

SCRep. 446-90**Consumer Protection and Commerce on H.B. No. 2362**

The purpose of this bill is to amend chapter 514A, Hawaii Revised Statutes, to restore the Real Estate Commission's power to enforce condominium owners' rights. Further, this bill would clarify language on condominium managing agent fidelity bond requirements and application fees and would clarify the condominium association's right and the procedures to recover from a managing agent's fidelity bond and the real estate recovery fund.

Your Committee heard testimony in favor of this measure from the Real Estate Commission ("Commission"), an insurance company, the Hawaii Independent Condominium and Cooperative Owners ("HICCO"), and the Hawaii Council of Associations of Apartment Owners (HCAAO).

A problem arose when the Legislature enabled condominium associations to make a claim for losses under the managing agents or hotel operators' fidelity bond. The commission testified that bonding companies are reluctant to issue "non-standard" fidelity bonds and will issue only "standard" fidelity bonds. The "standard" fidelity bond protects the employer against misappropriation by employees and does not provide direct protection to a third party. Currently, section 514A-95, Hawaii Revised Statutes, requires that the managing agent's fidelity bond protect the associations, the third party, against misappropriation by the managing agent and the managing agent's employees.

The insurance company representative testified that the fidelity bond policy provides coverage to an employer for the dishonest acts of its employees, not for any third party. The insurance representative stated that the proposed language in H.B. No. 2362 was created by the Commission with the assistance of the insurance industry and would allow the hotel condominium operators and condominium managing agents to be able to comply with the law.

Your Committee notes that H.B. No. 2537 had a similar purpose in restoring the Real Estate Commission's power. However, this bill retains the criminal penalty for persons who violates or fails to comply with any of the stated provisions.

Your Committee has amended the bill in the following manner:

- (1) Deleted sections 2, 3, and 4 because H.B. No. 2537, passed out of your Committee, also restored the Real Estate Commission's power to investigate any denial of condominium owners' rights to obtain information about their projects;
- (2) Appropriately renumbered the bill; and
- (3) Technical, nonsubstantive changes have been made to the bill for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2362, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2362, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 447-90**Consumer Protection and Commerce on H.B. No. 2392**

The purpose of this bill is to amend section 467-25.5, Hawaii Revised Statutes, in order to change the annual registration and renewal fee schedule and to clarify the Real Estate Commission's authority to adopt rules.

Your Committee heard testimony in favor of this bill from the Real Estate Commission ("Commission"). The Commission testified that this bill changes the annual fiscal year registration and renewal of real estate schools and instructors to a biennial calendar year system. They also testified that this bill would clarify the commission's authority to adopt rules which would include the registration, renewal and reinstatement of a forfeited real estate school's and instructor's registration.

Technical, nonsubstantive changes have been made to this bill for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2392, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 448-90**Consumer Protection and Commerce on H.B. No. 2393**

The purpose of this measure is to restate the Legislature's intent that the condominium specialist position shall be a temporary position with the Real Estate Commission exempt from chapters 76 and 77, Hawaii Revised Statutes. In addition, to authorize the Department of Commerce and Consumer Affairs to establish a secretary I position, also exempt from chapters 76 and 77, Hawaii Revised Statutes, to support the condominium specialist.

Your Committee heard testimony in favor of this measure from the Real Estate Commission ("Commission"), the Hawaii Council of Association of Apartment Owners ("HCAAO"), the Hawaii Independent Condominium and Co-operative Owners ("HICCO"), and the Hawaii Association of Realtors. The Commission, HCAAO, and the Hawaii

Association of Realtors testified that the condominium specialist position should be a permanent position with adequate secretarial support.

The Commission further testified that the condominium specialist has assisted consumers, boards of directors, and all interested persons associated with condominiums. During this tenure with the Commission, the condominium specialist has confirmed that those involved with condominium associations need information, education and advice on condominium law and condominium management.

Consequently, your Committee has amended this measure by changing "temporary" to "permanent" to reflect the permanency of the respective positions of the condominium specialist and secretarial support.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2393, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 449-90 Consumer Protection and Commerce on H.B. No. 3380

The purpose of this bill is to amend section 514A-102(a), Hawaii Revised Statutes, by mandating a developer to include among the list of items required to be disclosed, a statement of the availability and number of wheelchair accessible residential units in the project.

Your Committee heard testimony in favor of this measure from the Commission on Persons with Disabilities, the Real Estate Commission, the Hawaii Centers for Independent Living, and the Affordable Housing Alliance. The consensus among the testifiers was that this amendment would increase the public's knowledge of the availability of accessible units, create more awareness on the part of developers, and increase the number of homeowners by including persons with disabilities.

The Commission on Persons with Disabilities recommended an amendment which would more accurately reflect the design requirements mandated by the Federal Fair Housing Act Amendments of 1988 for new construction of multifamily dwellings. The building design must be both accessible (the public and common use must be usable by persons with disabilities, including doors and passageways) and adaptable (the interior of the unit must be usable by persons with disabilities). Consequently, your Committee has included language reflecting the Federal Fair Housing Amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3380, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3380, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 450-90 Consumer Protection and Commerce on H.B. No. 2501

The purpose of this bill is to amend section 437B-15, Hawaii Revised Statutes, by deleting the requirements for identifying crash parts, their quality, and requiring signed acceptance by the owner that they accept the quality of the parts.

Your Committee heard testimony in favor of this measure from the Motor Vehicle Repair Industry Board ("Board"). The Board testified that these requirements placed a burden on motor vehicle repair dealers and has caused insurance companies to pay large amounts of money due to the different price between original equipment and crash parts.

The Department of Commerce and Consumer Affairs, Regulated Industries Complaints Office ("RICO"), the Automotive Body and Painting Association of Hawaii ("ABPAH"), the Society of Collision Repair Specialists ("Society"), and the Hawaii Insurers Council opposed this bill. RICO testified that the bill eliminated the requirements for body and fender shops to notify the customers of the type of crash parts to be used when providing an estimate and eliminated the requirement for use of the parts which are not manufactured or supplied by the original vehicle equipment manufacturer unless the customer signed an agreement accepting the use and quality of the replacement crash parts. RICO opposed any measure that would diminish consumer awareness and informed choice because their experience indicated that consumer awareness is an essential ingredient of consumer protection.

ABPAH opposed this measure because they felt that disclosure of the fact that non-original crash parts are being used in the repair of their damaged vehicle, is good consumer protection. They also testified that the use of non-original equipment manufacturer parts may not be of the same quality or standard as original manufactured parts, and may therefore void the manufacturer car warranty.

The Society testified that non-disclosure of the type of crash parts to be used was fraudulent. They felt that passage of this bill would indicate to motor vehicle repairers that they may use substitute cheaper parts without disclosure to the consumer.

The Hawaii Insurers Council testified that the use of non-original parts should be disclosed to the consumer.

RICO suggested an amendment to the bill which would require consumer disclosure of the differences between manufacturer's and non-manufacturer's crash parts. This amendment would allow the consumer to be notified of the use and source of the crash parts to be used prior to the repair of the vehicle, and thus would allow the consumer to make an

informed decision on the repair of the motor vehicle. The Hawaii Insurers Council suggested an amendment which would prohibit a motor vehicle repair dealer from using crash parts not subject to a certified testing program unless the motor vehicle owner signs an agreement stating that the owner accepts the quality of the parts.

