 7 of the State Constitution.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 81, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Ihara, Kokubun).

SCRep. 3504 Judiciary on H.C.R. No. 171

The purpose of this measure is to request the Chief Justice of the Hawaii Supreme Court to convene a task force to ascertain information concerning:

- (1) Why the Judiciary has been unable to recruit sufficient numbers of private counsel to accept court-appointments;
- (2) Why court-appointed counsel endure unreasonably long delays before receiving payment for their services; and
- (3) Whether the below-market fee rate is a contributing factor to the paucity of private attorneys willing to serve as court-appointed counsel.

Testimony in support of this measure was received from the Judiciary.

Your Committee passes this measure out of an abundance of concern that the criminal justice system is fair to all defendants, whether or not they can afford to hire their own counsel.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 171, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Ihara, Kokubun).

SCRep. 3505 Judiciary on S.R. No. 96

The purpose of this measure is to request the Department of Budget and Finance to enter into a financing agreement with Royal Kunia School, LLC, on behalf of the Department of Education (DOE) for the design, construction, financing, lease, and land acquisition for Royal Kunia Elementary School.

Testimony in support of this measure was received from the DOE and nineteen individuals.

This measure supports the implementation of Act 316, Session Laws of Hawaii, 2001, which created a comprehensive new system to manage the public school repair and maintenance process, including a key component of the system, the development of a comprehensive six year plan to repair and maintain public school facilities through the coordinated joint efforts of the Legislature, Department of Education, and Department of Accounting and General Services. This measure requests the DOE to use all possible alternatives to expedite the process of land acquisition, financing, design, and construction of the proposed Royal Kunia Elementary School, which testifiers have indicated is much needed to accommodate the burgeoning population of the district.

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. 96, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Hanabusa, Ihara, Kokubun, Nakata).

SCRep. 3506 (Joint) Transportation, Military Affairs, and Government Operations and Water, Land, Energy, and Environment on H.C.R. No. 163

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to secure space for the commercial haul out and dry docking of boats for safety and compliance inspections on the islands of Kauai and Maui.

Testimony in support of the intent of this measure was received from the DLNR. The Ocean Tourism Coalition testified orally in support of this measure.

Your Committees find that the United States Coast Guard requires all vessels in commercial operation to be inspected at least once every 18 months to determine their safety and seaworthiness. Inspection of a vessel's hull necessarily requires that the vessel is hauled out of the water, and if repairs are necessary, the vessel must be dry docked.

Currently, only the islands of Oahu and Hawaii have the facilities to accommodate the haul out and dry docking of vessels for inspections. Therefore, commercial boat operators on Kauai and Maui must make a long (and sometimes dangerous) channel crossing in order to receive an inspection.

DLNR testified that it is in the process of securing space on Kauai and Maui to haul out and dry dock vessels for inspection. Your Committees recognize DLNR's proactive approach to this issue, but believe that this measure will nonetheless assist in clearing any administrative hurdles.

As affirmed by the records of votes of the members of your Committees on Transportation, Military Affairs and Government Operations and Water, Land, Energy and Environment that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 163, and recommend its adoption.

Signed by the Chairs on behalf of the Committees.
Ayes, 8. Noes, none. Excused, 8 (Chun, Fukunaga, Ihara, Kanno, Kokubun, Matsunaga, Menor, Taniguchi).

SCRep. 3507 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 320

Recommending that the Senate advise and consent to the nominations of the following:

STATE HIGHWAY SAFETY COUNCIL

MITCHELL ROTH, DAVID SANDLER, and CLAIRE M. SASAKI-LUNDGREN, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the State Highway Safety Council (Council).

Testimony in support of Mr. Sandler's nomination was submitted by the Honolulu City and County Department of the Prosecuting Attorney. Testimony in support of Ms. Sasaki-Lundgren's nomination was submitted by a member of the Kauai County Council and a private citizen.

Mitchell Roth received his Bachelor of Arts degree from the University of Hawaii at Manoa and his Juris Doctor degree from Whittier Law School. From 1993-1998 he worked for the Honolulu City and County Department of the Prosecuting Attorney before moving to his present position with the Hawaii County Office of the Prosecuting Attorney. Mr. Roth is involved with several community groups devoted to safety and community betterment.

David Sandler received his Bachelor of Arts degree from Syracuse University and his Juris Doctor degree from American University. He has received several awards related to his community involvement, including the 2001 Alakai (leadership) Award from the Governor's Highway Safety Council.

Claire M. Sasaki-Lundgren received her Bachelor of Science degree from the University of Hawaii. Since 1995, she has worked as a receptionist/office manager for Jack Lundgren, D.D.S.

Your Committee finds that each of the nominees has been appointed based upon their credentials, integrity, professional ability, and a desire to improve highway safety in Hawaii through service on the Council.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 3508 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 333

Recommending that the Senate advise and consent to the nomination of the following:

PROCUREMENT POLICY BOARD

Gordon K.T. Ing, for a term to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Procurement Policy Board (Board).

Testimony in support of the nominee was submitted by the Department of Labor and Industrial Relations, the State Procurement Office, and a private citizen.

Gordon K. T. Ing attended Roosevelt High School before obtaining his Bachelor of Science and Master of Science degrees at the University of Hawaii (UH). After serving as a Captain in the United States Air Force, he worked for three years as a Research Meteorologist at UH before joining the Department of Labor and Industrial Relations, where he worked from 1972-2001. During that time he worked as a Management Analyst VI, Data Processing Systems Analyst V, and Research Statistician III, before being promoted to Business Management Officer II.

Your Committee finds that the nominee has been appointed based upon his credentials, integrity, professional ability, and a desire to improve procurement policy in Hawaii through service on the Board.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 3509 Tourism and Intergovernmental Affairs on Gov. Msg. No. 293

Recommending that the Senate advise and consent to the nomination of the following:

HAWAII TOURISM AUTHORITY

Nadine K. Nakamura, for a term to expire June 30, 2006,

Your Committee notes that Governor's Message No. 293 included the nominations of Lawrence M. Johnson, Sharon R. Weiner, and Stephen K. Yamashiro. These nominations are considered in separate committee reports.

Upon review of the testimony and information submitted by the nominee, your Committee finds that Nadine K. Nakamura has the necessary character, experience, and qualifications to serve on the Hawaii Tourism Authority.

Testimony in support of this nomination was received from the Hawaii Tourism Authority and an authority board member, Housing and Community Development Corporation of Hawaii, County of Hawaii Office of Economic Development and Offices of Community Assistance, a Special Assistant to the Governor, Bank of Hawaii, Pacific Housing and Assistance Corporation, Kodani & Associates, Inc., Paho Resorts, Inc., Kober/Hanssen/Mitchell Architects, MacDougall and Associates, Garden Island Resource Conservation & Development, and six individuals.

Nadine K. Nakamura, principal of NKN Project Planning, has over fifteen years of planning experience in public, private, and nonprofit sectors. Ms. Nakamura's professional experience includes land use and policy analysis, affordable housing development, transportation planning, neighborhood planning, community participation, organizational development, and strategic planning. She has worked with a wide range of clients, including the County of Kaua'i Office of Economic Development, Mutual Housing Association of Hawaii, Garden Island Resource Conservation & Development, and Kodani & Associates, Inc. Ms. Nakamura holds a master's degree in urban and regional planning from the University of Hawaii Manoa and an undergraduate planning degree from University of Southern California. She is an active member of the Housing and Community Development Corporation of Hawaii, Kaua'i Rural Development Project, Kaua'i Workforce Investment Act Youth Council, Kaua'i Chamber of Commerce, and American Planning Association.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Slom).

SCRep. 3510 Tourism and Intergovernmental Affairs on H.C.R. No. 137

The purpose of this measure is to support Congress's plan to endorse and obtain observer status for Taiwan at the Annual Summit of the World Health Assembly in May 2002 in Geneva, Switzerland.

Testimony in support of this measure was received from the Taipei Economic and Cultural Office in Honolulu.

Your Committee finds that because of the potential for the rapid spread of diseases, the fight against infectious diseases requires comprehensive monitoring and rapid response on a global scale. Your Committee has heard that Taiwan is willing and takes pride in contributing to international relief efforts when other people are in need. To exclude Taiwan from the World Health Organization, which is the only forum mandated to direct and coordinate global health matters, would deny a fundamental right to health matters, as well as pose a threat to world health.

Your Committee notes that this plan has received widespread support from members of the United States Congress and President Bush, as well as the European Parliament.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 137, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 1 (Matsuura).

SCRep. 3511 Agriculture on Gov. Msg. No. 257

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF AGRICULTURE

CARL A. CARLSON, JR., BENJAMIN K. LINDSEY, AND WES SAHARA, for terms to expire on June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the Board of Agriculture ("Board").

Carl A. Carlson, Jr., possesses extensive experience in agriculture and ranching having served as president for Parker Ranch, Inc., Hawaii Meat Company, Ltd., and Kona Livestock and Land Management, Ltd. He earned a Bachelor of Science degree from California State Polytechnic University. Mr. Carlson's professional and community affiliations include serving as director of the Nature Conservancy of Hawaii and the Kohala Center, and as a member of the National Cattlemen's Beef Association, Hawaii Cattlemen's Council, and Kona Historical Society. Testimony supporting Mr. Carlson's nomination was received from the Department of Agriculture, Hawaii Homes Commission, Land Use Research Foundation of Hawaii, Akinaka & Associates, Ltd., Nature Conservancy of Hawaii, Hawaii Leeward Planning Conference, Hawaii Planning Mill, Ltd., Kahua Ranch Limited, Kai Hawaii, Kona Kohala Chamber of Commerce, Oceanit, William L. Moore Planning, Palani Ranch Company, Inc., Ponoholo Ranch Limited, Surety Kohala Corporation, Kobayashi Group, Hawaiian Commercial & Sugar Company, Carlsmith Ball, LLP, Watanabe, Ing & Kawashima, and three individuals.

Benjamin K. Lindsey is a Fire Fighter with the State of Hawaii. He is also a long time farmer. Mr. Lindsey is a current member of the Board who has served diligently bringing unique perspective and relevant input to the Board. His community affiliations include

the Hawaiian Homes Homesteaders Association. Testimony supporting Mr. Lindsey's nomination was received from the Department of Agriculture.

Wes Sahara is a Director of Industrial Relations with Gay & Robinson, Inc., and was previously employed with Olokele Sugar Co. He earned a Bachelor of Arts degree from the University of Hawaii at Manoa. During his professional career, Mr. Sahara has experienced first-hand the issues confronting Hawaii agriculture and has been a part of exploring and implementing new solutions to ensure the viability and promote expansion of Hawaii's agriculture industry. Testimony supporting Mr. Sahara's nomination was received from the Department of Agriculture, Hawaii Agriculture Research Center, BEI Hawaii, Hawaiian Commercial & Sugar Company, ILWU Local 142, Gay & Robinson, Inc., Hawaii Employers Council, Kodani & Associates, Kauai Economic Development Board, Pioneer HI-Bred International, Inc., and one individual.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Board.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Chun, Kawamoto, Hogue).

SCRep. 3512 Transportation, Military Affairs, and Government Operations on Gov. Msg. No. 300

Recommending that the Senate advise and consent to the nominations of the following:

CIVIL DEFENSE ADVISORY COUNCIL

EDITH C. PASCUA, for a term to expire June 30, 2005; and

ANTHONY D. CASTBERG, MANUEL M. KULOLOIO, and ANN M. SAKAGUCHI, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Civil Defense Advisory Council (Council).

Testimony in support of Ms. Sakaguchi's nomination was submitted by the Federal Emergency Management Agency.

Edith C. Pascua, a reappointment to the Council, majored in Accounting at Cannon's Business College. Since 1983, she has worked as a Senior Production Representative for GTE Directories Corporation.

Anthony D. Castberg received his Bachelor of Arts and Master of Arts degrees from the University of Hawaii at Manoa, and his Ph.D. from Northwestern University in 1968. Since 1974 he has worked for the University of Hawaii at Hilo. Mr. Castberg is involved with various activities involving the justice system in Hawaii, including several projects working with juvenile offenders.

Manuel M. Kuloloio received his Associate of Arts from the Maui Community College and attended the University of Hawaii at Manoa. Since 1999 he has worked as Kaho-olawe UXO Project Labor Superintendent for BioGenesis Pacific, Inc. Prior to that he was a consultant for Jason Associates Corporation for Marshall Islands remediation. He is also on the Boards of Directors of several community organizations.

Ann M. Sakaguchi holds several degrees, a Bachelor of Arts, Master's of Public Health, and Ph.D. in Political Science. For the past year she has worked on the faculty of the Matsunaga Institute for Peace. Prior to that, she worked continuously for the University of Hawaii at Manoa since 1984, except for a three-year stint with Hawaii Medical Services Administration.

Your Committee finds that each of the nominees has been appointed based upon their credentials, integrity, professional ability, and a desire to improve civil defense in Hawaii through service on the Council.

As affirmed by the record of votes of the members of your Committee on Transportation, Military Affairs and Government Operations that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Fukunaga, Kanno, Taniguchi, Hemmings).

SCRep. 3513 Labor on Gov. Msg. No. 344

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII WORKFORCE DEVELOPMENT COUNCIL

ALAN S. ITO, for a term to expire June 30, 2005, and

EDWARD M. BOUGHTON, WAYNE H. KISHIDA, and M. WINONA CABRAL WHITMAN, for terms to expire June 30, 2006,

Your Committee finds that the Hawaii Workforce Development Council is a thirty-one member body appointed as an advisory state workforce policy body which plans and has oversight for a state workforce strategic vision. The Council also fulfills the federal mandate for a state workforce investment board which prepares the Workforce Investment Act (WIA) plan, negotiates the federal performance measures and is responsible for the evaluation, oversight on partner collaboration and program results and incentive and recognition awards.

Your Committee notes the following qualifications of the nominees.

Alan S. Ito currently serves as the Senior Vice President of Convergence CT, in charge of developing new products and services for this company that services the Life Sciences industry. Mr. Ito received a master's degree in Business Administration and a bachelor's degree in mathematics from the University of Hawaii.

Edward M. Boughton currently serves as the President of Hawaii Industrial Laboratory, Inc., a consulting organization specializing in the commercialization of high technology research results. Mr. Boughton has over forty years of experience in software and computer applications, electronics, and alternate and conventional energy systems.

Wayne H. Kishida has been involved with the trade of carpentry for his entire professional life. Mr. Kishida holds a carpenters journeyman certificate and has worked not only as a carpenter, but as a Training Coordinator and later the Director of Training for the Hawaii Carpenters Training Trust Fund. Mr. Kishida also possesses industrial relations experience as a Field Representative/Organizer for the Hawaii Carpenters Union.

M. Winona Cabral Whitman currently serves as the Employment and Training Program Administrator for Alu Like, Inc., and is responsible for administering and directing the development, implementation, monitoring, and evaluation of a statewide job training delivery system targeted towards Hawaiians, Native Americans, and Native Alaskans. Ms. Whitman possesses a master's degree in Business Education and a bachelor's degree in Secretarial Science from Morehead State University.

Upon review of the testimony and the statements submitted by the nominees, your Committee finds that Alan S. Ito, Edward M. Boughton, Wayne H. Kishida, and M. Winona Cabral Whitman, have the necessary character, experience, and qualifications to serve on the Hawai'i Workforce Development Council.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chumbley, Ihara, Matsuura, Sakamoto).

SCRep. 3514 Commerce, Consumer Protection and Housing on Gov. Msg. No. 298

Recommending that the Senate advise and consent to the nominations of the following:

STATE BOARD OF PUBLIC ACCOUNTANCY

GORDON D. CIANO and BRIAN M. IWATA, for terms to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Gordon D. Ciano and Brian M. Iwata have the necessary character, experience, and qualifications to serve on the State Board of Public Accountancy.