Your Committee has amended this bill in the following manner:

- (1) removed the brackets that eliminated sections (b) and (c);
- (2) included a disclosure statement to be signed by the consumer accepting the use of non-original crash parts to be used on the repair of the motor vehicle as suggested by RICO; and
- (3) other technical, nonsubstantive changes have been made for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2501, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2501, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 451-90 Health on H.B. No. 2156

The purpose of this Act is to initiate a health care strategy that is cost-effective and personalized to the community. This Act proposes to develop a holistic/humanistic model for health care that utilizes and integrates Hawaii's abundant resources for healing--a model that by its simplicity, cost-effectiveness, and use of existing resources, can be replicated throughout the islands as well as abroad, thereby adding to Hawaii's reputation as a leader in the global thrust for the healing of the earth and her people.

Testimony was heard in support of this Act from numerous individuals speaking for the following disciplines or organizations: "Ropes Course", medicine, Transcendental Meditation and Maharishi Ayur-Veda Center, Honetsugi, Judi James Ministries, Ltd., Roling, Houston Wellness Center, Public Health Nursing, and Institute of Body Therapeutics. The Department of Health supported the intent of the measure, but believes its implementation in its present form is fraught with unknowns and complications.

Your Committee expressed concern over the appropriateness of utilizing state monies for such a project. It appears that this might best administered by a privately funded organization. Major questions raised were those regarding: liability, which disciplines would be chosen to be included in the clinic, costs of care, protection of patients rights, site and many others were raised. The Committee supports the intent of the bill and made the following recommendations:

- (1) There shall be an advisory committee of concerned individuals and a representative from the Department of Health who shall work on determining if and how a pilot program is feasible.
- (2) Based on the above the appropriation was removed from the bill. Referral to Finance Committee will be waived.
- (3) If deemed feasible, a project such as this is best administered by the Department of Health through a Request for Proposal.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2156, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2156, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 452-90 Health on H.B. No. 2131

The purpose of this bill is to help alleviate the shortage of nurses in Hawaii by streamlining the examination requirements for foreign-trained nursing applicants. At the present time, any nurse who received their nursing education in a foreign country must take the Commission on Graduates of Foreign Nursing School (CGFNS) exam. These nurses must then present a certificate from the CGFNS before their application will be accepted to sit for the National Council Licensure Examination for Nursing. (NCLEX-RN)

Your Committee heard testimony indicating agreement with the intent of this bill from the Board of Nursing, the Department of Health, the Hawaii Nurses Association and others. Concerns were raised by these groups and others that:

- 1) Changes in the requirements must not compromise the quality of nursing care; and
- (2) The word "indigenous," used in reference to foreign nursing programs, must be clarified or changed.

Your Committee has amended this bill to exempt the following individuals from taking the CGFNS exam:

- (1) Those applicants who have completed Operation Nightingale, or a program certified by the Hawaii Board of Nursing to be equivalent to Operation Nightingale; and
- (2) Those who have graduated from a registered nursing program approved by the Hawaii Board of Nursing, and who are licensed practical nurses who have met the provisions of the board.

Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2131, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ihara.

SCRep. 453-90**Finance on H.B. No. 461**

The purpose of this bill is to repeal the authority of the Legislature to consider and fund requests for grants, subsidies, or purchases of service which are not included in the budgets submitted by the Executive and Judicial branches.

Your Committee finds that appropriations to private organizations, authorized under Chapter 42, Hawaii Revised Statutes, have been increasing significantly. Between fiscal years 1984-85 and 1989-90, appropriations for grants, subsidies, and purchases of service grew 281 percent, from \$17.8 million to \$67.8 million.

Your Committee further finds that a major factor in the rapid increase in Chapter 42 appropriations has been legislative supplements to the budgets requested by the Executive and Judicial branches. For example, in fiscal year 1987-88, the Legislature added 13 percent, or \$4.9 million, while in fiscal year 1989-90, it added 37 percent, or \$18.3 million.

As stated in the 1989 report entitled, "Evaluation of Hawaii's Grants-in-aid, Subsidies, and Purchases of Service Program" by the Legislative Auditor, this rapid growth in Chapter 42 requests and appropriations raises a major concern over the departments' ability to manage additional responsibilities effectively. Testimony by the Director of Finance in support of the bill further emphasized the need for effective decision making and accountability, especially in terms of making the most efficient use of available resources to address identified needs.

However, numerous private organizations presented testimony stressing the significance of retaining the Legislature's existing role in the Chapter 42 process. In general, these organizations underscored the importance of maintaining the Legislature's ability to provide a timely response to community needs and act as a safety valve for errors which occur within the system.

Your Committee believes that effective management of the Chapter 42 process is crucial, and that greater responsibility for the review and recommendation of Chapter 42 funding should be placed on the Executive and Judicial branches. Nevertheless, your Committee concurs that the Legislature should retain some authority to be able to address the concerns raised by the many provider organizations. In order to incorporate both of these goals, your Committee has amended this bill in its entirety to establish a new chapter on grants, subsidies, and purchases of service and repeal the existing Chapter 42.

Specifically, the bill in its amended form shifts the focus of decision making to emphasize the importance of applying resources to assessed needs. Under this measure, the state agencies would first identify and assess needs for services, then evaluate the most appropriate service delivery system. If the agency determines that the services can be better addressed through a private provider, the agency would submit a recommended budget as part of its program budget (for inclusion in the Executive or Judiciary budget). Upon appropriation of funds, the state agencies would then advertise for proposals.

While all purchase of service requests would be required to follow this process, requests for grants and subsidies which are not included in the budget request could be submitted directly to the Legislature for consideration.

Article VII, section 4, of the State Constitution requires that public funds shall be used only for public purposes and granted only pursuant to standards established by law. Your Committee finds that this bill meets this constitutional requirement. Your Committee further finds that this bill establishes the means by which to provide the services in the most effective and efficient manner.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 461, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 461, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 454-90**Finance on H.B. No. 1159**

The purpose of this bill is to implement an anatomical gift designation system requiring the examiner of drivers to elicit organ donor information from each driver's license or license renewal applicant. In addition, this bill provides that an encoded imprint be made directly onto the license, designating whether the driver is an organ donor, and listing detailed information regarding the donated body parts and organs and the names of the facilities to receive the donated items.

Testimony supporting the general intent of this measure was submitted by the Department of Transportation, the Department of Health, the City and County of Honolulu, the Queen's Medical Center, the Pali Momi Medical Center, the Hawaii Organ Procurement Organization, the Hawaii Lions Eye Bank and Makana Foundation, Renal Institute of the Pacific, and various physicians.

However, several testifiers expressed concern that there would be insufficient space on the plastic driver's license to include the detailed, coded information. The City and County of Honolulu noted that the procedure to obtain all the

detailed information would require staff training to answer specific questions concerning organ donation. In addition, the City and County cautioned that it would be extremely time consuming and may cause a negative response by applicants wishing to avoid completing the relevant portion of the application form.

Accordingly, your Committee has amended this bill by deleting the provisions requiring the examiner of drivers to elicit information from the applicant regarding the body parts or organs the applicant wishes to donate, and the foundation, hospital, charitable organization, or other facility, if any, the applicant wishes the donated body part or organ to be donated to.

In addition, the City and County of Honolulu testified that a computer-generated licensing system is currently being implemented and that the imprinting of the additional donor information on the plastic driver's license would result in minimal additional costs. Based on this testimony, your Committee has further amended the bill by deleting the appropriation section.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1159, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1159, H.D. 1.

Signed by all members of the Committee.