The Department of Commerce and Consumer Affairs testified in support of the nomination of Brian M. Iwata.

Mr. Gordon D. Ciano is an assurance partner and partner-in-charge of financial services and recruiting in the Honolulu Office of KPMG LLP, and has provided assurance services for over thirty years. Mr. Ciano is a member of the American Institute of Certified Public Accountants, Hawaii Society of Certified Public Accountants, Institute of Internal Auditors, and Financial Managers Society. The nominee's community activities include volunteer work with the Boy Scouts and Junior Achievement.

Mr. Brian M. Iwata is a certified public accountant with Taketa, Iwata, Hara, and Associates. He is member of the American Institute of Certified Public Accountants, Hawaii Society of Certified Public Accountants, and Hawaii Association of Public Accountants. In addition, the nominee is active with the Hawaii Island Chamber of Commerce, Exchange Club of Hilo, and Lehua Jaycees. Mr. Iwata has served on the Board of Public Accountancy since August, 1998.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Tam, Hogue).

SCRep. 3515 Commerce, Consumer Protection and Housing on Gov. Msg. No. 299

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF ACUPUNCTURE

JACQUELINE K. MURAI, for a term to expire June 30, 2004;

Upon review of the written statements submitted by the nominee, your Committee finds that Jacqueline K. Murai has the necessary character, experience, and qualifications to serve on the Board of Acupuncture.

Ms. Jacqueline K. Murai is a driver education assistant for the State Judiciary in Hilo. Ms. Murai has been active in her community as a member of the Lehua Jaycees and as co-leader of the Hilo Shamrocks 4-H club. In addition, Ms. Murai currently serves on the Defender Council.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Tam, Hogue).

SCRep. 3516 Commerce, Consumer Protection and Housing on Gov. Msg. No. 304

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF DENTAL EXAMINERS

KAREN ING HU, D.D.S., for a term to expire June 30, 2004; and

DAVID R. BREESE, D.D.S., DENNIS N. ISHIMOTO, D.D.S., GAYLE CHANG, and STUART C. LAU, for terms to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Karen Ing Hu, David R. Breese, Dennis N. Ishimoto, Gayle Chang, and Stuart C. Lau have the necessary character, experience, and qualifications to serve on the Board of Dental Examiners.

The Department of Commerce and Consumer Affairs testified in support of the nomination of Dr. Ishimoto.

Dr. Karen Ing Hu holds a doctor of dental surgery degree from the University of Pacific School of Dentistry. Dr. Hu has been practicing dentistry since 1978 and is presently the Dental Health Program Manager for the State's Dental Health Division. Dr. Hu has also operated a private dental practice and worked as a dental consultant for a health maintenance organization.

Dr. David R. Breese earned a dentistry degree from Loyola University. He has served as a dentist in the United States Navy and as Dental Director at Kokua Kalihi Valley Comprehensive Family Services since 1979. In the latter capacity, Dr. Breese has worked towards developing programs in other community health centers and in the Kalihi schools.

Dr. Dennis N. Ishimoto graduated from the University of Nebraska College of Dentistry. He served in the United States Army Dental Corps for two years and has been in private dental practice since 1973. Dr. Ishimoto has served on the Board of Dental Examiners for the last four years.

Ms. Gayle Chang holds a diploma in dental hygiene from Northwestern University Dental School and has been licensed as a dental hygienist in Hawaii since 1976. In addition to working as a dental hygienist, Ms. Chang has managed dental offices and conducted audits of dental provider records for a health plan. The nominee has been recognized by the Hawaii Dental Hygienists Association for her service to the organization and the profession.

Mr. Stuart C. Lau has a master's degree in business administration from the University of Southern California and holds an active Hawaii real estate license. His professional activities have been in the areas of property development and commercial building and landscape maintenance. Mr. Lau currently serves as project manager for the Queen Emma Foundation.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Tam, Hogue).

SCRep. 3517 Commerce, Consumer Protection and Housing on Gov. Msg. No. 329

Recommending that the Senate advise and consent to the nominations of the following:

MOTOR VEHICLE REPAIR INDUSTRY BOARD

ROY I. INOUE and ROY T. OZAKI, for terms to expire June 30, 2006;

Upon review of the written statements submitted by the nominees, your Committee finds that Roy I. Inouye and Roy T. Ozaki have the necessary character, experience, and qualifications to serve on the Motor Vehicle Repair Industry Board.

Mr. Roy I. Inouye is an insurance agent with forty years of experience in the life insurance industry. Mr. Inouye has served on the governing boards of the Hawaii Association of Life Underwriters and Kailua American Little League.

Mr. Roy T. Ozaki is owner and manager of Roy's Kalihi Automotive Center and Towing, with thirty years of experience in the automotive industry. In addition, Mr. Ozaki is an ASE certified master auto technician and automotive parts specialist. The nominee has previously served on the Motor Vehicle Repair Industry Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Tam, Hogue).

SCRep. 3518 Economic Development and Technology on Gov. Msg. No. 301

Recommending that the Senate advise and consent to the nominations of the following:

COMMUNITY-BASED ECONOMIC DEVELOPMENT ADVISORY COUNCIL

JOHN ISOBE and LORRAINE M. MENDOZA, for terms to expire June 30, 2006,

Your Committee received testimony in support of both nominees from the Department of Business, Economic Development, and Tourism.

John Isobe has served on the Community-Based Economic Development (CBED) Advisory Council since 1999. During his first term as a voluntary Council Member, Mr. Isobe has diligently worked with fellow members to assist communities plan and develop economic development projects that integrate a community's vision with the realities of economic viability. Mr. Isobe holds a real estate license and is a graduate of the University of Hawaii at Manoa. He has held numerous community service organization positions, including, Director of the Kauai Visitors Bureau, Kauai Chamber of Commerce, Kauai Economic Development Board, and ARC of Kauai, as well as President of the Kauai Northshore Business Council.

Lorraine M. Mendoza has served a distinguished first term with the CBED Advisory Council. Her duties involve assistance to conference principals in preparing and planning conferences, and program coordinator for various award winning University of Hawaii at Hilo programs. Ms. Mendoza holds an associate's degree in liberal arts from Hawaii Community College. Her community service includes serving as president of the Rural South Hilo Community Association, board member of the Hilo/Hamakua Community Development Corporation, and president of the Pepeekeo Filipino Association.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that John Isobe and Lorraine M. Mendoza have the necessary character, experience, and qualifications to serve on the Community-Based Economic Development Advisory Council.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Kim, Matsunaga).

SCRep. 3519 Economic Development and Technology on Gov. Msg. No. 307

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

JAMES S. KOMETANI and GARY I. KONDO, D.D.S., for terms to expire June 30, 2006,

Your Committee received testimony in support of both nominees from the Hawaii Community Development Authority. Bank of Hawaii, Ronald N.S. Ho & Associates, Inc., and one individual provided testimony in support of Gary I. Kondo, D.D.S.

James S. Kometani was first appointed to the Hawaii Community Development Authority in April 2001, and has served as Vice Chair of the Authority since July 2001. He has brought to the Authority a broad understanding of real estate development, particularly with respect to the residential market. Mr. Kometani is president and principal broker of a real estate sales and property management firm specializing in residential project sales. He holds a bachelor of arts degree in finance from California State University, Long Beach, and his community activities include serving as trustee of Mid-Pacific Institute, a member of the Mid-Pacific Institute Alumni Association, a member of the St. Francis Hospital Hospice Committee, and a board member of St. Francis Healthcare Enterprises, Inc.

Gary I. Kondo, D.D.S., is an endodontist who has been practicing for thirty years, and is president and CEO of the Hawaii Family Dental Centers, the largest dental group practice in Hawaii with over fifty professionals and 160 staff members. He was educated at the University of Hawaii and received his D.D.S. and endodontic specialty training at the University of Detroit Dental School in 1972. He has served as past president of the Honolulu County Dental Society as well as past trustee of the Hawaii Dental Association.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that James S. Kometani and Gary I. Kondo, D.D.S., have the necessary character, experience, and qualifications to serve on the Hawai'i Community Development Authority.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Kim, Matsunaga).

SCRep. 3520 Economic Development and Technology on Gov. Msg. No. 326

Recommending that the Senate advise and consent to the nomination of the following:

KANEOHE BAY REGIONAL COUNCIL

CAROL AULANI APOLIONA, for a term to expire June 30, 2005,

Your Committee received testimony in support of the nominee from the Office of Hawaiian Affairs and an individual.

Carol Aulani Apoliona is a graduate of Punahou School and the University of Hawaii at Manoa where she received a bachelor's degree in business administration. Currently she serves as a policy analyst with the Hawaiian Rights Division of the Office of Hawaiian Affairs. Her community service includes serving in various capacities on the Elections Advisory Council, the Office of Elections, and the Office of the Lieutenant Governor.

Upon review of the testimony and written statements submitted by the nominee, your Committee finds that Carol Aulani Apoliona has the necessary character, experience, and qualifications to serve on the Kaneohe Bay Regional Council.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Kim, Matsunaga).

SCRep. 3521 Hawaiian Affairs on Gov. Msg. No. 308

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII HISTORIC PLACES REVIEW BOARD

PATIENCE N. BACON, KIYOSHI IKEDA, Ph.D., NAOMI CLARKE LOSCH, LAURIE J. LUCKING, Ph.D., and VIRGINIA D. MURISON, AIA, for terms to expire June 30, 2006,

Upon review of the statements submitted by the nominees, your Committee finds that Kiyoshi Ikeda, Laurie J. Lucking, Patience N. Bacon, Naomi Clarke Losch, and Virginia D. Murison possess the necessary character, experience, and qualifications to serve on the Hawai'i Historic Places Review Board.

Testimony in support of the nominees was received from the Department of Land and Natural Resources.

Patience N. Bacon, known to many as "Aunty Pat", has been deeply immersed in Hawaiian culture since childhood. She is the hanai daughter of Mary Kawena Puku'i, the highly respected authority on Hawaiian language and culture. Aunty Pat has shared her deep knowledge of things Hawaiian virtually all her life and is still often called upon to conduct hula workshops, judge annual hula and chant competitions, and interpret Hawaiian language texts.

Kiyoshi Ikeda, Ph.D., holds a doctoral degree in Sociology from Northwestern University as well as master's and bachelor's degrees in Sociology from the University of Hawaii. He currently serves as an Emeritus Professor of Sociology in the University of Hawaii's Department of Sociology. Dr. Ikeda has also served as a past chair of the Hawai'i Historic Places Review Board from 1988-1992.

Naomi Clarke Losch holds a master's degree in Pacific Island Studies and a bachelor's degree in Anthropology from the University of Hawaii. She currently serves as an Associate Professor of Hawaiian in the University of Hawaii's Department of Hawaiian and Indo-Pacific Languages and Literatures and has contributed to and edited many books on Hawaiian culture and language.

Laurie J. Lucking, Ph.D., holds doctoral and master's degrees in Anthropology from the University of Minnesota as well as a bachelor's degree in History from Moorhead State University. She currently serves as a Cultural Resources Manager for the United States Army. Dr. Lucking is a member of the Society for Hawaiian Archaeology, the Society for American Archaeology, the American Anthropological Association, and the National Trust. She has also been awarded the Secretary of the Army's Award as Cultural Resources Manager of the Year.

Virginia D. Murison holds bachelor's and master's degrees in Architecture from Washington University and is a member of the American Institute of Architects. She is a charter member of the Historic Hawaii Foundation, a member of the National Trust for Historic Preservation, and a member of numerous historical and societies and libraries throughout the United States.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3522 Hawaiian Affairs on Gov. Msg. No. 312

Recommending that the Senate advise and consent to the nominations of the following:

HAWAIIAN HOMES COMMISSION

CRYSTAL K. ROSE, for a term to expire June 30, 2003; and

QUENTIN K. KAWANANAKOA, for a term to expire June 30, 2006,

Upon review of the statements submitted by the nominees, your Committee finds that the nominees will work with compassion and commitment in serving on the Hawaiian Homes Commission. Your Committee also finds that the nominees have been appointed based upon their credentials, integrity, and a desire to assist the beneficiaries of the Hawaiian Home Lands Trust through their participation on the Hawaiian Homes Commission.

Your Committee received testimony in support of both nominees from the Chairperson of the Hawaiian Homes Commission. Numerous Hawaiian organizations, businesses, and private citizens testified in support of the nominees.

Your Committee notes the following information regarding the nominees.

Crystal K. Rose was born and raised on the Big Island and graduated from the Kamehameha Schools for Girls. After receiving her undergraduate degree from Willamette University in Oregon, she received her law degree from the University of California, Hastings College of Law. In 1986, she was one of the founding members of Bays, Deaver, Lung, Rose & Baba, a seventeen-member law firm that emphasizes commercial litigation, arbitration, and mediation. Over the past nineteen years, her practice has involved litigation in the areas of construction, real estate, and trust law. From 1986 through 1989, she also taught Construction Law at the University of Hawaii School of Architecture. Ms. Rose has been actively involved with the Native Hawaiian Bar Association, serving as its former vice president and president.

Quentin K. Kawanakoa is a former member of the State of Hawaii House of Representatives and an attorney licensed to practice law in the State of Hawaii. Mr. Kawanakoa possesses a bachelor's degree from the University of Southern California and a juris doctor degree from the Richardson School of Law at the University of Hawaii at Manoa. Mr. Kawanakoa is also a member of the Native Hawaiian Bar Association.

To meet the challenges of the Hawaiian Home Lands program that lie ahead, the Hawaiian Homes Commission will need commissioners who can work together, and who have the best interests of the Hawaiian Home Lands Trust and its beneficiaries as their number one priority. Your Committee believes that Crystal K. Rose and Quentin K. Kawanakoa are such individuals.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3523 Hawaiian Affairs on Gov. Msg. No. 321

Recommending that the Senate advise and consent to the nomination of the following:

ISLAND BURIAL COUNCIL, ISLAND OF HAWAII

ROGER A. HARRIS, for a term to expire, June 30, 2006,

Upon review of the testimony and statement submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Island Burial Council for the island of Hawaii.

Testimony in support of the nominee was received from the Department of Land and Natural Resources.

Roger A. Harris currently serves as a self-employed planning consultant. Prior to being self-employed, Mr. Harris served as the Director of Planning for the Hualalai Development Company. Mr. Harris was also a Lieutenant in the United States Army's Transportation Corps. Community associations that Mr. Harris is affiliated with include the Waimea Community Association, Na Pua Kou Ilima O Kawaihae, and Friends of the Park.

Your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to improve his community through service on the Island Burial Council for the island of Hawaii.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3524 Hawaiian Affairs on Gov. Msg. No. 322

Recommending that the Senate advise and consent to the nominations of the following:

ISLAND BURIAL COUNCIL, ISLANDS OF KAUAI AND NIIHAU

GRACE H. KAMAI, TOM H. SHIGEMOTO, and CATHERINE K. HAM YOUNG, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Island Burial Council for the islands of Kauai and Niihau.

Testimony in support of the nominees was received from the Department of Land and Natural Resources.

Grace H. Kamai has past employment experience with the State of Hawaii Department of Labor and Industrial Relations' Unemployment Insurance Division for almost twenty-seven years. She is a member of the State Council of Hawaiian Congregational Churches, the Kauai Council of Congregational Churches, the Aha Hui Kaahumanu Society, and the Waimea United Church of Christ.

Tom H. Shigemoto is currently employed by Alexander and Baldwin Properties, Inc., as Vice President of Planning. Mr. Shigemoto's community affiliations include serving as a Director for organizations such as the Kauai United Way and the Kauai Economic Development Board. Mr. Shigemoto also is a member of the Wilcox Properties Board, the YWCA Capital Campaign, and the Citizens' Advisory Commission.

Catherine K. Ham Young is currently employed at the Hanalei Poi Company. She is a member of the Hale O Na Alii Kapiolani Society, River Heritage, Limu Coalition, and was a delegate to Ha Hawaii.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3525 Hawaiian Affairs on Gov. Msg. No. 324

Recommending that the Senate advise and consent to the nominations of the following:

ISLAND BURIAL COUNCIL, ISLAND OF MOLOKAI

LOUELLA O.W. ALBINO, NANETTE LEHUA NAPOLEON, and PHILIP SOLATORIO, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Island Burial Council for the island of Molokai.

Testimony in support of the nominees was received from the Department of Land and Natural Resources.

Louella O.W. Albino is the Head Teacher at Punana Leo O Molokai, a Hawaiian language immersion school. She is a member of the Church of Jesus Christ of Latter Day Saints and participated in the Polynesian Languages Symposium.

Nanette Lehua Napoleon is currently employed as an Educational Assistant at Stony Point High School. She holds a bachelor's degree in Hawaiian Language and a teachers certificate from the University of Hawaii at Manoa.

Philip Solatorio currently serves as a Hawaiian Culture Supervisor on the island of Molokai. He has spent the majority of his adult life working with the tourism industry, specializing in imparting Hawaiian culture onto others. Mr. Solatorio is also a High Priest in the Church of Jesus Christ of Latter Day Saints and is the Chaplain for the Civil Air Patrol on Molokai.

Your Committee finds that all nominees have been appointed based upon their credentials, integrity, and a desire to improve their community through their service on the Island Burial Council for the island of Molokai.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3526 Hawaiian Affairs on Gov. Msg. No. 325

Recommending that the Senate advise and consent to the nominations of the following:

ISLAND BURIAL COUNCIL, ISLAND OF OAHU

JACE L. McQUIVEY, for a term to expire June 30, 2005; and

A. VAN HORN DIAMOND, THEODORA KEHAULANI KRUSE, GWENDOLYN Y. PIKAKE PELEKAI, LURLINE NAONE SALVADOR, and LYNETTE PUALANI TIFFANY, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Island Burial Council for the Island of Oahu.

Testimony in support of the nominees was received from the Department of Land and Natural Resources. One private citizen testified in support of Theodora Kehaulani Kruse, A. Van Horn Diamond, Lurline Naone Salvador, Lynette Pualani Tiffany, and Gwendolyn Y. Pikake Pelekai, another private citizen testified in support of Theodora Kehaulani Kruse, A. Van Horn Diamond, and Lurline Naone Salvador, and the IBEW Local Union 1357 (AFL-CIO) and two private citizens testified in support of A. Van Horn Diamond.

Your Committee notes the following qualifications of the nominees.

Jace L. McQuivey currently serves as the General Counsel to Hawaii Reserves, Inc. Mr. McQuivey possesses a juris doctor degree and a bachelor's degree in Political Science from Brigham Young University and is licensed to practice law in the State of Hawaii.

A. Van Horn Diamond is currently involved as a teacher of Hawaiian music. His past employment experience includes serving as a union representative and spokesperson for IBEW Local 1357. Mr. Diamond's community affiliations include working as a Historian for the Hale O Na Alii and as a Director for the Royal Hawaiian Girls Glee Club.

Theodora Kehaulani Kruse currently serves as a Human Resources Specialist and Hawaiian Cultural Adviser for Outrigger Hotels and Resorts. Ms. Kruse also has experience with the burial councils as a past Burial Council Coordinator with the Department of Land and Natural Resources' Historic Preservation Office.

Gwendolyn Y. Pikake Pelekai currently serves as a Program Administrator and Cultural Officer for the Office of Hawaiian Affairs. She is a member and past chair of the Keepers of the Treasures, vice president and past secretary of the Waianae Valley Homestead Community Association, and a member of the Hawaii Museums Association. Ms. Pelekai possesses a master's degree in education from the University of Hawaii at Manoa and a bachelor's degree in Anthropology from the University of Hawaii at Hilo.

Lurline Naone Salvador currently serves as a Cultural Resources Manager for Kamehameha Schools. Ms. Salvador is a licensed real estate agent and has served as the former vice chair of the Oahu Island Burial Council for two terms and is a member of the Hawaiian Civic Club of Honolulu.

Lynette Pualani Tiffany is being nominated as a regional representative of the Ewa District. Her family has strong roots at Lanikuhonua, and she is well respected for her knowledge of the Hawaiian culture and traditions. She is currently serving on the Island Burial Council as a landowners representative, and has served in a conscientious and diligent manner.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3527 Hawaiian Affairs on Gov. Msg. No. 346

Recommending that the Senate advise and consent to the nominations of the following:

ISLAND BURIAL COUNCIL, ISLANDS OF MAUI AND LANAI

WILLIAM FRAMPTON, for a term to expire June 30, 2004;

CLIFFORD J. NAEOLE and WILLIAM WAIOHU, JR., for terms to expire June 30, 2005; and

CHARLES K. MAXWELL, SR., for a term to expire June 30, 2006,

Your Committee notes that Governor's Message No. 346 corrected a typographical error in the spelling of nominee Maxwell's name.

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Island Burial Council (Council) for the Islands of Maui and Lanai.

Testimony in support of the nominees was received from the Department of Land and Natural Resources. A private citizen testified in support of Charles K. Maxwell, Sr.

William Frampton is currently employed by Pacific Rim Land, Inc., as a Project Coordinator. His duties include coordinating land acquisition activities such as contract negotiations, due diligence compliance, conducting feasibility studies, and consultant coordination with engineers, attorneys, and archaeologists. Mr. Frampton is also certified in OSHA Hazardous Waste Operations.

Clifford J. Naeole is currently employed as a Cultural Advisor at the Ritz Carlton Kapalua Resort. Mr. Naeole has served as past chairman of fundraising campaigns for Punana Leo O Maui and Kula Kaiapuni O Maui Hawaiian immersion programs.

William Waiohu, Jr., is a former employee of the Pioneer Mill Company, Ltd., and is a member of Na Kupuna O Maui and Ka Lahui.

Charles K. Maxwell, Sr., is a Hawaiian Cultural Specialist with many years of service to the people of Maui. Mr. Maxwell has served as the State Director and Maui Representative for Hui Malama I Na Kupuna O Hawaii Nei, as Executive Director of Hui Ai Pohaku, as Manager of the Pukalani Hula Hale, and as Vice Chair of the Hawaii Advisory Committee to the U.S. Civil Rights Commission. A former police officer, radio show host, and National Guardsman, Mr. Maxwell has garnered many awards for his community service.

Your Committee finds that all nominees have been appointed based upon their credentials, integrity, and a desire to improve their community through their service on the Island Burial Council for the Islands of Maui and Lanai.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 3. Noes, none. Excused, 2 (Hanabusa, Hemmings).

SCRep. 3528 Tourism and Intergovernmental Affairs on Gov. Msg. No. 293

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII TOURISM AUTHORITY

SHARON R. WEINER, for a term to expire June 30, 2006, and

STEPHEN K. YAMASHIRO, for terms to expire June 30, 2002, and June 30, 2006,

Your Committee notes that Governor's Message No. 293 included the nominations of Nadine K. Nakamura and Lawrence M. Johnson. These nominations are considered in separate committee reports.

Upon review of the testimony and information submitted by the nominees, your Committee finds that Sharon R. Weiner and Stephen K. Yamashiro have the necessary character, experience, and qualifications to serve on the Hawaii Tourism Authority.

Testimony in support of both nominees was received from the Hawaii Tourism Authority, Hawaii Hotel Association, and Pacific Management Consultants, Inc. Additional testimony in support of Ms. Weiner was received from the Honolulu Japanese Chamber of Commerce, Honolulu Zoo Society, Peter Rosegg Public Relations, and one individual.

Testimony in support of Mr. Yamashiro was received from Hawaii Island Economic Development Board, Hawaii Island Chamber of Commerce, Japanese Chamber of Commerce & Industry of Hawaii, Aloha Festivals Island of Hawaii, Destination Hilo, Hawaii

Leeward Planning Conference, Mauna Kea Resort, Cook's Discoveries, Riehm Owensby Planners Architects, Kea'au Banana, and thirteen individuals. Aloha Y'all, Hawaii Island Planning Advocates, Kia'i Kai Bed & Breakfast, and twenty-three individuals submitted testimony in opposition.

Sharon R. Weiner is a public relations professional with over twenty-five years experience in Hawaii, including twenty years as owner and President/CEO of Weiner Associates/Stryker Weiner Associates, and most recently as Group Vice President of DFS Hawaii. She has extensive experience in Hawaii's tourism industry, as first Executive Director of the Visitor Industry Education Council, Director of the Japan-America Society of Hawaii, and a member of the Hawaii Visitors and Convention Bureau and Waikiki Improvement Association. In her public relations practice, Ms. Weiner has represented Starwood Hotels and Resorts, United Airlines, the Oahu, Maui, and Kauai Visitors Bureaus, and has worked with both Hawaiian Airlines and Aloha Airlines on various projects. She has served on the Aloha Stadium Authority and is currently a member of the University of Hawaii Board of Regents. Ms. Weiner has received numerous awards for her work and community involvement, including Woman Communicator of the Year, YWCA Woman Leader of the Year, and University of Hawaii College of Business Outstanding Alumna, among others.

Stephen K. Yamashiro was first elected to the Hawaii County Council in 1976, and served as Council Chairman from 1977 to 1988. He was elected Mayor of Hawaii County in 1992 and reelected in 1996, retiring from the position in 2000. Mr. Yamashiro is a graduate of the University of Hawaii and Willamette University College of Law. In addition to his political career, he served as Deputy Attorney General for the State of Hawaii and Deputy Corporation Counsel for the County of Hawaii. Early in his career, Mr. Yamashiro also worked in various management positions at Kaimana Beach Hotel. He is active in the Japanese Chamber of Commerce and Industry and the Hawaii Island Portuguese Chamber of Commerce.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Record of Votes for Sharon R. Weiner:
Ayes, 7. Noes, none. Excused, 1 (Matsuura).
Record of Votes for Steven K. Yamashiro:
Ayes, 7. Noes, none. Excused, 1 (Matsuura).

SCRep. 3529 Education on Gov. Msg. No. 309

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII SCHOOL-TO-WORK EXECUTIVE COUNCIL

W. ROY JOHNSON and KATHLEEN KA'ULANI M. DE SILVA, for terms to expire June 30, 2005; and

WILLIAM T. HONJIYO, for a term to expire June 30, 2004;

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Hawaii School-to-Work Executive Council (Council).

Your Committee received testimony in support of the nominees from the Director of the Department of Business, Economic Development, and Tourism.

W. Roy Johnson is a Glazier and Apprenticeship & Training Industry Training Coordinator with Architectural Metal and Glassworkers, a post he has held since 1983. Since his honorable discharge from the United States Air Force in 1969, Mr. Johnson has honed his skills as a Glazier. He currently belongs to numerous professional organizations.

Kathleen Kai'ulani M. de Silva is Director of Education and Consumer Affairs for Hawaiian Electric Company. Prior to that she worked as Director, Information Services, for the Office of the Governor of the State of Hawaii. Ms. de Silva earned her Bachelor of Arts degree from Linfield College and a Master of Public Health degree from the University of Hawaii at Manoa. She is involved with numerous professional and community organizations.

William T. Honjiyo is Vice President/General Manager of Grove Farm Land Corporation. He is a military veteran as well, serving as an Officer with the United States Army from 1959 to 1979. Mr. Honjiyo attended Cornell University and the University of Hawaii, and he is involved with several community and professional organizations.

Your Committee finds that each of the nominees has been appointed based upon their credentials, integrity, professional ability, and a desire to improve life in Hawaii through service on the Council.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, Chun Oakland, Menor, Tam).

SCRep. 3530 Education on Gov. Msg. No. 310

Recommending that the Senate advise and consent to the nominations of the following:

HAWAII TEACHER STANDARDS BOARD

ANNETTE MASUTANI, VAUGHN K. TOKASHIKI, and ROBERT WITT, for terms to expire June 30, 2003;

SHARON T. NAKAGAWA, CATHERINE H. PAYNE, CHERYL M. SHINTANI, and TWYLLA-DAWN STEER, for terms to expire June 30, 2004; and

CHARLENE H. MIYASHIRO and FAIRFAX A. REILLY, for terms to expire June 30, 2005,

Upon review of the statements submitted by the nominees, your Committee finds that the aforementioned nominees will work with compassion and commitment to assist in administering the board functions related to education.

Your Committee received testimony in support of the nominees from the Hawaii Teachers Standards Board. Your Committee received testimony in support of Annete Masutani, Vaughn K. Tokashiki, Cheryl Shintani, Twylla-Dawn Steer, Charlene Miyashiro, and Fairfax A. Reilly from the Hawaii State Teachers Association. Your Committee received testimony in support of Robert Witt from the Hawaii Association of Independent Schools. Your Committee received testimony in support of Sharon T. Nakagama and Catherine H. Payne from the Hawaii Government Employees Association.

Charlene H. Miyashiro received her Bachelor of Arts and Master of Arts degrees from the University of Hawaii (UH) at Manoa. She also holds a Professional Diploma in Elementary Education. Since 1995, Ms. Miyashiro has served as a 5th grade teacher at Waiakeawaena Elementary School. She has taught in various capacities since 1974, and in 1990 she won the Hawaii District Teacher of the Year Award.

Annette Masutani received her Bachelor of Education degree and Professional Diploma from UH. From 1998-2001 she worked as Curriculum Coordinator for Wai`alaie School. Ms. Masutani has taught in Hawaii since 1971.

Sharon T. Nakagawa received her Bachelor of Science and Master of Science degrees from Indiana University. She holds two Professional Certificates and served as a teacher or principal in the Hawaii public school system from 1970.

Catherine H. Payne received her Bachelor of Education and Master of Education degrees from UH. Since 1984 she has worked as a School Administrator with the Department of Education (DOE); prior to that she was a teacher with DOE. In 1991 Ms. Payne won the State Secondary Principal of the Year Award.

Fairfax A. Reilly received his Bachelor of Arts degree from American University and his Master of Education degree from the University of Washington. He is licensed as a K-12 School Counselor in Hawaii and has worked as a School Counselor at Lanai High and Elementary School since 1978. He is very active with community and professional organizations.

Cheryl M. Shintani received her Bachelor of Arts and Master of Arts degrees from UH, specializing in Elementary Education. Since 1995 she has worked as a West Complex (Kauai) Behavior Management Resource Teacher. She is also involved with several community groups.

Twylla-Dawn Steer graduated from Oklahoma State University with a B.S. in Zoology with a minor emphasis in Chemistry. Since 1983 she has worked within the DOE at Aiea High School. She is involved with numerous community and professional organizations.

Vaughn K. Tokashiki received his Bachelor of Arts degree and Fifth-Year Diploma from UH in 1971. Since 1987 he has worked as a 5th grade teacher at Benjamin Parker School in Kaneohe. He is involved with numerous community and professional organizations.

Robert Witt has served as Executive Director of the Hawaii Association of Independent Schools since 1989, and president of the Hawaiian Educational Council since 1992. He also provides leadership for two affiliated educational organizations, the Hawaii Council of Private Schools and the Pacific Basin Consortium.

Your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to make Hawaii better through their participation on the Hawaii Teachers Standards Board.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, Chun Oakland, Menor, Tam).

SCRep. 3531 Education on Gov. Msg. No. 332

Recommending that the Senate advise and consent to the nomination of the following:

STATE POST-SECONDARY EDUCATION COMMISSION

KRISTOPHER T. KAUPALOLO, for a term to expire on June 30, 2005;

Your Committee received testimony in support of the nominee from the student member of the University of Hawaii Board of Regents, University of Hawaii Director of Student Equity, Excellence and Diversity, University of Hawaii Vice President for Student Affairs, University of Hawaii Assistant Director of Leadership Development Programs, three members of the Associated Students of the University of Hawaii at Manoa, Campus Relations Chair of the University of Hawaii at Manoa Campus Center Board, and a private individual.