SCRep. 455-90 Consumer Protection and Commerce on H.B. No. 2530

The purpose of this bill is to amend section 431:19-102(f), Hawaii Revised Statutes, by deleting the repeal date of July 1, 1990. The repeal date is unnecessary because of the past success of the use of independent advisors who review captive insurance company applications, the success of Hawaii's captive insurance law, and the minimal cost to the State.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, Insurance Division in favor of this measure. The commissioner testified that the division is able to process the captive insurance applications in a timely manner even with an increase in applications. The five independent consultants hired to review the applications are both qualified and experienced in the area of insurance and captive insurance in particular. Under the current procedure, the applicant pays the cost of the advisor's service, therefore the State does not incur any expenses.

The commissioner pointed out that the application process cost sometimes exceeds the statutory amount and, therefore, more flexibility in the matter of advisor fees was appropriate. When section 431:19-102(f) was enacted, the statutory ceiling was included as a guide for advisor fees. In providing flexibility, it is not your Committee's intention to give the commissioner unbridled discretion in setting the fees to be paid by applicant. Your Committee felt that reasonable fees could be set through rulemaking.

Consequently, your Committee has amended this bill by (1) deleting references to the statutory amount and by (2) inserting a statement which permits reasonable fees to be collected by the insurance commissioner.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2530, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2530, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 456-90 Consumer Protection and Commerce on H.B. No. 2361

The purpose of this bill is to amend section 467-30, Hawaii Revised Statutes, in order to clarify the fidelity bond requirements and coverages and to require payment of an application fee for condominium hotel operators.

Your Committee heard testimony in favor of this bill from the Real Estate Commission ("Commission") and an insurance company. Both the Commission and the insurance company representative testified that bonding companies are hesitant in issuing fidelity bonds to condominium hotel operators because the current language of the law is in conflict with the purpose and coverage of a "standard" fidelity bond. A "standard" fidelity bond protects the employer against misappropriation of funds by employees, it does not protect third parties.

The bond application fee is required to defray the administrative and review costs incurred by the Department of Commerce and Consumer Affairs.

The Commission requested some amendments to the bill which would further clarify the fidelity bond recovery procedure after further discussions with bonding companies.

Consequently, your Committee has made the following changes:

(1) page 5, line 5, deleted the words "seek recovery", and added the words "act promptly and diligently to recover";

(2) page 5, line 9, added a statement of procedures for the condominium hotel operator to follow in repaying injured apartment owners.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2361, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2361, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 457-90 Judiciary on H.B. No. 2020

The purpose of this bill is to allow nonresidents who submit to the jurisdiction of State courts to serve as personal representatives.

The current law allows only residents of the State to serve as personal representatives. This bill is intended to ease the burden on nonresidents in trying to find residents who are willing to serve as personal representatives, by allowing the nonresidents to serve if they submit themselves to the jurisdiction of the court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2020 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 458-90 Judiciary on H.B. No. 2051

The purpose of this bill is to allow the Reapportionment Commission to set the size of the Senate at a number from 25 to 27 and the size of the House of Representatives at a number from 51 to 55.

The current language of the Hawaii Constitution sets the size of the Senate at 25 and the size of the House of Representatives at 51. Under the present system of reapportionment required by federal law, districts extending beyond the boundaries of the basic island units are necessary to ensure that each district contains a substantially equal number of potential voters. This bill is intended to allow the Reapportionment Commission sufficient flexibility to vary the number of districts and, at the same time, ensure that the district boundaries stay within the basic island units.

Because of technical requirements associated with bills proposing constitutional amendments, related constitutional amendments are sought through H.B. Nos. 2053 and 2054.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2051 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 459-90 Judiciary on H.B. No. 2188

The purpose of this bill is to enable victims of property crimes to obtain their property quickly from police and insure the availability of competent evidence at trial.

Your Committee finds that too often it is the innocent victim which is penalized by the deprivation of the use and enjoyment of their property because of prolonged court proceedings.

The Department of the Attorney General, speaking on behalf of itself and the prosecutors and police chiefs of the City and County of Honolulu, and the counties of Kauai, Maui, and Hawaii, spoke in support of this bill. Testimony was received that Hawaii law currently only allows the identification by photograph of property recovered in burglary, theft and related offenses. The passage of this bill would expand the type of property to be photographed to include all property recovered in offenses against property rights. These would include items recovered in robberies, fraud and other offenses as enumerated in Chapter 708.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2188 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 460-90 Judiciary on H.B. No. 2309

The purpose of this bill is to restructure property crime sentencing to address the direct relationship between drugs and the commission of property crimes.

Your Committee finds that drug and alcohol related crimes are a growing problem within our community and need to be addressed.

Your Committee also finds that incarceration of first-time repeat property crime offenders increases the burden on our correctional system while not addressing the root of the problem.

The Honolulu Police Department, the Judiciary, and the Office of the Public Defender all strongly endorse the intent and language of this bill.

The Office of the Public Defender pointedly noted that while this bill does create a limited exception to the incarceration of first-time repeat offender within HRS §706-606.5, the conditions placed on the offender granted probation are clear and stringent enough to provide for immediate revocation of probation and resentencing should the offender fail to comply with the terms and conditions of probation.

It is the position of the testifying government agencies that this bill is a fair, workable, and realistic long-range solution to addressing and preventing criminal property offenses based on drug and alcohol dependency.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2309 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 461-90 Judiciary on H.B. No. 2839

The purpose of this bill is to provide the right of civil action against any person who, under color of any State law, deprives any other person of rights secured by the Hawaii Constitution.

This bill is patterned after 42 U.S.C. §1983, and it is expected that federal case decisions arising out of that law will provide guidance in interpreting the right of action arising out of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2839 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 462-90 Judiciary on H.B. No. 2614

The purpose of this bill is to increase the fee for issuing summons and copies, trial, judgment and satisfaction in an action in the small claims division of the district court from not more than \$5 to not more than \$10.

The current fee has not changed since the Small Claims Division was created in 1970. The increase reflects inflation and rising costs, but remains in keeping with the small claims concept. The court may also waive this fee if the litigant shows an inability to pay.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2614 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 463-90 Judiciary on H.B. No. 2844

The purpose of this bill is to require that the chief election officer be responsible for public education with respect to voter registration and information.

Your Committee received testimony from the Office of the Lieutenant Governor, the Association of Clerks and Election Officers, the League of Women Voters, and the Office of Hawaiian Affairs. All testimony was favorable in regards to the intent and content of this bill.

Section 11-2, Hawaii Revised Statutes, currently states that the lieutenant governor may make surveys, carry on house to house canvassing, and assist or direct county clerks when acting in the capacity as chief election officer and in regards to voter registration. Your Committee finds that the proposed bill will explicitly direct the chief election officer to be responsible for public education with respect to voter registration and information.

Your Committee does not find any fault with the services of the present or past chief election officers. It is felt, however, that unambiguous language in terms of the chief election officer's duties best serves the public rather than impliedly stating that office's responsibilities.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2844 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 464-90 Judiciary on H.B. No. 2054

The purpose of this bill is to allow the Reapportionment Commission to apportion legislative districts by total population instead of registered voters in order to comply with federally mandated equal representation requirements.

The current language of the Hawaii Constitution allows no deviation from the registered voter guideline. This bill will help to bring the language of the Hawaii Constitution within the requirements of federal law. Because of technical

requirements associated with constitutional amendments, your Committee intends to seek related constitutional amendments through H.B. Nos. 2051 and 2053, H.D. 1.