Kristopher T. Kaupalolo is a student at the University of Hawaii at Manoa, where he is a candidate for a Bachelor of Arts degree in Biology and Political Science. He has been very active in a variety of capacities on campus, including as Vice President and Solicitor General of the Associated Students of the University of Hawaii Senate, teaching assistant in political science, a member of various university committees and task forces, and trainer and facilitator of various workshops. He is also employed as new student orientator. He is a member of the Dean's List, recipient of various academic awards, and was the 2001 delegate to the United States Student Association Conference. He also serves an intern with the House Committee on Consumer Protection and Commerce during this 2002 legislative session.

Upon review of the statements submitted by the nominee, your Committee finds that the aforementioned nominee will work with compassion and commitment to assist in administering the commission functions related to higher education. Your Committee further finds that the nominee has been appointed based upon his credentials, integrity, and a desire to make Hawaii better through his participation on the State Post-Secondary Education Commission.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 4 (Chumbley, Chun Oakland, Menor, Tam).

SCRep. 3532 Education on Gov. Msg. No. 345

Recommending that the Senate advise and consent to the nominations of the following:

STATE FOUNDATION ON CULTURE AND THE ARTS COMMISSION

MILLICENT M.Y.H. KIM, for a term to expire June 30, 2006;

MANU BOYD, for a term to expire June 30, 2005; and

GEORGE R. ELLIS, for a term to expire June 30, 2004;

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the State Foundation on Culture and the Arts Commission (Commission).

Your Committee received testimony in support of the nominees from the Hawaii Consortium for the Arts and Hawaii Alliance for Arts Education. Your Committee received testimony in support of Manu Boyd from the Association of Hawaii Civic Clubs, Waialua District representative of the Oahu Island Burial Council, and a professor at the University of Hawaii at Manoa Center for Hawaiian Studies. Your Committee received testimony in support of George R. Ellis from the Honolulu Japanese Chamber of Commerce and John Hara Associates, Inc.

Since 1992, Millicent M.Y.H. Kim has worked as a Consultant on Public Issues Management/Community Relations for Watanabe, Ing & Kawashima. Prior to that, Ms. Kim served as Director of Research and Development for the County of Hawaii, and, for many years, Ms. Kim was Director of Research for the State House of Representatives. She earned her Bachelor of Arts and Master of Arts degrees from the University of Hawaii at Manoa (UH), and she is active in many community and professional organizations. She previously served as Chair for the Commission.

Manu Boyd has been a leader and arranger with Ho`okena (Ho`omau Inc.) since 1986. He earned his Bachelor of Arts in Hawaiian Studies from UH. He currently serves as Editor of Ka Wai Ola o OHA, the monthly newspaper of the Office of Hawaiian Affairs. Mr. Boyd is active in many community organizations.

George R. Ellis is currently Director and President of the Honolulu Academy of Arts, and has served in that capacity since 1982. Prior to that Mr. Ellis was an Associate Director of the UCLA Museum of Cultural History. He earned his Bachelor of Arts degree in Art History and a Master of Fine Arts degree from the University of Chicago. In 1971 Mr. Ellis earned a Ph.D. from UCLA in Art History. He is involved in many community and professional organizations.

Your Committee finds that each of the nominees has been appointed based upon their credentials, integrity, professional ability, and a desire to improve life in Hawaii through service on the Commission.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 4 (Chumbley, Chun Oakland, Menor, Tam).

SCRep. 3533 Commerce, Consumer Protection and Housing on Gov. Msg. No. 330

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF EXAMINERS IN NATUROPATHY

SHEREE A. KON-HERRERA and JASON Y. UCHIDA, N.D., for terms to expire June 30, 2006;

Upon review of the testimony and written statements of the nominees, your Committee finds that Sheree A. Kon-Herrera and Jason Y. Uchida have the necessary character, experience, and qualifications to serve on the Board of Examiners in Naturopathy.

The Department of Commerce and Consumer Affairs testified in support of Dr. Uchida. Fukunaga Matayoshi Hershey and Ching testified in support of Ms. Kon-Herrera.

Ms. Sheree A. Kon-Herrera is an attorney at law and is currently employed as an associate attorney with a private law firm. Her legal practice has included work on issues related to health care and the medical profession.

Dr. Jason Y. Uchida holds a doctor of naturopathic medicine degree from the National College of Naturopathic Medicine and has operated a private naturopathy practice since 1989. In addition, Dr. Uchida has volunteered his lecture services to various community groups and organizations. The nominee has served on the Board of Examiners in Naturopathy since June, 1998, and is currently its vice chairperson.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Tam, Hogue).

SCRep. 3534 Ways and Means on H.B. No. 2365

The purpose of this measure is to provide an income tax credit to taxpayers as required by article VII, section 6, of the State Constitution.

Your Committee received testimony in support of this measure from a private citizen. The Department of Taxation and the Tax Foundation of Hawaii provided comments.

Your Committee finds that Article VII, section 6, of the State Constitution requires the Legislature to enact a tax credit if the general fund balance exceeds general fund revenues by 5% two years in a row.

This measure meets that Constitutional requirement, by allowing each taxpayer a \$1 credit multiplied by the number of qualified exemptions a taxpayer is entitled to claim. The credit will be deductible for the 2002 taxable 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 H.B. No. 2365, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3535 Ways and Means on H.B. No. 2556

The purpose of this measure is to clarify that section 171-13, Hawaii Revised Statutes, will be reinstated in its original form upon the repeal of Act 15, Third Special Session of 2001.

Act 15 authorized additional powers for the Governor to issue a proclamation declaring an economic emergency for the period from September 11, 2001, to April 30, 2002, under specified circumstances. The purpose of that Act was to confer temporarily upon the Governor certain powers to provide immediate relief to facilitate continuity of business activities and services, minimize layoffs, and prevent the endangerment of public health, safety, and welfare, during a period of economic emergency.

Your Committee finds that one section of Act 15 amended section 171-13, Hawaii Revised Statutes, relating to eligibility for leases, permits, easements, or other disposition of public lands. However, that Act did not contain a reenactment provision, which may cause the entire section to be repealed on April 30, 2002. Accordingly, this bill is intended to correct this oversight and restore section 171-13 to the form in which it read prior to the effective date of Act 15 upon the repeal of that Act.

As affirmed by the record of votes of the members 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. 2556, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Buen, English, Hanabusa, Ige, Sakamoto, Tam).

SCRep. 3536 Ways and Means on H.B. No. 2248

The purpose of this measure is to issue special purpose revenue bonds to assist Poaka, Inc. in planning and constructing a food processing plant for coffee and other agricultural products.

Your Committee finds that the coffee industry in Hawaii recognizes the opportunities for expansion in the area of freeze-dried foods. Prospective buyers of freeze-dried coffee include the United States military, overseas markets, and niche markets such as eco-tourism that rely on portable and durable food products.

This bill assists the coffee industry by providing special purpose revenue bonds to Poaka, Inc. to plan and construct a food processing plant for coffee. The bill also assists other sectors of the agricultural industry that may patronize Poaka, Inc. to freeze-dry taro, papaya, mango, and other tropical fruits.

As affirmed by the record of votes of the members 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. 2248, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (Chun, English, Kim, Kokubun, Sakamoto, Hemmings).

SCRep. 3537 Ways and Means on H.B. No. 2385

The purpose of this measure is to authorize the issuance of special purpose revenue bonds in the amount of \$3,000,000 to assist Wines of Kauai, LLC.

Your Committee finds that diversified agriculture is a boon to Hawaii's economy, and equipping a winery on Kauai is a wise step in that direction. Your Committee finds that this project to plan, design, construct, and equip a winery qualifies for issuance of special purpose revenue bonds, as assisting a processing enterprise under part IV of chapter 39A, Hawaii Revised Statutes. In particular, Kauai is well suited to an enterprise like this, as it will help boost its agricultural economy after the closure of Kekaha Sugar Company. With new jobs and a new industry, Kauai can recover from the hits it has taken since the hurricanes of the 1980s and 1990s.

As affirmed by the record of votes of the members 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. 2385, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Chun, English, Kim, Kokubun, Hemmings).

SCRep. 3538 Ways and Means on H.B. No. 2708

The purpose of this measure is to allow the Department of Agriculture to quarantine and, when necessary, destroy any animal -- including wildlife -- known to be susceptible to any contagious, infectious, or communicable disease, in order to prevent the spread of the disease.

In addition, this measure authorizes the Department of Agriculture to require the disinfection of premises and materials contaminated by or exposed to disease, including the proper disposition of hides and carcasses, in order to prevent the spread of disease.

Your Committee finds that this measure will allow the Department of Agriculture to prevent and, when necessary, control the spread of animal diseases of economic concern such as hoof and mouth disease, classical swine fever, avian influenza, and Newcastle's disease. In addition, this measure will allow the Department of Agriculture to prevent and, when necessary, control the spread of zoonoses or diseases of animals that can be transmitted to humans (*e.g.*, rabies).

As affirmed by the record of votes of the members 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. 2708, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Chun, English, Kim, Kokubun, Hemmings).

SCRep. 3539 Ways and Means on H.B. No. 2231

The purpose of this measure is to clarify the Auditor's unfettered access to any student records that may be necessary in connection with any audit conducted by the Auditor in the education area.

The measure clarifies that the Auditor is an authorized representative of the Department of Education and Department of Health in connection with any audit or evaluation of any federal or state supported educational program or in connection with the enforcement of

related legal requirements. The measure also ensures the confidential nature of the Auditor's records in connection with any such audit in the education area.

Your Committee finds that the Auditor's restricted access to records in the education area has obstructed the constitutional duties of the Auditor in examining educational services and that this measure is necessary to better enable the Auditor to carry out its constitutional and statutory mandates to audit all departments, offices, and agencies of 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. 2231, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (English, Kim, Hemmings).

SCRep. 3540 Ways and Means on H.B. No. 2518

The purpose of this measure is to improve emergency medical services in Hawaii by authorizing the Department of Health to aid implementation of a statewide poison information program.

Your Committee finds that a poison information program is critical to an adequate emergency medical service system. In responding to more than twelve thousand calls, the Hawaii Poison Center has been instrumental not only in saving lives, but also has contributed to lowering health care costs. A loss of state funding required the Poison Center to reduce the number of hours that emergency services were available.

Your Committee further finds that the statutory authority granted to the Department of Health by this measure will allow the Department to assist the Poison Center in securing sufficient funding to provide uninterrupted and comprehensive poison information and control services to 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. 2518, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3541 Ways and Means on H.B. No. 2523

The purpose of this measure is to improve emergency medical services in Hawaii by allowing the Department of Health to establish a trauma registry.

Specifically, the bill:

- (1) Authorizes the Department of Health to establish and manage a trauma registry to collect information on treatment of critical trauma patients at state designated trauma centers; and
- (2) Requires state designated trauma centers to submit periodic reports to the Department on trauma patients treated.

Your Committee believes that a trauma registry would provide valuable information needed to ensure quality treatment and injury surveillance, both for research purposes and for development of injury prevention and control policies. The information collected will aid the Department of Health in determining whether trauma services are provided adequately and efficiently to critical patients who require emergency medical 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. 2523, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3542 Ways and Means on H.B. No. 682

The purpose of this measure is to transfer the responsibility to hear appeals from the decisions of the Hawaii Occupational Safety and Health division from the Labor and Industrial Relations Appeals Board to the Hawaii Labor Relations Board.

Currently, the Labor and Industrial Relations Appeals Board has jurisdiction over both occupational safety and health (OSHA) cases as well as workers' compensation appeals, with a backlog of several hundred workers' compensation cases. A recent pilot program allowed the Hawaii Labor Relations Board to serve as hearings officers for a number of OSHA cases. Because the Hawaii Labor Relations Board has no backlog of its prohibited practices cases, fifty-four OSHA cases were transferred from the Labor and Industrial Relations Appeals Board to the Hawaii Labor Relations Board and scheduled for timely consideration. Five decisions have been issued, and more than forty cases have been settled.

Your Committee finds that transferring OSHA appeals from the Labor and Industrial Relations Appeals Board to the Hawaii Labor Relations Board will result in prompt disposition of OSHA cases, allowing the Labor and Industrial Relations Appeals Board to concentrate on timely adjudication of workers' compensation 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 H.B. No. 682, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3543 Ways and Means on H.B. No. 1772

The purpose of this measure is to allow non-residents to apply for police officer positions, provided that they establish residency upon employment.

Your Committee is aware that the State suffers from a serious shortage in public safety positions, which has implications for the safety of the general public.

Your Committee finds that the residency requirement is a deterrent that limits the number of potential police officer applicants. Specifically, exempting such applicants from the statutorily mandated residency requirement will broaden the pool of applicants by allowing out-of-state applicants to apply. Your Committee believes that removing the residency requirement for police officer applicants is prudent and in the public's best interest.

As affirmed by the record of votes of the members 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. 1772, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3544 Ways and Means on H.B. No. 2329

The purpose of this measure is to define the term "managed competition".

In particular, "managed competition" is defined as the process by which the State or a county competes with a private contractor to provide government services. In addition, this measure corrects an incorrect reference to the Office of Collective Bargaining and Managed Competition.

Your Committee finds that Act 90, Session Laws of Hawaii 2001, authorized the Governor and executives of other jurisdictions to use a managed competition process as a management tool to provide government services more efficiently, but failed to define the term "managed competition". Your Committee finds that this measure defines this term and enables the State and the counties to implement Act 90.

As affirmed by the record of votes of the members 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. 2329, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3545 (Majority) Ways and Means on H.B. No. 2460

The purpose of this measure is to reduce the annual contributions of public employers to the Employees' Retirement System by amortizing the liquidation of the unfunded accrued liability over a longer period of time.

Specifically, the bill provides for liquidating the liability over a twenty-nine-year period beginning July 1, 2000 and ending June 2030, instead of over the fifteen-year period ending June 30, 2016, as provided under existing law.

Your Committee finds that if the State and counties are given a longer time to amortize the Employees' Retirement System's unfunded accrued liability, the annual payments will be reduced and the employers will be able to better handle budgetary shortfalls that have resulted from the September 11th tragedy. This longer time period will also allow the fiscal picture to settle into a less volatile framework so that public services can continue at an even pace.

As affirmed by the record of votes of the members 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. 2460, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, 1 (Slom). Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3546 Ways and Means on H.B. No. 2481

The purpose of this measure is to exempt employees in the Department of Education engaged in the distribution, collection, and counting of meal tickets, on less than a half-time basis, from the civil service law.

In addition, this measure exempts employees in the Department of Education engaged in the supervision of students during breakfast periods, in addition to lunch and mid-morning lunch periods, on less than a half-time basis, from the civil service law.

Your Committee finds that this measure will allow the Department of Education flexibility in the hiring of persons to fill frequent vacancies since turnover in these positions is very high and employment is temporary.

As affirmed by the record of votes of the members 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. 2481, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3547 Ways and Means on H.B. No. 2531

The purpose of this measure is to clarify the time and dollar limitations on the reimbursement of payments made to persons entitled to continue health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act ("COBRA") and who lost their employment related group health insurance following the September 11 incident.

Specifically, this measure amends Act 6, Third Special Session Laws of Hawaii 2001, by limiting the reimbursement of COBRA payments for fiscal year 2001-2002 to the period from September 11, 2001 to June 30, 2002, or until the appropriation of \$2,000,000 in general funds has been expended, whichever occurs sooner.

As affirmed by the record of votes of the members 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. 2531, H.D. 2, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 3 (Kim, Sakamoto, Hemmings).