Your Committee has amended this bill by changing the basis for apportionment from total population to resident population. Your Committee has also made changes for purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2054, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 465-90 Judiciary on H.B. No. 2052

The purpose of this bill is to permit the Reapportionment Commission (Commission) to apportion the members of each house of the legislature whenever possible among the basic island units, and to apportion congressional districts on the basis of total population rather than registered voters.

The current statute allows no deviation from the basic island unit guideline, and this bill is intended to allow the Reapportionment Committee sufficient flexibility to meet federally mandated requirements for equal representation for all citizens.

Your Committee has amended this bill by changing the population base from "total" to "resident" for the purpose of clarifying Your Committee's intent to exclude non-resident persons from the reapportionment population base. Your Committee has also amended this bill by making it effective upon the ratification of the appropriate amendments to the State Constitution, as proposed in H.B. 2053, H.D. 1.

The phrase "whenever possible" is intended to require the Reapportionment Commission to apportion based on basic island units to conform with federal law. In the event, this cannot be accomplished, the Commission shall apportion in other methods allowed by the law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2052, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2052, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 466-90 Judiciary on H.B. No. 2184

The purpose of this bill is to prohibit gambling or the promotion of gambling aboard any ship which embarks and disembarks within the State.

Favorable testimony was received from the Department of the Attorney General on behalf of its office and the prosecutors and police chiefs of the City and County of Honolulu, and the counties of Kauai, Maui, and Hawaii.

Your Committee finds that intrastate gambling junkets, or "cruises to nowhere," would be detrimental to the strong stand the State has taken in support of the family oriented tourist industry.

Your Committee also finds that this bill would not apply to those ships which allow gambling and pass through Hawaii on their way to other ports since existing law currently prohibits such activities from occurring while these ships are in State waters.

Technical changes have been made to the bill to conform it to the drafting style and Ramseyer format of the Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2184, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2184, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 467-90 Judiciary on H.B. No. 2508

The purpose of this bill is to allow the Department of Corrections discretion to allow non-dangerous youths to participate in community based programs or in unlocked, but highly structured facilities, even after they are referred to a youth facility.

The current law refers to "incarceration in", as opposed to "commitment to", a youth facility. The Family Court has taken the position that this means that the youths must be incarcerated in the facility. The Department of Corrections raised concerns that there was a large number of youths referred to the youth facility who would qualify to be placed in unlocked, but highly structured facilities. The Department suggested that it would be beneficial to the community, as well as to the youths, to allow the youths to be placed in such facilities.

Your Committee agrees that, where possible, non-dangerous offenders should be placed in unlocked, highly structured facilities, so as to separate them from dangerous offenders and improve their chances of receiving successful corrective discipline.

Your Committee has amended this bill by adding a repeal date of July 1, 1993.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2508, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2508, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 468-90 Judiciary on H.B. No. 3100

The purpose of this bill is to increase the penalty for owning or intentionally transporting, possessing, or harboring any prohibited snake from a misdemeanor to a class C felony. The penalty for illegally transporting, possessing, or harboring other animals remains a misdemeanor.

Your Committee received testimony from the Board of Agriculture supporting the intent of the bill, but preferring the amendments proposed in H.B. No. 2877. H.B. No. 2877 proposes to increase the penalties for intentionally transporting, possessing, harboring, propagating, selling, transferring, or causing the importation of any snake or other prohibited animal seized under section 150A-7(b). The penalties proposed include:

- (1) A fine of not more than \$2,000 or imprisonment of not more than one year, or both, for a first offense;
- (2) A fine of no less than \$1,000 nor more than \$2,000 or imprisonment of not more than one year, or both, for a second offense within three years of the date of the previous offense;
- (3) A fine of not less than \$2,000 or imprisonment of not more than one year, or both, for a third offense within five years of a previous offense; and
- (4) A class C felony and higher fines for more than three offenses within a five-year period or a violation which poses a grave or serious threat to the State's agriculture, horticulture, public health, or the environment. Your Committee notes that the increased fines proposed by H.B. No. 2877 are inconsistent with the sanctions prescribed under the Hawaii Penal Code.

Your Committee has amended this bill by making it an offense to violate any provision of Chapter 150A, Hawaii Revised Statutes, or to own or intentionally transport, possess, harbor, propagate, sell, transfer, or cause the importation of any snake or other prohibited animal seized under Section 150A-7(b), Hawaii Revised Statutes. First and second offenses are misdemeanors. A third offense within five years of a previous offense is a class C felony. Any offense after the third offense within five years of the date of a previous offense is a class B felony. These amendments were made to increase the sanctions under Chapter 150A and to maintain consistency with provisions of the Hawaii Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3100, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 469-90 Judiciary on H.B. No. 2817

The purpose of this bill is to make it clear that the court has the authority to order reimbursement of support, maintenance, education, and funeral expenses expended for the benefit of the child prior to the entry of a paternity judgment.

The present law provides only that the court may order the father to pay reasonable expenses of the mother's pregnancy and confinement, and, although it alludes to recovery of previously paid education, support and funeral expenses, it does not provide specifically for establishment of a judgment.

Your Committee amended this bill by adding the phrase "prior to entry of judgment" for the purpose of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2817, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2817, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 470-90 Judiciary on H.B. No. 2810

The purpose of this bill is to provide an additional exception to the hearsay rule where an otherwise inadmissible out of court statement is made by a child under the age of ten or by a person who is mentally defective or mentally incapacitated, or becomes mentally incapacitated subsequent to the offense.

Your Committee is mindful of the trauma, confusion, and bewildering array of events facing child and incapacitated witnesses prior to and during trial. This exception is intended to allow admission only if the statements are made under circumstances showing sufficient indicia of reliability and the witness either testifies at trial or is unavailable.

Your Committee has made technical, nonsubstantive changes for the purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2810, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2810, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 471-90 Judiciary on H.B. No. 2616

The purpose of this bill is to allow the grand jury counsel to advise the grand jury without having received prior inquiry from the grand jury. This bill is intended to clarify existing law, and not to create a new right of the grand jury counsel or the grand jury.

The current law states that the grand jury counsel's function "shall be only to receive inquiries on matters of law...and provide appropriate answers of law." Issues have been raised as to whether or not the grand jury counsel, in the absence of inquiries, may provide advice. This bill specifies that the advice may be given. Your Committee recognizes that many situations arise where the law is complex and the grand jury may have insufficient knowledge to commence inquiry.

Your Committee has amended this bill for the purpose of requiring all advice to be recorded verbatim and made part of the record of the grand jury proceedings. Your Committee has also made technical, nonsubstantive changes for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2616, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2616, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Takamine, Yoshimura and Cavasso.

SCRep. 472-90 Consumer Protection and Commerce on H.B. No. 2411

The purpose of this bill is to provide licensing requirements for an auctioneer's license, delete dealer bonds requirements, and include requirements for broker bonds.

Your Committee received testimony in favor of this bill from the Motor Vehicle Industry Licensing Board ("Board"), the Hawaii Automobile Dealers' Association ("HADA"), and the Used Car Dealers Association of Hawaii. The Board testified that in 1989 the Legislature passed Act 299 which eliminated the bond requirements for manufacturers, factory branches, factory representatives, distributors, distributor branches, distributor representatives, salespersons, and auctioneers engaged in the business of manufacturing, distributing, or selling new motor vehicles in the State. Similarly, this bill eliminates bond requirements for new and used car dealers, motorcycles, and motor scooter dealers and auctions, and adds new licensing requirements for these licensees.