SCRep. 3548 Ways and Means on H.B. No. 2478

The purpose of this measure is to exclude positions and exempt employees in the Hawaii National Guard Youth Challenge Academy from the civil service law and the law relating to collective bargaining in public employment, respectively.

Your Committee finds that the Hawaii National Guard's Youth Challenge Academy provides sixteen to seventeen-year-old "at risk" youths a second chance to obtain their high school diploma and become productive citizens. Your Committee also finds that the State's civil service and collective bargaining laws create pay-related conflicts with the Master Youth Cooperative Agreement between the State and federal government. The Master Youth Cooperative Agreement governs the conduct of the Youth Challenge Academy, identifies the number of positions the program can staff and the pay ceiling for each position.

Your Committee finds that Congress enacted legislation in the 1993 Defense Authorization Bill authorizing and appropriating funds for the conduct of the Challenge youth program. The National Guard Bureau, under the auspices of the Assistant Secretary of Defense, Reserve Affairs, manages the program. The legislation allows the National Guard Bureau to enter into agreements with state governors to conduct the program. The governor delegates the authority to execute and conduct the program to the Adjutant General. Consequently, adherence to the Master Youth Cooperative Agreement is not a state option but a requirement specified by federal 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. 2478, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3549 Ways and Means on H.B. No. 2128

The purpose of this measure is to modify prior legislation authorizing the issuance of special purpose revenue bonds to Hui `Enekinia.

Specifically, this bill:

- (1) Extends the lapse date of the authorization to issue special purpose revenue bonds for Hui `Enekinia Hawai`i from June 30, 2003, to June 30, 2007;
- (2) Authorizes the refunding of the special purpose revenue bonds; and
- (3) Removes related water production facilities from the scope of the project.

Your Committee finds that the Hui `Enekinia Hawai`i will generate energy by combustion of residential and commercial refuse. By selling the electric energy produced at its cogeneration facilities to the Hawaii Electric Light Company, Inc., Hui `Enekinia will help to meet the energy needs of the Island of 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 H.B. No. 2128, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3550 Ways and Means on H.B. No. 2538

The purpose of this measure is to exempt the sport fish special fund from assessments made for special fund central service expenses and departmental administrative expenses.

The bill also:

- (1) Clarifies that funds from the Department of Land and Natural Resources' sport fish special fund and commercial fisheries special fund may be used for the enforcement of the State's aquatic resources law;
- (2) Gives the Department of Land and Natural Resources discretion to issue freshwater fishing licenses;
- (3) Clarifies the type of license and permit fees that are deposited into the commercial fisheries special fund; and
- (4) Repeals conflicting provisions on the disposition of revenues relating to commercial marine activities.

Your Committee finds that the bill will not only clarify the law with respect to enforcement issues and the use of the sport fish and commercial fisheries special funds, but will ensure compliance with applicable federal regulations so that state eligibility for federal funds is not jeopardized.

As affirmed by the record of votes of the members 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. 2538, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3551 Ways and Means on H.B. No. 2554

The purpose of this measure is to authorize the Board of Land and Natural Resources to lease, by direct negotiation and without recourse to public auction, state submerged lands or lands beneath tidal waters for private noncommercial piers.

Your Committee finds that Act 261, Session Laws of Hawaii 2000, authorized the Board of Land and Natural Resources to lease, by direct negotiation and without public auction, state submerged lands for private, residential, noncommercial piers to the owners of unauthorized piers in Kaneohe Bay, in particular. In May of 1998, the Board approved a plan to provide owners of illegal piers with the required permits to achieve compliance with state land use laws.

Your Committee finds, however, that upon notifying the pier owners of these actions, the Department discovered there were a few piers, belonging to the Kokokahi YWCA, Habilitat, Inc., and the Kaneohe Yacht Club, that did not clearly fall under the category of "residential", but did meet the "noncommercial" criterion of Act 261. This measure addresses the problem by deleting the "residential" requirement.

As affirmed by the record of votes of the members 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. 2554, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3552 Ways and Means on H.B. No. 2710

The purpose of this measure is to remove barriers to the development of aquaculture and mariculture industries in Hawaii.

Specifically, the bill repeals the sunset provision of Act 176, Session Laws of Hawaii 1999, which established procedures for leasing of state marine waters.

Your Committee finds that this bill will encourage continuation of Hawaii's success in developing open ocean aquaculture by removing uncertainties in the state ocean leasing law. Making permanent the ocean and submerged lands leasing law will make ocean leasing more attractive to potential investors.

As affirmed by the record of votes of the members 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. 2710, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.

Ayes, 10. Noes, none. Excused, 5 (Buen, English, Ige, Tam, Hemmings).

SCRep. 3553 Ways and Means on H.B. No. 2429

The purposes of this measure are to:

- (1) Authorize the Department of Taxation and the Attorney General to inspect any entity and vehicles to enforce the tobacco taxes, and to seize certain property for violation; and
- (2) Repeal the sunset date of the tobacco stamp tax Act.

Your Committee finds that efforts to enforce the cigarette tax stamp laws will be greatly supported by making the law permanent and allowing the various enforcement agencies wider authority to inspect the operations and premises of entities involved in cigarette sales.

As affirmed by the record of votes of the members 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. 2429, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 13. Noes, none. Excused, 2 (Kim, Hemmings).

SCRep. 3554 (Joint) Water, Land, Energy, and Environment and Economic Development and Technology on H.C.R. No. 17

The purpose of this measure is to authorize the Board of Land and Natural Resources to lease a non-exclusive easement covering a portion of submerged lands at Maunalua, Oahu, Hawaii, for maintenance of the Hawaii Kai Marina entrance channel purposes pursuant to section 171-53, Hawaii Revised Statutes.

Your Committees have reconsidered their previous decision to amend the measure by adding the term “non-exclusive” throughout the measure, including its title, to clarify that the approval was for a non-exclusive easement.

Your Committees note that the minutes for the July 13, 2001, meeting of the Board of Land and Natural Resources, Item D-26, refer to the unanimous approval of “the issuance of a perpetual, non-exclusive easement to Hawaii Kai Marina Community Association for maintenance purposes, subject to terms and conditions.” Since the Board is bound by the “non-exclusive” terminology, including it in this measure, as proposed in the S.D. 1 version, is unnecessary.

Accordingly, your Committees have decided to pass this measure unamended, thereby expunging the S.D. 1 version.

As affirmed by the records of votes of the members of your Committees on Water, Land, Energy and Environment and Economic Development and Technology that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 17, and recommends its adoption.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 4 (Ige, Kim, Nakata, Hemmings).

SCRep. 3555 Tourism and Intergovernmental Affairs on H.C.R. No. 72

The purpose of this measure is to urge the Hawaii Tourism Authority to develop an overall strategy, policy, and plan to award tourism product enrichment and diversification grants in cooperation with the mayors of each county.

Testimony in support of this measure was received from the Hawaii Tourism Authority (HTA).

Your Committee has heard that on April 17, 2002, the HTA board approved the Product Development Program Strategic Plan and budget, which includes implementation of a county program relating to product enrichment and diversification funding. The county program will take effect July 1, 2002, and HTA is currently developing agreements with the counties to work in partnership in this area. In addition, HTA is preparing for statewide workshops with the counties to announce the program, the goals and objectives, and outline the application process.

Your Committee is supportive of these efforts and looks forward to reports on the progress of the new county product enrichment program.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 72, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 1 (Matsuura).

SCRep. 3556 Ways and Means on H.C.R. No. 105

The purpose of this measure is to request the Auditor to conduct a study of all in-house and contracted printing jobs, including contracts awarded by state agencies to private marketing and advertising firms that subcontract printing jobs.

In addition, this measure requests the Auditor to determine:

- (1) The number of in-house and contracted state printing jobs and dollar volume amounts that were spent in Hawaii, out-of-state, and out-of-country; and

- (2) The number of employees, and the direct and indirect costs of labor, employee benefits, rent, equipment leasing, administrative supplies, and other costs associated with state in-house printing operations.

While state expenditures on printing are valuable in determining how state printing jobs affect Hawaii's printing industry, your Committee finds that it is unclear as to:

- (1) The volume and dollar amount spent on printing services and products utilized, contracted, and subcontracted by state agencies; and
- (2) How many state print jobs are performed in-house or contracted to private vendors in Hawaii or out-of-state, including jobs initiated by subcontractors.

As 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. 105, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 9. Noes, none. Excused, 6 (English, Ige, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 3557 Health and Human Services on H.C.R. No. 123

The purpose of this measure is to request the United Nations to consider the establishment in Hawaii of a Center for Health, Welfare, and Education of Children, Youth and Families for Asia and the Pacific and to have the House and Senate Committees on Health convene an exploratory task force to develop such a proposal for consideration by the United Nations.

Testimony supporting this measure was received from the Christian Science Committee on Publication for Hawaii.

Your Committee finds that securing and improving the health, welfare, and education of children and families are basic values shared by Hawaii and populations throughout the world. Hawaii's unique location bridging Asia and the mainland United States, and Hawaii's diverse culture make it an excellent location for world leaders to congregate and discuss international children's issues. Your Committee believes that this measure further promotes the well-being of the world's children and international relations.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 123, and recommends its adoption.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Buen, Fukunaga).

SCRep. 3558 Ways and Means on S.R. No. 68

The purpose of this measure is to explore ways to maximize federal funding for health and human services programs in Hawaii.

Specifically, this resolution resolves to conduct an interim study by the Senate Committee on Health and Human Services to accomplish this task. The Senate Committee on Health and Human Services will convene a working group composed of representatives from the following:

- (1) Department of Health;
- (2) Department of Human Services;
- (3) Hawaii Performance Partnership Board;
- (4) Hawaii Together;
- (5) Blueprint for Change;
- (6) Hawaii Youth Services Network; and
- (7) Private provider organizations.

The purpose of the working group is to determine whether Hawaii has captured all possible federal grant funds in health and human services, and if not, how much money is being lost, and to recommend administrative procedures and processes to identify opportunities and apply for relevant federal grants. The Legislative Reference Bureau is requested to assist the Senate Committee on Health and Human Services for the purposes of the interim study.

Your Committee agrees that some health and human services programs have not maximized their federal funding while others have aggressively pursued such funding. As the State continues to face a continuing financial crisis, with the looming threat of budget cuts and reduced services, your Committee agrees that a statewide effort to maximize federal funding to supplement or leverage state funding for health and human services programs should be pursued.

As 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. 68, S.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (English, Ige, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 3559 Ways and Means on S.R. No. 110

The purpose of this measure is to help eligible senior citizens and disabled persons have greater access to affordable prescription drugs by increasing awareness of existing drug discount programs.

Specifically, this bill establishes an interim working group to disseminate information to Hawaii residents concerning prescription drug discount card programs offered by pharmaceutical manufacturers to eligible individuals. The working group shall consist of:

- (1) The Chair of the Senate Committee on Health and Human Services;
- (2) The Directors of Health and Human Services, or their respective designated representatives;
- (3) A representative from each County Office on Aging;
- (4) A representative from pharmaceutical companies with drug discount card programs available for eligible Hawaii Medicare beneficiaries;
- (5) A public member who represents senior citizens; and
- (6) A public member who represents disabled individuals.

Additionally, the bill requires the Senate Committee on Health and Human Services to submit a report of its activities to the Senate prior to the convening of the Regular Session of 2003.

Your Committee finds that the cost of prescription drugs has risen steadily in recent years. Individuals who lack prescription drug benefits are most vulnerable to the increases in the cost of prescription drugs, often paying two or three times more for the same drug than individuals with drug coverage. Although seniors and the disabled consume a disproportionate share of all prescription drugs, it is estimated that one-third of the Medicare population lacks prescription drug benefits.

Your Committee further finds that an interim working group charged with disseminating information on discount card programs offered by drug manufacturers would increase awareness of existing opportunities, leading to increased access to lower cost prescription drugs.

As 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. 110 and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 9. Noes, none. Excused, 6 (English, Ige, Kawamoto, Kim, Sakamoto, Tam).

SCRep. 3560 Health and Human Services on Gov. Msg. No. 314

Recommending that the Senate advise and consent to the nominations of the following:

HONOLULU SUBAREA HEALTH PLANNING COUNCIL

JENNIFER DIESMAN and DARYL-JEAN WONG, for terms to expire on June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the Honolulu Subarea Health Planning Council ("Council").

Testimony supporting both nominees was received from the State Health Planning and Development Agency.

Jennifer Diesman has extensive health and government-related experience and currently serves as a Government Relations Manager with HMSA, Blue Cross Blue Shield Hawaii. She earned Bachelor of Arts in Political Science and Sociology and Master of Arts in Public Administration degrees from the University of Wisconsin-Madison. Testimony supporting Ms. Diesman's nomination was received from Rosehill & Associates and one individual.

Daryl-Jean Wong is a Program Coordinator with the Salvation Army Adult Day Health. She has an Associate's degree as an Occupational Therapy Assistant. Ms. Wong was a psychiatric occupational therapist with Queen's Medical Center, served in school health services at the Department of Health, and was an occupational therapist at the Rehabilitation Hospital of the Pacific. Her professional affiliations include the American Occupational Therapy Association.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Commission.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3561 Health and Human Services on Gov. Msg. No. 315

Recommending that the Senate advise and consent to the nominations of the following:

WEST OAHU SUBAREA HEALTH PLANNING COUNCIL

MARTHA O. AQUINO, JOANNE H. KEALOHA, and LAURIE A.B. OISHI, for terms to expire on June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the West Oahu Subarea Health Planning Council ("Council").

Testimony supporting the nominees was received from the State Health Planning and Development Agency.

Martha O. Aquino is an Area Manager with Kaiser Permanente and her duties include serving as a staff nurse and supervisor. She earned a Bachelor of Science degree in Nursing from the University of Washington. Ms. Aquino possesses over twenty years of diverse experience as a nurse and has been employed as a nurse at the University of Illinois and Illinois Masonic Hospital.

Joanne H. Kealoha is a Social Services Coordinator with ILWU Local 142. She earned a Bachelor of Arts degree from the University of Hawaii and a Master of Social Work degree from the University of California – Los Angeles. Ms. Kealoha's community activities include serving as a board member of the Aloha United Way, Oahu Workforce Investment Board, and Catholic Charities Community and Immigrant Services.

Laurie A.B. Oishi is a Director of Customer Field Services with Hawaiian Electric Company. She earned a Bachelor of Science degree in Medical Radiography from Northern Arizona University. Ms. Oishi has also worked in the field of radiology with St. Francis Hospital and Kapiolani Medical Center for Women and Children. Among her community activities, she serves as Treasurer for the Wailua United Church of Christ Women's Group.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3562 Health and Human Services on Gov. Msg. No. 316

Recommending that the Senate advise and consent to the nominations of the following:

WINDWARD OAHU SUBAREA HEALTH PLANNING COUNCIL

CHRISTOPHER J. LUTZ for terms to expire June 30, 2002, and June 30, 2006; and

GREIG E. GASPAR for a term to expire June 30, 2006,

Your Committee received testimony in support of both nominees from the State Health Planning and Development Agency. Testimony was received in support of Greig E. Gaspar from the Office of the Lieutenant Governor, State Senator of the 14th District, Hawaii Primary Care Association, Kamehameha Talent Search Program, and one individual.

Christopher J. Lutz received a Bachelor of Science degree in industrial engineering from the University of California, Berkeley, and Master's degree in Business Administration from Chaminade University. Currently he is a health care administrator for Kaiser Permanente, Hawaii. Mr. Lutz also is a board member of the Tantalus Community Association.