HADA testified that franchised new car dealers are required to make a substantial investment to meet franchise requirements set forth by the manufacturers. Thus, they believed that a review of financial statements of all new car dealerships would reveal investments considerably more than the current \$200,000 bond requirement.

A surety bond representative opposed this bill because no amendment was made to provide an alternative to bonding. The bonding representative testified that by allowing a dealer license without a bond for those who chose to supply the Board with bank flooring lines of credit and audited financial statement improves the system by allowing an alternative to the bond. He believed the line of credit alternative would be used by older, more established dealers, while new dealers would choose to get a surety bond.

Your Committee notes that it has been struggling with this issue for many years. In 1988, the Legislature acknowledged the difficulty licensees experienced in obtaining statutory bonds and asked the Board to evaluate both the need for, and the amount of, the motor vehicle dealer licensing bonds. As a result, the Legislature eliminated bond requirements for manufacturers and distributors in 1989. Consequently, your Committee believes that this bill will be consistent with the 1989 amendments.

Technical, nonsubstantive changes have been made to the bill for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2411, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 473-90 Housing on H.B. No. 688

The purpose of this Act is to extend to condominiums and cooperatives the principles of Chapter 516, Hawaii Revised Statutes, which gives single-family leasehold homeowners the right to acquire the land under their homes.

H.B. 688 was introduced as a short-form bill, i.e., a bill containing only a general idea as to its purpose without specific details in long form.

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

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 688, as amended herein, and recommends that it be recommitted to the Committee on Housing for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 688, H.D. 1.

Signed by all members of the Committee except Representative Duldulao.

SCRep. 474-90 Finance on H.B. No. 2907

The purpose of this bill is to clarify that the expenditure ceiling for Nursing Home Without Walls services shall not exceed seventy-five percent of the annual Medicaid cost for comparable institutional care for the program caseload rather than each individual client.

Your Committee finds that the current requirement of not exceeding seventy-five percent for each individual client poses a hardship when additional services are needed, particularly with respect to terminally ill clients, severely disabled clients and clients awaiting accommodation in long-term care institutions. The higher costs for these clients needing additional services are offset by stable service clients whose needs are less. Consequently, average program costs will remain constant within the seventy-five percent expenditure ceiling notwithstanding the proposed clarification.

Your Committee further finds that rapidly increasing costs for personal care and skilled nursing services have affected the program's ability to meet the needs of clients and assure safety in the home. Your Committee believes that by maintaining the ceiling expenditure at seventy-five percent of the program caseload, this measure will assist the program in better meeting the needs of all of its clients while allowing those needing additional services to be maintained in a cost-effective, humane environment in the society.

Testimony in support of this bill was received by the Department of Human Services and the Commission On Persons With Disabilities.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2907 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 475-90 Finance on H.B. No. 2895

The purpose of the bill is to establish a compound interest bond reserve fund to pay debt service on general obligation bonds issued as "compound interest bonds." The fund moneys shall be used for the payment of principal and interest on compound interest bonds.

Your Committee finds that the existence of such a reserve fund will aid in fostering level budget requirements even though actual debt service requirements may vary greatly from year to year due to the nature of compound interest bonds.

Favorable testimony was received from the Director of Finance.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2895, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 476-90 Finance on H.B. No. 3142

The purpose of this bill is to establish an educational program with local aquacultural farmers providing Kahuku High School students with hands-on training, through class work as well as after-school activities, in aquaculture breeding and production techniques.

Your Committee finds that the aquaculture farms in Kahuku are an important source for jobs in a community with a high rate of unemployment. A systematic community-based aquacultural curriculum will benefit the community by training young people for local employment opportunities as well as meeting the occupational demands of this growing industry. In addition, the program will provide needy senior citizens in Kahuku with fresh farm-produced seafood at a reasonable price.

The Department of Land and Natural Resources, the Department of Education, Kahuku High and Intermediate School, and Aurea Marine, Inc. testified in favor of the bill.

Based on testimony received, your Committee has amended the bill by appropriating \$75,000 to adequately cover the costs of the program and to ensure a highly effective program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3142, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3142, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 477-90 Finance on H.B. No. 2947

The purpose of this bill is to require every buyer to deduct, withhold, and pay to the Department of Taxation, a specified amount of the proceeds of orgain on the sale by a nonresident seller of real property located in Hawaii.

Under this bill, the buyer must withhold 9 percent of the proceeds or gain if the nonresident seller is a person other than a corporation, or 6.4 percent of the proceeds or gain if the nonresident seller is a corporation.

Your Committee received favorable testimony from the Department of Taxation. Testimony was also received from the Tax Foundation of Hawaii.

The Department of Taxation testified that this bill would promote a greater level of compliance by nonresidents in reporting income from sales of real property located in Hawaii. The withholding requirement would not increase the amount of income tax paid by nonresidents since the amount withheld will be claimed as a payment on the Hawaii nonresident individual income tax return.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2947, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2947, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 478-90 Finance on H.B. No. 2103

The purpose of this bill is to begin using the United States Postal Service ZIP + 4 Code program in sorting and handling business mail from the Fiscal Benefit Office of the Department of Human Services, the Preaudit Office of the Department of Accounting and General Services, the Tax Service and Processing Division of the Department of Taxation, and the Administrative Services Office of the Department of Education.

Your Committee received testimony in support of this measure from the Department of Taxation and the United States Postal Service. The United States Postal Service testified that the State would realize a substantial amount of savings if the Zip + 4 program is implemented by state agencies.

Based on the testimony received, your Committee has amended the bill by inserting the amount of \$60,000 to cover the cost of software necessary to implement this program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2103, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2103, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 479-90 Finance on H.B. No. 484

The purpose of this bill is to establish a pay differential for nonmanagers who are excluded under the State's collective bargaining law of not less than five percent over the bargained salary levels of included employees of equivalent grade.

Your Committee finds that employees excluded from Chapter 89 are required to perform at a higher level of responsibility and confidentiality and are legally required to continue services during periods of labor disputes to maintain health and services to the public.

To address this inequity, this measure provides that the Directors of Personnel Services of the State and counties and the Administrative Director of the Courts establish a pay differential for personnel not covered by Chapter 89 of not less than five percent more than the salaries of personnel of equivalent grade who are covered by Chapter 89.

Your Committee has amended this measure to specify that the five percent pay differential be made for only full-time employees excluded under Chapter 89. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 484, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 484, H.D. 2.

Signed by all members of the Committee.

SCRep. 480-90 Finance on H.B. No. 2889

The purpose of this bill is to provide the State Legislature with a vehicle to determine the specific amount of State and County public employer contributions for retirees with less than ten years of service who enroll in the Health Fund's new prescription drug, vision care, and adult dental plans.

Under the present Health Fund law, retirees with less than ten years of service are eligible and have enrolled in the Health Fund's new benefits plan. However, they are required to pay the entire monthly premium for their new benefit plan coverages as no public employer contribution has been established. This measure will require public employers to pay half of each retiree's monthly premium based on active employee rates.

Testimony in support of this measure was received from Department of Budget and Finance.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2889, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2889, H.D. 2.

Signed by all members of the Committee.

SCRep. 481-90 Finance on H.B. No. 2924

The purpose of this bill is to provide recruiting flexibility to enhance the State's ability to fill temporary vacancies through temporary appointments provided there is less than five eligibles on a list and no selection is made from such a list that was certified as appropriate.