Greig E. Gaspar, a graduate of the University of Hawaii at Manoa, is a marketing specialist with the Waimanalo Health Center. His community service includes board member of Hina Mauka, Oahu council member for Native Hawaiian Education Council, and member of the Governor's State Advisory Council on Juvenile Justice. Mr. Gaspar is also an HMSA Ola Pono Award Winner, Queen Liliuokalani Children's Center – Community Volunteer Award Winner, and KGMB – Spirit Award Winner.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Greig E. Gaspar and Christopher J. Lutz have the necessary character, experience, and qualifications to serve on the Windward Oahu Subarea Health Planning Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3563 Health and Human Services on Gov. Msg. No. 317

Recommending that the Senate advise and consent to the nomination of the following:

HAWAII COUNTY SUBAREA HEALTH PLANNING COUNCIL

JAMIE CAMEROS for a term to expire June 30, 2006,

Your Committee received testimony in support of the nominee from the State Health Planning and Development Agency.

Jamie Cameros, a resident of Keaau received a Bachelor of Business Administration degree from the University of Hawaii at Manoa. Ms. Cameros is an analyst with Kaiser Permanente. Prior to her position at Kaiser, she was employed with Hawaiian Telephone and taught summer school for the Department of Education. Ms. Cameros was a key member in the State Health Planning and Development Agency's efforts in streamlining agency operations in 1997.

Upon review of the testimony and written statement submitted by the nominee, your Committee finds that Jamie Cameros has the necessary character, experience, and qualifications to serve on the Hawai'i County Subarea Health Planning Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3564 Health and Human Services on Gov. Msg. No. 318

Recommending that the Senate advise and consent to the nominations of the following:

KAUAI COUNTY SUBAREA HEALTH PLANNING COUNCIL

COREY N. DOBASHI, SUSAN GUCWA-BUCASAS, AIDA PASCUAL, and ROY K. SASAKI, for terms to expire on June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the Kauai County Subarea Health Planning Council ("Council").

Testimony supporting the nominees was received from the State Health Planning and Development Agency.

Corey N. Dobashi is a part of the Administration of The Arc of Kauai. He is also an entrepreneur owning Aardcore Care, which provides lawn services. Mr. Dobashi earned a Bachelor of Arts degree in Communications from Lewis & Clark College. He is active in the Kauai community giving his time to the Kauai District Boy Scouts and Special Olympics Hawaii.

Susan Gucwa-Bucasas is a Registered Nurse with the Kauai Veterans Memorial Hospital. She earned a Bachelor's degree from Western Connecticut State College and a Master of Science degree in Nursing from the University of Hawaii. Her professional and community affiliations have included the American Organization of Nurse Executives and Kauai Rural Health Association.

Aida Pascual is a Home Reach Specialist with Child and Family Services. She holds a Bachelor of Science degree in Elementary Education. Ms. Pascual's community activities have included serving as President of both the Kauai Council of Filipino Catholics Club and Immaculate Conception Filipino Catholics Club.

Roy K. Sasaki served in the capacity of a Pastor or Associate Pastor for approximately thirty-four years before retiring. He served the last twenty years of formal service with the Kahuku and Hope United Methodist Church on Oahu. Mr. Sasaki is a past President of Pacific Island Missions and currently serves as the President of Kauai Island Ministries, Inc.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3565 Health and Human Services on Gov. Msg. No. 319

Recommending that the Senate advise and consent to the nominations of the following:

MAUI COUNTY SUBAREA HEALTH PLANNING COUNCIL

AGNES M. GROFF, JOSEPH K. KAMAKA III, M.D., WILLIAM F. STATON, KATHLEEN L. STREET, and SARAJEAN A. TOKUNAGA, for terms to expire June 30, 2006,

Your Committee received testimony in support of these nominees from the State Health Planning and Development Agency.

Agnes M. Groff has lived all her life on Maui and is employed in community relations at Maui Economic Opportunity. She is a graduate of Maui High School and Maui Community College. Ms. Groff is a volunteer with the Hawaii Federation of Democrat Women, Maui Chapter.

Joseph K. Kamaka III, M.D. is a graduate of Kamehameha Schools and the University of Hawaii, School of Medicine. Currently he practices internal medicine. His community service includes medical director of Hospice Maui, past president for Hui No Ke Ola Pono, and previous board member with the American Lung Association and American Diabetes Association.

William F. Staton, a graduate of the University of Massachusetts, is a veterans' representative for the State Office of Veterans' Services. He served in the U.S. Army from 1967-1970 through which he earned a Vietnam Service Medal. Mr. Staton's community service is extensive. He currently serves as moderator/deacon for the Kahului Baptist Church, vice-president of the Keikis Dream/Fun Day Foundation, group facilitator for the Family Peace Center, and as mediator/trainer for the Mediation Services of Maui.

Kathleen L. Street received her associate degree in nursing from Maui Community College and currently practices as a public health nurse in the Hana District. She is involved in community organizations such as the Hana Canoe Club, Hana Community Association, and the Hana Community Children's Council.

Sarajean A. Tokunaga is a graduate of Roosevelt High School and attended the University of Hawaii. Ms. Tokunaga's community service includes secretary/director of the Wailuku Tennis Club, secretary /president of the Maui Fund Raiser for Kamehameha Schools, board member for the Year of the Hawaiian, art board member for the Year of the Chinese, and public relations chairperson/grant writer for Hui Noe'au.

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that William F. Staton, Kathleen L. Street, Joseph K. Kamaka III, M.D., Sarajean A. Tokunaga, and Agnes M. Groff have the necessary character, experience, and qualifications to serve on the Maui County Subarea Health Planning Council.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3566 Judiciary on Gov. Msg. No. 302

Recommending that the Senate advise and consent to the nominations of the following:

CORRECTIONAL INDUSTRIES ADVISORY COMMITTEE

KAREN H. IWAMOTO and HELEN Y. RAUER, for terms to expire June 30, 2003;

CARL R. ANDERSON and BERTHA S.J. NAHOPII, for terms to expire June 30, 2004; and

MICHAEL A. HAMA, ERWIN HUDELIST, and JACK L. TINER, for terms to expire June 30, 2006,

Upon review of the testimony and statements submitted by the nominees, your Committee finds that each of the nominees has the necessary character, experience, and qualifications to serve on the Correctional Industries Advisory Committee.

Carl R. Anderson received a Bachelor of Science degree in chemical engineering and is the owner of Island Instant Printing Centers.

Edwin Hudelist received a Master in Printing and Printing Management from the University of Vienna and is the President of Hagadone Printing.

Karen H. Iwamoto received Bachelor's and Master's degrees in of Business Administration from the University of Hawaii and is currently employed by the AIG Hawaii Insurance Company. She received the Outstanding Woman Leader Award in 1993 from the Organization of Women Leaders. She currently serves as the Executive Advisor on the Board of Directors of the Japanese Chamber of Commerce, and is the Secretary of the Palolo Community Council. She is being reappointed. Testimony in support of the nominee was received from the Honolulu Japanese Chamber of Commerce.

Bertha S.J. Nahoopii received a Bachelor of Science degree in recreation from the University of Hawaii. She was a police officer with the Honolulu Police Department for 33 years, and was a shop steward for the State of Hawaii Organization of Police Officers. She is being reappointed.

Helen Y. Rauer received a Bachelor of Arts degree from the University of Hawaii at Manoa and works for the Judiciary as a district court probation officer. She is a member of the Hawaii Correctional Association. She is being reappointed. Testimony in support of the nominee was received from one individual.

Jack L. Tiner has experience in graphics printing, as a broker, consultant, and vice president for five companies in Georgia over a twenty-year period.

Michael A. Hama received Bachelor of Arts degree in general education from Chaminade University, and received a Graduate Studies Certificate in Juvenile Justice from the University of Southern California. He is a retired captain with the Honolulu Police Department. He currently serves as a docent at the Waipahu Cultural Garden Park.

Your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve the corrections system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3567 Judiciary on Gov. Msg. No. 336

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF REGISTRATION, ISLAND OF OAHU

LISA KEALA CARTER, for a term to expire June 30, 2006,

Upon review of the statement submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Board of Registration, Island of Oahu.

The nominee currently serves as the office manager for The Trust for Public Land. She received a Bachelor of Arts degree in political science and a Public Administration Certificate from the University of Hawaii at Manoa. She has served as a researcher and on committee staff for the Honolulu City Council and the Hawaii State Senate. She is a member of the Executive Committee of the Sierra Club, and was a Board Member of Hawaii Kai Neighborhood Board from 1994 to 2001.

Your Committee finds that the nominee has been appointed based upon her credentials, integrity, and a desire to improve the elections system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3568 Judiciary on Gov. Msg. No. 337

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF REGISTRATION, ISLAND OF HAWAII

BEVERLY JEAN WITHINGTON, for a term to expire June 30, 2006,

Upon review of the statement submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Board of Registration, Island of Hawaii.

The nominee received a Bachelor of Science in Nursing degree from the University of Hawaii at Manoa, a Bachelor of Arts degree in Social Science from the University of Hawaii at Hilo, and a Juris Doctor degree from the William S. Richardson School of Law. She is employed in private practice in Hilo. Prior to that she served as a Deputy Corporation Counsel in the Family Support Division, County of Hawaii. She is a member of the Soroptimist of Kona, and is on the Advisory Board at the University of Hawaii at Hilo for the BSN program, Board of Directors of Hospice Hilo, and Advisory Council for Home Softly Monitoring Program.

Your Committee finds that the nominee has been appointed based upon her credentials, integrity, and a desire to improve the elections system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3569 Judiciary on Gov. Msg. No. 338

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF REGISTRATION, KAUAI AND NIIHAU

MARK NAKAGOSHI, for a term to expire June 30, 2006;

Upon review of the statement submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Board of Registration, Kauai and Niihau.

The nominee, who was born in Lihue, Kauai, attended Kapaa High School and Kapiolani Community College. He is currently employed at the Princeville Corporation, where he has worked since 1988.

Your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to improve the elections system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3570 Judiciary on Gov. Msg. No. 339

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF REGISTRATION, MAUI, MOLOKAI, LANAI AND KAHOO LAWE

PEGGY ROBERTSON, for a term to expire June 30, 2006;

Upon review of the statement submitted by the nominee, your Committee finds that the nominee has the necessary character, experience, and qualifications to serve on the Board of Registration, Maui, Molokai, Lanai and Kahoolawe.

The nominee is a retired educator from the Newport Mesa School District, California. She has been a precinct official in Fairfax, Virginia, and a volunteer with the White House Comment Line & Children's Correspondence in Washington, D.C. She is a member of the Board of Directors of the Lahaina Art Society and a volunteer with the Parent Community Networking Center at Lahaina Intermediate School.

Your Committee finds that the nominee has been appointed based upon her credentials, integrity, and a desire to improve the elections system.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3571 Judiciary on Gov. Msg. No. 343

Recommending that the Senate advise and consent to the nominations of the following:

STATE COMMISSION ON THE STATUS OF WOMEN

VALLI KANUHA, PH.D., MARGARET K. MASUNAGA, and MARY JO SWEENEY, for terms to expire June 30, 2006;

Upon review of the testimony and statements submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the State Commission on the Status of Women.

Your Committee received testimony in support of all the nominees from the Lieutenant Governor and a member of the Hawaii State Commission on the Status of Women.

Valli Kanuha, Ph.D., is a consultant, trainer, and psychotherapist, and is an Assistant Professor at the University of Hawaii School of Social Work. She received her doctorate degree from the University of Washington, a Master of Social Work from the University of Minnesota, and a Bachelor of Arts degree in social work from the University of Wisconsin at Madison. She was born in Hilo and has been a therapist for the Child and Family Services in Hilo. She currently is on the Editorial Boards of Violence Against Women, Women and Therapy, and Affilia: Journal of Women and Social Work. She is Co-founder of the University of Hawaii at Hilo Women's Association, and has been a Board Member of the National Network of Women's Funds. She is being reappointed.

Margaret K. Matsunaga received a Juris Doctor degree from the McGeorge School of Law, University of the Pacific, and currently serves as a Deputy Corporation Counsel in West Hawaii in family court cases involving paternity proceedings. She previously was with the law firm of Goodwill Anderson Quinn & Stifel in Kona. She is active with the American Bar Association and Hawaii State Bar Association, serving on various professional committees, and is currently on the Board of Directors of the Legal Aid Society of Hawaii. She has served as a Commissioner on the Human Rights Commission of the City and County of Sacramento. She is being reappointed. Testimony in her support was received from two individuals.

Mary Jo Sweeney received a Master's degree in Nursing and a Certificate in Public Health from the University of Hawaii at Manoa, a Bachelor of Science degree in Nursing from Sacramento State University, and a Bachelor of Arts degree in Art from San Francisco State University. She is currently a community health nurse for the Kauai District Health Office, Department of Health. She is the current President of the Kauai Rural Health Association and President of the Kauai Children's Justice Committee. She is being reappointed. Testimony in her support was received from two individuals.

Your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve 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, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3572 Ways and Means on Gov. Msg. No. 283

Recommending that the Senate advise and consent to the nomination of the following:

RICHARD F. KAHLE, JR. for a term to expire June 30, 2006 to the BOARD OF TAXATION REVIEW, FIRST TAXATION DISTRICT (OAHU),

Upon review of the statements submitted by the nominee, your Committee finds that the aforementioned nominee will work with compassion and commitment to assist in administering the government functions related to tax appeals. Your Committee further finds that the nominee has been appointed based on the nominee's credentials, integrity, and a desire to make Hawaii better through the nominee's participation on the Board of Taxation Review.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Ige, Kim, Sakamoto, Tam).

SCRep. 3573 Ways and Means on Gov. Msg. No. 284

Recommending that the Senate advise and consent to the nomination of the following:

BERT M. WAGATSUMA for a term to expire June 30, 2006 to the BOARD OF TAXATION REVIEW, THIRD TAXATION DISTRICT (HAWAII),

Upon review of the statements submitted by the nominee, your Committee finds that the aforementioned nominee will work with compassion and commitment to assist in administering the government functions related to tax appeals. Your Committee further finds that the nominee has been appointed based on the nominee's credentials, integrity, and a desire to make Hawaii better through the nominee's participation on the Board of Taxation Review.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Ige, Kim, Sakamoto, Tam).

SCRep. 3574 Ways and Means on Gov. Msg. No. 285

Recommending that the Senate advise and consent to the nomination of the following:

SANDRA L. HOWATT for a term to expire June 30, 2006 to the BOARD OF TAXATION REVIEW, FOURTH TAXATION DISTRICT (KAUAI),

Upon review of the statements submitted by the nominee, your Committee finds that the aforementioned nominee will work with compassion and commitment to assist in administering the government functions related to tax appeals. Your Committee further finds that the nominee has been appointed based on the nominee's credentials, integrity, and a desire to make Hawaii better through the nominee's participation on the Board of Taxation Review.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 11. Noes, none. Excused, 4 (Ige, Kim, Sakamoto, Tam).

SCRep. 3575 Ways and Means on Gov. Msg. No. 341

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF TAXATION REVIEW, FIRST TAXATION DISTRICT (OAHU)

G.M. No. 341 MARIE LOWDER for a term to expire June 30, 2005,

Upon review of the statement submitted by the nominee, your Committee finds that the nominee will facilitate the Board of Taxation's responsibilities related to tax appeals with compassion and dedication. Your Committee finds that the nominee has been nominated based on her knowledge, integrity, and a commitment to public service 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, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (English, Ige, Inouye, Kim, Sakamoto, Tam, Slom).

SCRep. 3576 Ways and Means on Gov. Msg. No. 348

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF TAXATION REVIEW, SECOND TAXATION DISTRICT (MAUI COUNTY)

G.M. No. 348 LYLE J. MATSUNAGA for a term to expire June 30, 2005; and

LLOYD Y. GINOZA for a term to expire June 30, 2006,

Upon review of the statements submitted by the nominees, your Committee finds that the aforementioned nominees will work with compassion and commitment to assist in administering the government functions related to tax appeals. Your Committee further finds that the nominees have been appointed based upon their credentials, integrity, and a desire to make Hawaii better through their participation on the Board of Taxation Review in Maui County.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to their nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 8. Noes, none. Excused, 7 (English, Ige, Inouye, Kim, Sakamoto, Tam, Slom).