This bill will allow the Director of Personnel Services to authorize temporary appointments to temporary vacancies when there is less than five eligibles on a list. The current law prohibits temporary appointments so long as a list is available.

Your Committee finds that because of the highly competitive labor market, the State should have the flexibility to compete for qualified individuals under certain situations.

Testimony in favor of this bill was received from the Department of Personnel Services, the Department of Health, and the Judiciary.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2924, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2924, H.D. 2.

Signed by all members of the Committee.

SCRep. 482-90 Finance on H.B. No. 2932

The purpose of this bill is to fund specific repricing for civil service adult corrections officer, youth corrections officer, registered professional nurse, and anesthetist classes in the recommended compensation plan of the State Executive Branch.

Your Committee finds that while a substantial number of heavily populated classes were repriced during recent reviews, most departments would be unable to fund the increased payroll costs from existing appropriations without a substantial delay in filling vacant positions or transferring funds from other program areas. Therefore, added funds are essential to avoid serious fiscal repercussions in the employing departments.

Testimony in favor of the bill was received from the Department of Personnel Services and the Department of Corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2932, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 483-90 Finance on H.B. No. 2869

The purpose of this bill is to establish a supplies storeroom in the Department of Education and a revolving fund to operate the storeroom.

Based on testimony submitted by the Department of Education, the Department's storeroom has been used to purchase supplies for the public school system. Under this centralized operation, costs are reduced through consolidation of purchases for the entire system. However, because of the quarterly and annual lapsing of funds, money cannot be accumulated to make larger purchases. As a result, only smaller purchases can be made and cost benefits are reduced.

Your Committee finds that this bill will allow the Department to make more economical purchases by providing the means to accumulate funds. To provide a ceiling on this revolving fund, the bill requires that balances in excess of \$400,000 at the end of each fiscal year must be returned to the general fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2869 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 484-90 Finance on H.B. No. 2936

The purpose of this bill is to provide for the appointment of an administrative rules officer and administrative rules specialists as necessary to assist in the analysis, drafting, and adoption of administrative rules and the issuance of other memoranda relating to the taxes administered by the Department of Taxation.

Over the past three years, the Department of Taxation has hired attorneys on a temporary basis to draft administrative rules on a variety of topics, including the application of the general excise tax on telecommunications, the transient accommodations tax, the liquor tax, and the Natural Disaster Claims Commission.

The Department of Taxation testified that a backlog in the adoption or revision of administrative rules has occurred and that the positions of legal or accounting professionals specifically assigned to carry out these duties and other related functions of the Department should be made permanent.

Your Committee finds that the designation of permanent positions for an administrative rules officer and administrative rules specialists under the direction of the Director of Taxation will assure that the administration of tax laws and policy is set forth in a systematic and logical order.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2936 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 485-90 Finance on H.B. No. 2268

The purpose of this bill is to establish a state office pilot project to improve access to state government services and to reduce traffic congestion and driving distances for the public. The pilot project will be established within the Office of Information and will consist of four satellite state offices, one each in Windward Oahu, Leeward Oahu, Maui, and the Big Island.

Your Committee finds that expanding access to government services is currently a critical issue. With development moving toward the suburban and rural areas of the state and state agencies usually located in urban centers, accessibility to government services has become increasingly difficult and limited for suburban and rural residents. Therefore, offering government services in outlying areas would be consistent with present efforts for increased accessibility and decentralization.

Your Committee further finds that it would be feasible, through new developments in information technology, to offer such services as information, application forms, referral links, and the issuance of state identification cards, marriage licenses, and state park permits at the satellite offices.

The Office of State Planning and the Office of Information testified in favor of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2268 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 486-90 Finance on H.B. No. 2439

The purpose of this bill is to establish and fund a Recycling Proposal Fund to assist individuals developing proposals on methods or programs specifically related to recycling.

Your Committee received testimony from the Department of Business and Economic Development in support of this measure.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2439, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 487-90 Finance on H.B. No. 2261

The purpose of this bill is to establish a temporary Task Force on Labor Shortage. This Task Force would consist of outstanding labor and business representatives from each of the counties to evaluate the problems facing both employers and employees.

Your Committee finds that business activities and economic development in the State will be hampered by continued shortages in the work force. With the many challenges Hawaii faces with an expanding economy, long-term decline in the unemployment rate, and tremendous stress on the family, your Committee believes that there is an urgent need to establish a task force to review and recommend the full spectrum of programs and mechanisms available to resolve labor shortages in the State.

Testimony in support of this bill was received from the Department of Personnel Services, the Department of Labor and Industrial Relations, and the State Commission on Employment and Human Resources.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2261, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 488-90 Finance on H.B. No. 3109

The purpose of this bill is to appropriate funds to train Department of Human Services workers, judges, guardians ad litem, and law enforcement officers in recognizing and dealing with factors contributing to domestic violence.

Your Committee received testimony in support of this bill from the Department of Human Services, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Commission of the Status of Women, and the Family Peace Center.

In recognition of the urgency of this problem in the State, your Committee intends that the sum appropriated be used to train personnel on how to deal with factors contributing to domestic violence. The moneys appropriated should not be used to hire consultants to develop a training program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3109, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 489-90 Finance on H.B. No. 2211

The purpose of this bill is to appropriate funds for the purchase of American and Hawaii state flags to be displayed in all public school classrooms.

Your Committee received testimony in support of this measure from the Department of Education and the Hawaii Hotel Association. They indicated that community service groups may be willing to provide assistance to purchase and install flag holders so that the flags can be appropriately displayed in classrooms.

With each school responsible for seeking community assistance or other self-help initiatives for the purchase and installation of flag holders, your Committee finds that the amount appropriated would be sufficient.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2211 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 490-90 Education on H.B. No. 2448

The purpose of this bill is to amend Section 299-1, Hawaii Revised Statutes, to allow schools to offer driver education during the regular school day.

The Department of Education and the Department of Transportation testified in favor of this measure. Current law restricts the times that driver education can be taught to after regular school hours, on Saturdays, and during the summer recess.

Your Committee finds that as we move into School/Community Based Management, decisions as to when these courses are given should be made at the local school level.

Your Committee made technical, nonsubstantive amendments to this bill for the purposes of style and clarity.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2448, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2448, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 491-90 Finance on H.B. No. 2941

The purpose of this bill is to amend the recapture provisions of Section 235-5.5(f), Hawaii Revised Statutes (HRS), to allow for a ten-year period to report and pay taxes on the amount of an individual housing account distribution used to purchase residential real property after December 31, 1989.

The bill also allows an individual who sells residential real property that was purchased with an individual housing account distribution prior to January 1, 1990, to elect a ten-year period to recapture the amount of the individual housing account distribution. Further, the bill amends Section 235-5.5(g), (HRS), to exclude the recapture of individual housing account distributions for residential property transferred by will or law.

Your Committee received testimony from the Department of Taxation in support of this bill. Testimony was also received from the Tax Foundation of Hawaii.

Specifically, the bill allows the taxpayer to spread out the inclusion in gross income of the individual housing account distribution over a ten-year period, after which the taxpayer will be able to sell the residential property without any increase in gross income or penalty. Further, during the ten-year period, the taxpayer would continue to be subject to the penalty and inclusion of any unincorporated distribution from the individual housing account in gross income.