SCRep. 3577 Commerce, Consumer Protection and Housing on Gov. Msg. No. 331

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF PHARMACY

ELWIN D.H. GOO, Pharm.D. and DENNIS IWAMURA, for terms to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Elwin D.H. Goo and Dennis Iwamura have the necessary character, experience, and qualifications to serve on the Board of Pharmacy ("Board").

Elwin D.H. Goo is a pharmacist serving as Chief of Inpatient Pharmacy Services, at Tripler Army Medical Center. He earned Bachelor of Arts and Pharm.D. degrees from the University of Southern California. Mr. Goo is an adjunct pharmacy professor and a

preceptor to Tripler Army Medical Center's accredited pharmacy residency program. His professional affiliations include the American Society of Health System Pharmacists and American Pharmaceutical Association.

Dennis Iwamura is currently self-employed with an extensive background in sales. He maintains a serious interest in the field of pharmaceuticals and their responsible sale in the State.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Kim, Tam, Hogue).

SCRep. 3578 Commerce, Consumer Protection and Housing on Gov. Msg. No. 334

Recommending that the Senate advise and consent to the nomination of the following:

BOARD OF PSYCHOLOGY

THOMAS F. JACKSON, for a term to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominee, your Committee finds that Thomas F. Jackson has the necessary character, experience, and qualifications to serve on the Board of Psychology ("Board").

Thomas F. Jackson is an Equal Opportunity Officer with the Department of Labor and Industrial Relations. He has an extensive background in administration for the United States military. Mr. Jackson has also previously served on the Architectural Access Committee, which he chaired for five years. He is active in the community volunteering his time for the Hawaii Literacy and Hawaii Foodbank.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to improve Hawaii through service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3579 Commerce, Consumer Protection and Housing on Gov. Msg. No. 335

Recommending that the Senate advise and consent to the nominations of the following:

RADIOLOGIC TECHNOLOGY BOARD

LES UYEDA and ADLEEN ICHINOSE, for terms to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Les Uyeda and Adleen Ichinose have the necessary character, experience, and qualifications to serve on the Radiologic Technology Board ("Board").

Les Uyeda is a Certified Medical Dosimetrist with Queen's Medical Center. He is also a Registered Radiation Therapist. Mr. Uyeda is active in the community and volunteers his time to Boy Scouts of America and the American Cancer Society.

Adleen Ichinose is an X-ray Technologist with St. Francis Imaging LLC and serves as a manager. She has over twenty-five years of experience in the field of radiology and her professional affiliations include the Hawaii Society of Radiologic Technologists and American Society of Radiologic Technologists.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3580 Commerce, Consumer Protection and Housing on Gov. Msg. No. 340

Recommending that the Senate advise and consent to the nominations of the following:

RENTAL HOUSING TRUST FUND ADVISORY COMMISSION

STEPHEN K. KAWAHARA and BETTY LOU LARSON, for terms to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Stephen K. Kawahara and Betty Lou Larson have the necessary character, experience, and qualifications to serve on the Rental Housing Trust Fund Advisory Commission ("Commission").

Stephen K. Kawahara is a Housing Director with the Steadfast Housing Development Corporation, which is a private nonprofit developer, operator, and manager of over thirty-five group homes and condominiums that service persons with serious mental illnesses. He earned his accounting degree from the University of Hawaii College of Business Administration. He is also a licensed real estate broker and member of the National and Honolulu Board of Realtors. Testimony supporting Mr. Kawahara's nomination was received from the Housing and Community Development Corporation of Hawaii, Pacific Housing Assistance Corporation, and one individual.

Betty Lou Larson is a social worker serving as Program Director with Catholic Charities Elderly Services, which counsels over five hundred elders each year and links them to housing options. She earned Bachelor of Arts, Master of Arts in Asian Studies, and Master of Social Work degrees from the University of Hawaii. Ms. Larson is also the Director of the Hawaii Housing Development Corporation and a board member of Assisted Living Options Hawaii and Affordable Housing and Homeless Alliance. Testimony supporting Ms. Larson's nomination was received from the Housing and Community Development Corporation of Hawaii and one individual.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Commission.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3581 Commerce, Consumer Protection and Housing on Gov. Msg. No. 349

Recommending that the Senate advise and consent to the nomination of the following:

STATE BOARD OF CHIROPRACTIC EXAMINERS

JAMES H. HATTAWAY, D.C., for a term to expire June 30, 2006;

Upon review of the testimony and written statements submitted by the nominee, your Committee finds that James H. Hattaway has the necessary character, experience, and qualifications to serve on the Board of Chiropractic Examiners ("Board").

James H. Hattaway is a Doctor of Chiropractic and has productively served on the Board since August 11, 1998. He is a graduate of the University of North Carolina, New England School of Acupuncture, and Western States Chiropractic College. Dr. Hattaway's professional affiliations include the Hawaii State Chiropractic Association, Maui Chiropractic Society, and the American Chiropractic Association. Testimony supporting his nomination was received from the Department of Commerce and Consumer Affairs and one individual.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominee has been appointed based upon his credentials, integrity, and a desire to improve Hawaii through service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3582 Commerce, Consumer Protection and Housing on Gov. Msg. No. 350

Recommending that the Senate advise and consent to the nominations of the following:

BOARD OF VETERINARY EXAMINERS

KATHRYN RICE ILGEN, D.V.M., and GARY Y. MURAI, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Kathryn Rice Ilgen and Gary Y. Murai have the necessary character, experience, and qualifications to serve on the Board of Veterinary Examiners ("Board").

Kathryn Rice Ilgen is a Veterinarian with Under Dog, Inc. – Makawao Veterinary Clinic. She earned her Doctorate in Veterinary Medicine from Colorado State University. Dr. Ilgen's professional affiliations include the American Veterinary Medical Association, Hawaii Veterinary Medical Association, and Feline Foundation of Maui.

Gary Y. Murai is an attorney with the Legal Aid Society of Hawaii. He earned a Bachelor of Science degree in Agriculture and a Bachelor of Arts degree in Political Science from the University of Hawaii – Hilo, and a Juris Doctorate from the University of Hawaii William S. Richardson School of Law. Mr. Murai's professional affiliations include the Hawaii County and Hawaii State Bar Associations.

Based upon the foregoing and the testimony submitted, your Committee finds that the nominees have been appointed based upon their credentials, integrity, and a desire to improve Hawaii through their service on the Board.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection and Housing that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Kim, Tam).

SCRep. 3583 Tourism and Intergovernmental Affairs on Gov. Msg. No. 231

Recommending that the Senate advise and consent to the nomination of the following:

HAWAII TOURISM AUTHORITY

Mike McCartney, for a term to expire June 30, 2004,

Upon review of the testimony and vision statement submitted by the nominee, your Committee finds that Mike McCartney has the necessary character, experience, and qualifications to serve on the Hawaii Tourism Authority.

Testimony in support of the nominee was received from the Hawaii Tourism Authority and two board members, Department of Human Resources Development, a Trustee of the Office of Hawaiian Affairs, HGEA-AFSCME Local 142, HSTA, ILWU Local 142, University of Hawaii Professional Assembly, Hawaii Hotel Association, Kauai Economic Development Board, Ka'anapali Beach Hotel, ABC Stores, Annette's Adventures, Y. Hata, & Co., Limited, The Ko'olau News, and five individuals.

Mike McCartney is CEO and President of Hawaii Public Television, and the former Director of the Department of Human Resources Development. He served in the Hawaii State Senate from 1988 to 1998, where he chaired various committees and served as Senate Vice-President and Co-Majority Leader. Mr. McCartney is the cofounder and creator of "Hawaii Stars" and has helped produce numerous television programs in Hawaii. He is an active member of a wide range of professional and community organizations, including Live Aloha, Carole Kai Community Foundation, and Pacific Resources in Education and Learning, among others. Mr. McCartney has been the recipient of numerous awards in honor of his community activities and brings entrepreneurial, management, public service, and fundraising skills to the HTA.

Members of the Committee discussed with the nominee his views on the importance of the board's accountability in its expenditure of public moneys, the accessibility of its members, ways to balance the tourism priorities of the neighbor islands with those of Oahu, increased county authority over funding for tourism marketing and activities, and strategies to develop a stronger sense of place for the visitor arriving in Hawaii. Members have reviewed the vision plan submitted by Mr. McCartney, and expressed their appreciation for his thoughtful commitment to his role on the board that is reflected in his statement and his comments during the hearing.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (Kawamoto, Matsuura, Sakamoto).

SCRep. 3584 Tourism and Intergovernmental Affairs on Gov. Msg. No. 311

Recommending that the Senate advise and consent to the nomination of the following:

HAWAII TOURISM AUTHORITY

LORRIE LEE STONE, for a term to expire June 30, 2006,

Upon review of the testimony and information submitted by the nominee, your Committee finds that Lorrie Lee Stone has the necessary character, experience, and qualifications to serve on the Hawaii Tourism Authority.

Testimony in support of this nomination was received from the Hawaii Tourism Authority, two members of the City Council of the City and County of Honolulu, Rohlffing & Stone, Stryker Weiner & Yokota, Kusao & Kurahashi, Inc., The Gentry Companies, Best Bridal Hawaii, Inc., Waikiki Business, Plaza, Group 70 International, and two individuals.

Lorrie Lee Stone is a partner in Rohlffing and Stone and has been an attorney in private practice in Honolulu since 1989. Her firm specializes in land use and real estate matters and assists corporate and resort/hotel clients in obtaining necessary government approvals for projects. In her professional capacity, Ms. Stone works with community groups, neighborhood boards, and numerous associations to facilitate solutions to various land use problems on Oahu, Hawaii, and Maui. She is a graduate of the University of Hawaii and the William S. Richardson School of Law, and attended Oxford University in England for credits towards her Juris Doctor.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 2 (Kawamoto, Matsuura).

SCRep. 3585 (Joint) Tourism and Intergovernmental Affairs and Education on H.C.R. No. 48

The purpose of this measure is to request the Governor and the President of the University of Hawaii to establish sister-state educational, cultural, and economic development exchanges between the State of Hawaii and the Province of Ilocos Sur, Philippines.

Testimony in support of this measure was received from Ilocos Surian Association of Hawaii. The University of Hawaii submitted comments.

Your Committees have heard that currently there are sixty sister relationships between the State and counties of Hawaii and various other geographic regions. In an effort to determine the status of these sister relationships, the Department of Business, Economic Development, and Tourism has organized a conference to be held in July 2002, and expects about twenty of these sister-affiliated regions to attend.

Your Committees recognize that sister affiliations may provide many benefits for those involved, but also that they may evolve over time. Your Committees commend the efforts to determine how better to encourage and promote successful sister affiliations at both the State and county level, and urge the Department to use this opportunity to determine if there are sister affiliations that should be dissolved for any reason, and to report annually to the Legislature on the status of the affiliations.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Affairs and Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 48, and recommends its adoption.

Signed by the Chairs on behalf of the Committees.
Ayes, 10. Noes, none. Excused, 5 (Chumbley, Chun Oakland, Matsuura, Menor, Tam).

SCRep. 3586 Ways and Means on H.B. No. 1740

The purpose of this measure is to expand the enterprise zone program to include disease management services as a client within the definition of "call center" under section 209E-2, Hawaii Revised Statutes.

Your Committee finds that the phrase "disease management services" refers to services provided for a fee – and primarily by phone – by companies under the direction of health care providers. These services are intended to counsel patients in self-care efforts that are necessary or desirable to control, minimize, or eliminate their medical problems. Making businesses that provide such services eligible to participate in the enterprise zone program can help create new, high-quality jobs in Hawaii's health care industry.

As affirmed by the record of votes of the members 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. 1740, H.D. 1, and recommends that it pass Third Reading.

Signed by the Chair on behalf of the Committee.
Ayes, 10. Noes, none. Excused, 5 (Chun, English, Kim, Kokubun, Hemmings).

SCRep. 3587 Health and Human Services on Gov. Msg. No. 305

Recommending that the Senate advise and consent to the nominations of the following:

STATE PLANNING COUNCIL ON DEVELOPMENTAL DISABILITIES

JEAN L. JOHNSON, DR.P.H., for terms to expire June 30, 2002, and June 30, 2006;

PAUL S. VARGAS JR., for a term to expire June 30, 2003; and

MARK D. CONLEY, JEAN KIYABU, THOMAS G. NELSON, KIYOKO N. NITZ, PH.D., and DAVID A. WOLL, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Jean L. Johnson, Dr.P.H., Paul S. Vargas Jr., Mark D. Conley, Jean Kiyabu, Thomas G. Nelson, Kiyoko N. Nitz, Ph.D., and David A. Woll have the necessary character, experience, and qualifications to serve on the State Planning Council on Developmental Disabilities.

Your Committee received testimony from the State Planning Council on Developmental Disabilities and the University of Hawai'i Center on Disability Studies in support of the nominees.

Jean L. Johnson, Dr.P.H., holds a Doctorate and Master's degree in Public Health from the University of Hawaii, a Master of Arts from Northwestern University, and a Bachelor in Education from the University of Tennessee. Dr. Johnson is presently with the Center on Disability Studies with the University of Hawaii and has held positions with the government of Guam and the Hawaii Department of Health. She is an active volunteer with the Federal interagency Coordinating Council, the American Speech-language Hearing Association, Easter Seals Hawaii, Project Aware, and Special Education Advisory Board.

Paul S. Vargas, Jr. graduated from Baldwin High School, and is employed with the U.S. Department of Agriculture. Mr. Vargas is an active volunteer with the Maui Special Olympics and the Maui Service Area Board for Mental Health.

Mark D. Conley holds a Bachelor's degree in English, and is employed with Ponoholo Ranch Ltd. Mr. Conley is an active volunteer with the Ocean of Potentiality Technology and Science Camp and West Hawaii Special Olympics.

Jean Kiyabu holds a Master's degree in Educational Administration, a Master's degree in Speech Pathology and Audiology, and a Bachelor's degree in Secondary Education, from the University of Hawaii. Ms. Kiyabu is a licensed speech pathologist and has served for over 30 years in various positions with the Department of Education.

Thomas G. Nelson is retired from the construction industry and since 1975 has been a member of Operating Engineers Local 302. Mr. Nelson is an active community volunteer with the East Hawaii Special Olympics, Hawaii County Mayor's Committee on People with Disabilities, and parent advocate for children with developmental disabilities.

Kiyoko N. Nitz, Ph.D. holds Doctorate and Master's degrees in Political Science from Michigan State University, and a Bachelor's degree in Social Science from International Christian University in Tokyo Japan. Dr. Nitz is presently a Research Statistician with the Executive Office on Aging and has served as an instructor and research associate with Honolulu Community College. She is a member of the Gerontological Society of America, the American Society on Aging, and the American Political Science Association.

David A. Woll holds a Master's in Business Administration from the University of Hawaii and a Bachelor's degree in Economics from the University of Pittsburgh. Mr. Woll is presently employed in data processing and systems development with Hawaiian Electric Company. He is an active community volunteer with the American Youth Soccer Organization and the Junior Achievement program at Kaimuki High School.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3588 Health and Human Services on Gov. Msg. No. 306

Recommending that the Senate advise and consent to the nominations of the following:

EMERGENCY MEDICAL SERVICES ADVISORY COMMITTEE

KARLEEN K. YOSHIOKA, for a term to expire June 30, 2005; and

DAVID WILLIAM MAY, GAIL T. TOMINAGA, M.D., and THOMAS A. VEATCH, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Karleen K. Yoshioka, David William May, Gail T. Tominaga, M.D., and Thomas A. Veatch have the necessary character, experience, and qualifications to serve on the Emergency Medical Services Advisory Committee.

Your Committee received testimony from the Department of Health in support of the nominees.

Karleen K. Yoshioka holds a Bachelor's degree in Nursing from the University of Hawaii, and a registered nurse license in Hawaii. Ms. Yoshioka presently serves as a Nurse Manager for the Hawaii District Health Office, and has served as a nurse within the district office since 1970. She is an active community volunteer with the Organ Donor Center of Hawaii, the Big Island Dental Task Force, the Hawaii Island Rural Health Association, and the Breast and Cervical Cancer Control Program.

David William May holds a nursing degree from Methodist School of Nursing in Omaha, Nebraska, and a registered nurse license in Hawaii. Mr. May presently serves as the Maui County Supervisor with the Hawaii Air Ambulance, and has held various nursing positions with Maui Memorial Hospital and St. Mary's Hospital in Missouri.

Gail T. Tominaga, M.D. holds a Medical degree from the University of California Irvine College of Medicine and a Bachelor's degree from the University of California at Los Angeles. Dr. Tominaga presently serves as Medical Director and Chief of Trauma Division at the Queen's Medical Center. She is an active member of the Society for Critical Care Medicine, American Association for the Surgery of Trauma, and American College of Surgeons State Committee on Trauma, among many others.

Thomas A. Veatch was educated as a paramedic in Honolulu and has been employed since 1978 as a paramedic with various emergency response companies. Mr. Veatch is an active community volunteer with the U.S. Navy League and as a little league coach.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3589 Health and Human Services on Gov. Msg. No. 313

Recommending that the Senate advise and consent to the nominations of the following:

STATEWIDE HEALTH COORDINATING COUNCIL

STEPHEN G. CHONG, WAYNE S. HIGAKI, ROBERT T. OGAWA, and ROSE ANN POYZER, for terms to expire June 30, 2006,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Stephen G. Chong, Wayne S. Higaki, Robert T. Ogawa, and Rose Ann Poyzer have the necessary character, experience, and qualifications to serve on the Statewide Health Coordinating Council.

Your Committee received testimony from the State Health Planning and Development Agency in support of the nominees.

Stephen G. Chong holds a Master's degree in Healthcare Administration and a Bachelor of Science degree in Biology from the University of Washington. Mr. Chong is presently serving as a System Management Specialist and has served in various capacities with St. Francis Healthcare System, Kapiolani Health System, and Hawaii Medical Services Association. He is an active community volunteer with the Friends of Cancer Center Board, the Healthcare Association of Hawaii, and the State Health Planning and Development Agency.

Wayne S. Higaki holds an Associate of Science degree and presently serves as Director of Projects and Business Development with North Hawaii Community Hospital. Mr. Higaki also serves on the State Health Planning and Development Agency's advisory committee for the County of Hawaii.

Robert T. Ogawa holds a Bachelor's degree in Literary Writing from the University of Hawaii and presently serves as a government relations consultant. Mr. Ogawa has served on the staff of U.S. Senator Daniel Akaka, during his terms as Senator and Congressman. He is an active community volunteer with the Hawaii Long Term Care Association, the Assisted Living Federation of American, and the State Assisted Living Working Group, among many others. Testimony in support of Mr. Ogawa was received from Arcadia Retirement Residence, Hawaii Long Term Care Association, and Kaiser Permanente.

Rose Ann Poyzer holds a Master's degree in Public Health from Catholic University in Washington D.C., and a Bachelor's degree in Nursing from College of St. Catherine in St. Paul Minnesota. Ms. Poyzer presently serves as Vice President for the Home Care and Hospice Division of the Healthcare Association of Hawaii, and previously served as Executive Director of Hawaii Association for Home Care and as a public health nurse. She is an active community volunteer with the Waikiki Health Center, American Cancer Society's Patient Services Committee, and the Advisory Council to the University of Hawaii's School of Nursing, among many others.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3590 Health and Human Services on Gov. Msg. No. 328

Recommending that the Senate advise and consent to the nominations of the following:

STATE COUNCIL ON MENTAL HEALTH

ALAN BUFFENSTEIN, M.D., for a term to expire June, 30, 2004, and

LINDA COCHRAN, for a term to expire June 30, 2005,

Upon review of the testimony and written statements submitted by the nominees, your Committee finds that Alan Buffenstein, M.D. and Linda Cochran have the necessary character, experience, and qualifications to serve on the State Council on Mental Health.

Your Committee received testimony from the Department of Health in support of the nominees.

Allan Buffenstein, M.D., holds a Medical degree from the University of Cape Town Medical School in South Africa and is a Hawaii licensed medical doctor. Dr. Buffenstein is presently with the University of Hawaii Department of Psychiatry, and also serves as a consulting psychiatrist with the Department of Human Services. He is past President of the Hawaii Psychiatric Association, and has participated with the Methamphetamine Forum and Mental Health Hawaii.

Linda Cochran attended LKWA Technical Institute in Kirkland Washington, and is presently self-employed in Hawaii County. Ms. Cochran has served as a secretary to several Hawaii County businesses and organizations. She has been an active community volunteer with the National Alliance for the Mentally Ill, Hawaii Community Mental Health Service area board, and Kona Friends of the Mentally Ill.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Fukunaga).

SCRep. 3591 Economic Development and Technology on H.C.R. No. 200

The purpose of this measure is to request the Department of Land and Natural Resources (DLNR) to convene a task force to determine the feasibility of establishing a freshwater fishery at the Wahiawa Reservoir. The task force will examine:

- (1) Previous attempts to develop a freshwater fishery;
- (2) Plans and proposals that could alter the water quality of the Reservoir;
- (3) Alternative species of fish that might be considered;
- (4) The potential market for and cost factors for establishing a fishery; and
- (5) Potential environmental and economic impacts.

Your Committee finds that there are certain opportunities for upgrading the recreational fishery and improving the surrounding area which the task force could address.

Your Committee notes that the S.D. 1 version would have required the Chair of the Board of Land and Natural Resources rather than the Governor to appoint the task force members. Upon further consideration, your Committee has decided not to make that change.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 200, H.D. 1, and recommends its adoption.

Signed by the Chair on behalf of the Committee.
Ayes, 4. Noes, none. Excused, 3 (Ige, Matsunaga, Taniguchi).

SCRep. 3592 Tourism and Intergovernmental Affairs on Gov. Msg. No. 327

Recommending that the Senate advise and consent to the nominations of the following:

KING KAMEHAMEHA CELEBRATION COMMISSION

PATRICIA KAINOA HODSON, for a term to expire June 30, 2004;

KILAKILA KAMAU, for a term to expire June 30, 2005;

SHELLY R. COBB, ROSE MAY ENOS-KU, and MARION M. JOY, for terms to expire June 30, 2006,

Upon review of the testimony and information submitted by the nominees, your Committee finds that the nominees have the necessary character, experience, and qualifications to serve on the King Kamehameha Celebration Commission.

Patricia Kainoa Hodson is employed by Aloha Airlines and is active in Lehua Jaycees and Kuhio Village Homestead organizations. She attended Honokaa High School and the University of Hawaii at Hilo. Ms. Hodson is filing a vacancy on the Commission.

Kilakila Kamau is a Program Director/Sales for KAOI Radio Group and is active in Maui Jaycees and a lifelong Hawaii resident. This appointment is to fill a vacancy on the Commission.

Shelly R. Cobb is a Flight Attendant with Aloha Airlines and also works for KONG Radio. She attended Kauai High School and Kauai Community College. Ms. Cobb has been a pa`u participant in the Aloha Week Parade and Kamehameha Day celebrations, receiving First Place awards in both. She is being reappointed to the Commission.

Rose May Enos-Ku is a Hawaiian Studies Teacher at Kualapuu Elementary School on Molokai. She attended Molokai High School and Maui Community College on Molokai. Ms. Enos-Ku is a member of Kaahumanu Society. This is a reappointment to the Commission for Ms. Enos-Ku.

Marion M. Joy is a Realtor with ERA Joy Realty. She attended Kamehameha School for Girls and the University of Hawaii. Ms. Joy is active in numerous professional realtor organizations, Kamehameha Alumni Association, and Na Pua a Ke Alii Pauahi Inc. Ms. Joy is being reappointed to the Commission. One individual submitted testimony in opposition to the appointment of Marion M. Joy.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 3 (English, Inouye, Sakamoto).

SCRep. 3593 (Majority) Tourism and Intergovernmental Affairs on Gov. Msg. No. 293

Recommending that the Senate advise and consent to the nomination of the following:

HAWAII TOURISM AUTHORITY

LAWRENCE M. JOHNSON, for a term to expire June 30, 2006,

Your Committee notes that Governor's Message No. 293 included the nominations of Nadine K. Nakamura, Sharon R. Weiner, and Stephen K. Yamashiro. These nominations are considered in a separate committee report.

Upon review of the testimony and information submitted by the nominee, your Committee finds that Lawrence M. Johnson has the necessary character, experience, and qualifications to serve on the Hawaii Tourism Authority.

Testimony in support of this nomination was received from the Hawaii Tourism Authority, Department of Business, Economic Development, and Tourism, The Chamber of Commerce of Hawaii, Hawaii Business Roundtable, HGEA/AFSCME Local 152, AFL-CIO, Hawaii Hotel Association, First Hawaiian Bank, Alexander & Baldwin, Inc., AIG Hawaii Insurance Company, Inc., Hawaiian Airlines, Victoria Ward, Limited, Watanabe, Ing & Kawashima, and six individuals. One individual submitted comments.

Lawrence M. Johnson is Past Chairman of the Board of Directors and Chief Executive Officer of Pacific Century Financial Corporation and its principal subsidiary, Bank of Hawaii. He retired from this position in November 2000. Mr. Johnson is an active member of numerous community boards, including the East-West Center, The Japan-America Society of Hawaii, Marimed Foundation, and The Hawaii Community Foundation, among others. A former chairman of the Hawaii Business Roundtable, Mr. Johnson also served as Conference Chairman of the Pacific Basin Economic Council 2000 International General Meeting, Chairman of the Board of the Hawaii Visitors Bureau, and President of the Waikiki Improvement Association. During his career, Mr. Johnson has received many awards, including the University of Hawaii Distinguished Alumni Award, and Hawaii Pacific University Fellow of the Pacific Award, and is a member of the Pacific Coast Banking School Hall of Fame.

As affirmed by the record of votes of the members of your Committee on Tourism and Intergovernmental Affairs that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, 1 (Slom). Excused, none.

SCRep. 3594 Judiciary on Jud. Com. No. 4

Recommending that the Senate consent to the nomination of the following:

CLARENCE A. PACARRO, to the District Court of the First Circuit;

Your Committee received testimony in support of the nominee from the Honolulu Prosecuting Attorney, State Public Defender, Hawaii State Bar Association (HSBA), Pacific Law Group, and two individuals.

The HSBA subjected the nominee to rigorous review and evaluation before rating the nominee as "highly qualified" for the position. That rating is the highest endorsement given by the HSBA for judicial appointment recommendations. The review includes a thorough evaluation of the nominee based on a modified version of the American Bar Association Guidelines for Reviewing Qualifications of

Candidates for Judicial Office. The guideline's criteria include: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

The nominee received his law degree from the Lewis and Clark Law School. He is currently in solo private practice specializing in all aspects of litigation, and is also a per diem judge with the District Court of the First Circuit in the Family Court. His experience includes employment at the Honolulu Department of the Corporation Counsel, Honolulu Prosecuting Attorney, and the law firm of Davis Reid & Richards. The nominee is licensed to practice law in Hawaii, the United States District Court for the District of Hawaii, and the Ninth Circuit Court of Appeals.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 2 (Hanabusa, Ihara).

SCRep. 3595 Judiciary on Jud. Com. No. 5

Recommending that the Senate consent to the nomination of the following:

JOEL AUGUST, to the Circuit Court of the Second Circuit, for a term to expire ten years,

Your Committee received testimony in support of the nominee from the Chairperson of the Board of Land and Natural Resources, a Hawaii State Representative, Hawaii State Public Defender, Hawaii State Bar Association (HSBA), forty-seven attorneys, a retired judge, and twenty-three individuals.

The HSBA subjected the nominee to rigorous review and evaluation before rating the nominee as "highly qualified" for the position. That rating is the highest endorsement given by the HSBA for judicial appointment recommendations. The review includes a thorough evaluation of the nominee based on a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for Judicial Office. The guidelines' criteria include: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

The nominee received an undergraduate degree from Dartmouth College and a law degree from the University of California, Boalt Hall. He is licensed in Hawaii, California, U.S. District Court (Hawaii), and U.S. Court of Appeals for the Ninth Circuit. He is currently a partner with Lowenthal & August, and has served from 1990 to the present as a hearings officer for the Maui Planning Commission. Your Committee notes that the nominee has served as a per diem judge with the Family Court of the Second Circuit, and was Legal Counsel to the Kahoolawe Island Conveyance Commission from 1990-1992. He is active in Maui cultural, educational, and community activities.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Ihara, Slom).

SCRep. 3596 Judiciary on Gov. Msg. No. 357

Recommending that the Senate and consent to the nomination of the following:

MARCIA J. WALDORF, to the Circuit Court of the First Circuit, for a term of ten years;

Your Committee received testimony in support of the nominee from the Hawaii State Public Defender, Honolulu Prosecuting Attorney, Hawaii State Bar Association (HSBA), a Program Specialist of the First Judicial Circuit, sixteen attorneys, and four individuals.

The HSBA subjected the nominee to rigorous review and evaluation before rating the nominee as "highly qualified" for the position. That rating is the highest endorsement given by the HSBA for judicial appointment recommendations. The review includes a thorough evaluation of the nominee based on a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for Judicial Office. The guidelines' criteria include: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

The nominee has been a District Court Judge of the First Circuit Court since 1985, in which she served as the Administrative Judge of the District Court for five years. She has substituted as a circuit court judge from time to time and has also served as a district family court judge. She received an undergraduate degree, cum laude, from the University of California at Davis, and a law degree from the University of San Francisco School of Law where she was on the Moot Court Board. Previously, she served as a Deputy Public Defender. Most recently, the nominee has helped plan a mental health court.

Your Committee notes that the nominee has been active in domestic violence working groups and judicial education. She has been a member of the Judicial Education Committee, contributing to the content, format, and faculty composition of at least two education

seminars a year. She has also been a faculty member as well and trains per diem judges. Your Committee is more familiar with her in her capacity as the District Court Legislative Coordinator. Her testimony before your Committee has been forthright and enlightening.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.

Ayes, 5. Noes, none. Excused, 4 (Chun, Hanabusa, Ihara, Sлом).

SCRep. 3597 (Joint) Health and Human Services and Education on S.R. No. 71

The purpose of this measure is to request the United Nations to consider the establishment in Hawaii of a Center for Health, Welfare, and Education of Children, Youth and Families for Asia and the Pacific.

Testimony supporting this measure was received from the Christian Science Committee on Publication for Hawaii and two individuals.

Your Committees find that securing and improving the health, welfare, and education of children and families are basic values shared by Hawaii and populations throughout the world. Hawaii's unique location bridging Asia and the mainland United States, and Hawaii's diverse culture make it an excellent location for world leaders to congregate and discuss international children's issues. Your Committees believe that this measure further promotes the well-being of the world's children and international relations.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Education that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 71 and recommend that it be referred to the Committee on Tourism and Intergovernmental Affairs.

Signed by the Chairs on behalf of the Committees.

Ayes, 9. Noes, none. Excused, 6 (Fukunaga, Ige, Kokubun, Matsunaga, Tam, Hogue).