Your Committee has amended the bill to make it applicable to taxable years beginning after December 31, 1989.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2941, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2941, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 492-90 Finance on H.B. No. 2939

The purpose of this bill is to allow qualified residents with no income or no income taxable under Chapter 235, Hawaii Revised Statutes, to qualify for the renter's income tax credit.

Your Committee received supporting testimony from the Department of Taxation and the Tax Foundation of Hawaii.

State law currently provides that resident taxpayers may qualify for a renter's income tax credit if the taxpayer:

- (1) Has an adjusted gross income of less than \$30,000; and
- (2) Paid more than \$1,000 in rent during the taxable year.

The requirement of having gross income, adjusted gross income, or taxable income prevents a small group of residents from qualifying for the credit. These individuals include senior citizens who draw pension or social security benefits.

Allowing individuals with no income taxable by the State to claim the renter's credit will eliminate the problem now faced by senior citizens and better reflect the original intent of the law, which is to provide tax relief for low-income taxpayers.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2939 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 493-90 Finance on H.B. No. 2602

The purpose of this bill is to authorize the issuance of special purpose revenue bonds, and the refunding of special purpose revenue bonds by the Department of Budget and Finance, to be used for the financing or the refinancing of St. Francis Medical Center and St. Francis Medical Center-West.

The issuance of tax-exempt, low-interest special purpose revenue bonds has proved to be a popular method of financing health care facilities as it provides significant cost savings. The cost savings realized have benefited providers, consumers, and third-party payers of health care.

The Healthcare Association of Hawaii testified in favor of this measure.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2602 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 494-90 Finance on H.B. No. 3239

The purpose of this bill is to authorize the issuance of special purpose revenue bonds by the Department of Budget and Finance to assist Elexs, Ltd. in the generation of new capital for the manufacture of electric vehicles and related products in Hawaii. The authorization to issue the special revenue bonds will lapse on June 30, 1992.

The proposed electric vehicle manufacturing facility will generate new high technology employment opportunities, create new capital, generate additional tax revenues and will help to diversify Hawaii's economy. The financing of such enterprises may help to move Hawaii toward transportation fuel independence and increase the export of renewable energy technologies from the United States.

The Department of Business and Economic Development, Elexs, Ltd., Hawaii's Thousand Friends, and the Solar Electric Co. Ltd. submitted testimony in support of this measure.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3239, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 495-90 Finance on H.B. No. 2865

The purpose of this bill is to appropriate funds out of the general revenues of the State to pay victims of crimes who were awarded compensation in 1989.

The Criminal Injuries Compensation Commission's 1989 Annual Report provided a case-by-case summary of the decisions of the Commission. The sum appropriated shall be deposited into the Criminal Injuries Compensation Fund and shall be used for payments authorized by the Commission.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2865, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 496-90 Finance on H.B. No. 2883

The purpose of this bill is to facilitate and accelerate the process of considering and disposing of claims for legislative relief by eliminating burdensome duplicate document requirements and designating the Attorney General as the lead agency administrator.

At the present time, the Director of Finance serves as the administrative clearinghouse for the processing and distribution of claims for legislative relief to the various departments. However, in this initial stage of the process, a preliminary review and recommendation on the merits of each claim made by the Attorney General with regard to the disposition of the claim would expedite the administrative processing. In addition, current statutory quadruplicate copy requirements are unnecessary and burdensome.

Your Committee finds that processing expediency is a vital element in providing relief to equitable and justifiable claims for refunds, reimbursements, or other payments which must be approved by the Legislature.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2883 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 497-90 Finance on H.B. No. 2929

The purpose of this bill is to fund the repricing of all civil service secretary, private secretary, and school administrative services assistant classes in the recommended compensation plan of the State Executive Branch.

Your Committee finds that pay inequities have been a long-standing problem for secretaries during the past 12 years; therefore, the bill seeks to fund the added cost of repricing actions affecting secretaries.

While repricing actions are normally funded by the employing departments, this method of funding is not adequate given the number of employees affected. The added funds are essential to avoid serious repercussions in the employing departments.

Your Committee received testimony in favor of the bill from the Department of Personnel Services, the Department of Education, and the Public Employees Management Association of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2929, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 498-90 Finance on H.B. No. 3104

The purpose of this bill is to appropriate moneys for a study to determine the feasibility of establishing a State leasehold program under which housing constructed on State-owned lands would be offered to homebuyers on a leasehold basis as a means of ensuring the provision of affordable housing over the long-term.

Your Committee received testimony in support of this bill from the Housing Finance and Development Corporation (HFDC), the Department of Housing and Community Development of the City and County of Honolulu, and the Affordable Housing Alliance.

The HFDC concurred that from a development perspective, a leasehold strategy could possibly provide affordable housing on a continuous basis. Additionally, the HFDC expressed its willingness to undertake the proposed study.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3104 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 499-90 Finance on H.B. No. 2868

The purpose of this bill is to allow the Comptroller to issue warrants to the Department of Education to establish a checking account to provide working capital for the Department's vendor payment system.

Presently, the Department experiences difficulty in the operation of the vendor payment system because it does not have any funds for working capital. This authorization is needed to establish a checking account for working capital for the Department's vendor payment system.

The Department of Education submitted testimony in support of this measure.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2868 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 500-90 Finance on H.B. No. 2882

The purpose of this bill is to reestablish the Molokai Irrigation System Water Users Advisory Board until June 6, 1991, and thereby clarify the ambiguity with regard to its official status.

During the 1987 session, the Legislature inadvertently passed two conflicting measures relating to Chapter 175 (Molokai Irrigation and Water Utilization Project), Hawaii Revised Statutes (HRS). Act 179, Session Laws Hawaii (SLH) 1987, established the Molokai Irrigation System Water Users Advisory Board (as Section 175-2.5, HRS) with a repeal provision on June 6, 1991.

At the same time, Section 19 of Act 306, SLH 1987, repealed Chapter 175 two years from the effective date of enactment of a State Water Code. Since the State Water Code was enacted into law as Act 46, SLH 1987, effective July 1, 1987, this meant that the repeal provisions of Act 306, SLH 1987, took effect on July 1, 1989, and repealed Chapter 175 in its entirety.

Your Committee finds that it was not the legislative intent to terminate this Advisory Board prior to June 6, 1991. This bill would remedy the problem by reestablishing this Advisory Board and allowing the original Board members to serve the balance of the term. In addition, this bill places the Advisory Board within the Department of Agriculture for administrative purposes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2882 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 501-90 Finance on H.B. No. 2291

The purpose of this bill is to deposit \$80 million each year from general excise tax revenues into the state highway fund from September 1, 1990, through 1994.

Your Committee received testimony from the Department of Budget and Finance, the Department of Transportation, the Department of Taxation, the Tax Foundation of Hawaii, the Tax Review Commission, and an economist from the University of Hawaii at Hilo.

Your Committee finds that this measure would provide the assistance needed for the state highway fund to obtain the financial assistance needed from revenues other than the current liquid fuel tax, the vehicle weight tax, and vehicle registration fees.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2291, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 502-90 Finance on H.B. No. 2381

The purpose of this bill is to appropriate funds for the planning, development, and coordination of a statewide program for the provision of services to control violent behavior.

This bill is a follow-up to Act 361, Session Laws of Hawaii 1989, which requires the Office of State Planning to develop a statewide plan to address violent behavior in the areas of sexual abuse, spouse abuse, child abuse, elderly abuse, and family violence.

Your Committee received testimony in support of this bill from the Department of the Attorney General, the Office of State Planning (OSP) the Hawaii State Commission on the Status of Women, and the Department of the Prosecuting Attorney of the City and County of Honolulu.

The OSP testified that a status report pursuant to Act 361 has been submitted to the Legislature which provides an inventory of service providers and a review of applicable criminal statutes. While final recommendations will not be prepared and submitted until 1991, the following preliminary observations were made:

- (1) Coordination of programs and clients is needed;
- (2) New methods may be needed to assist public agencies in setting priorities, and evaluating and communicating with public and private providers of direct services; and
- (3) Coordination issues are intensified by the relatively flush resources available for grants-in-aid and purchases of services.

The OSP also indicated that communication has already started with the county police departments to begin assessment and planning for their training and resource needs in dealing with family violence.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2381, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 503-90 Finance on H.B. No. 2490

The purpose of this bill is to comply with revised United States Department of Labor (USDOL) language to clarify that an alien must be legally authorized to work in the United States at the time services are performed in order to be eligible for unemployment benefits.

It is your Committee's understanding that failure to conform with Section 3304(a)(14) of the Federal Unemployment Tax Act (FUTA) requirements will result in higher unemployment insurance tax liabilities for all employers in the state due to the loss of FUTA tax offset credit. Furthermore, failure to amend Chapter 383, Hawaii Revised Statutes (HRS), will also jeopardize the federal administrative grants to operate the unemployment insurance program in Hawaii.

According to the Department of Labor and Industrial Relations, Section 3304(a)(14), FUTA, provides that unemployment benefits shall not be paid on the basis of services performed by an alien unless the alien is legally authorized to work in the United States. In 1976, the Legislature amended Chapter 383, HRS, to add this provision in accordance with FUTA requirements, with draft language provided by USDOL. However, a recent USDOL interpretation resulted in revised language that is now being proposed in this bill. Under the revised language, in order for an alien to be eligible for unemployment benefits, the alien must be legally authorized to work in the United States at the time services are performed.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2490 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 504-90 Finance on H.B. No. 2459

The purpose of this bill is to increase the maximum loan amounts for disaster relief from \$25,000 to \$50,000 for business loans and from \$5,000 to \$25,000 for personal loans.

Your Committee received testimony in support of this bill from the Department of Business and Economic Development and the Department of Defense of the State of Hawaii.

The Disaster Commercial Loan Program was established in 1961 to provide financial assistance of up to \$25,000 to businesses which suffered damages in a state-declared disaster. The program was expanded in 1976 to include personal loans of up to \$5,000 to meet individual and family needs directly arising from a state-declared disaster.

The testimony indicated that experience in the aftermath of disasters has shown that the present limits on commercial and personal loans are generally insufficient and that the proposed increases are in line with the increased cost of doing business in Hawaii as well as the general increase in the cost of living.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2459, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 505-90 Finance on H.B. No. 2312

The purpose of this bill is to amend various state and county bond laws to provide that both revenue and special purpose revenue bonds issued by the State and the counties are legal and authorized investments of credit unions.

Your Committee heard testimony in support of this bill from the Hawaii Credit Union League. This testimony indicated that the proposal would result in benefit to credit unions, as well as the State and counties. Credit unions would be able to diversify their investment portfolios with safe investments. The State and counties would have another authorized purchaser for bonds which fund various government projects.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2312 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 506-90 Finance on H.B. No. 2231

The purpose of this bill is to increase the costs and fees charged by sheriffs and police officers for serving criminal and civil summonses, warrants, attachments, or other criminal processes.

This bill also increases the travel allowance and per-person-served fee for sheriffs, and serving or levying officers.

A representative of several deputy sheriffs from the Civil Division of the Office of the Sheriff testified in support of this measure, noting that certain fees have not been increased since 1984. In addition, the testimony indicated that an increase is needed to maintain the morale of personnel engaged in the service of civil and criminal process as well as to increase the incentive for prompt service of process.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2231, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 507-90 Finance on H.B. No. 3349

The purpose of this bill is to amend Section 172 of Act 316, Session Laws of Hawaii 1989, relating to appropriations for the Honolulu Symphony Trust, by specifying the effective dates of release of the appropriations. This bill also requires the Honolulu Symphony to generate matching funds by June 30, 1991, through a special fund-raising effort, separate from its annual fund-raising drive.

Testimony in support of this measure was submitted by the Department of Accounting and General Services and the Honolulu Symphony.

Technical, nonsubstantive amendments have been made to this bill for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3349, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3349, H.D. 1.

Signed by all members of the Committee.

SCRep. 508-90 Finance on H.B. No. 3013

The purpose of this bill is to preserve an injured employee's right to vocational rehabilitation after a determination of permanent partial disability, if after return to work, the employee's position changes so that the employee is no longer able to perform the job because of the disability or the employee's position has been eliminated.

This measure also requires the Director of Labor and Industrial Relations to report to the 1991 Legislature on the impact on vocational rehabilitation cases.

Your Committee finds that a time limit is essential for reasonable preservation of benefits and has amended this bill to include a two-year limit. Without this limit, an employer may be responsible for an employee's employment for life, regardless of position attrition from bona fide circumstances and general job evolution.

In addition, your Committee has amended the effective date of this measure to take effect January 1, 1991, to allow time for the Director of Labor and Industrial Relations to develop rules to appropriately determine the benefits allowed.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3013, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3013, H.D. 2.

Signed by all members of the Committee.

SCRep. 509-90 Finance on H.B. No. 3165

The purpose of this bill is to appropriate funds for the creation of the fifth in a series of informational videos on the visitor industry, which will be directed toward Hawaii's youth.

Your Committee received testimony overwhelmingly in support of the bill from the Department of Business and Economic Development (DBED), the State Commission on Employment and Human Resources, the Visitor Industry Education Council, the Hawaii Hotel Association, the Outrigger Hotels Hawaii, and the Maui Hotel Association. All expressed support for this effective means of educating Hawaii's youth about the career opportunities available to them in the visitor industry.

DBED testified that the Visitor Industry Education Council, who have already completed three films and are working on a fourth, will be responsible for the production of the fifth in their popular video series. By encouraging people to enter the visitor industry, this video series serve to help alleviate the projected labor shortage in this vital part of Hawaii's economy.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3165, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3165, H.D. 1.

Signed by all members of the Committee.

SCRep. 510-90 Finance on H.B. No. 2864 (Majority)

The purpose of this bill is to increase the maximum annual compensation for Criminal Injuries Compensation Commission members from \$6,600 to \$10,000 per year.

Your Committee received testimony in support of the bill from the Criminal Injuries Compensation Commission (Commission). The Commission testified that the present maximum compensation amount of \$6,600 per year limits the Commission to 66 meetings per year. Based on present workload projections, the maximum earnings amount for the present year will be exhausted by April, 1990, and the Commission, consequently, will not be able to hear all of the cases on its agenda.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2864, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2864, H.D. 1.

Signed by all members of the Committee.
(Representative Liu did not concur.)

SCRep. 511-90 Finance on H.B. No. 2800

The purpose of this bill is to expand the membership of the Board of Trustees of the Employees' Retirement System from seven to nine members.

The measure provides that the Board of Trustees of the Employees' Retirement System will consist of: the Director of Finance; three members of the system; and five citizens of the State who are not employees and who shall be selected by the Governor with the advice and consent of the Senate.

Your Committee has made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2800, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2800, H.D. 2.

Signed by all members of the Committee.

SCRep. 512-90 Finance on H.B. No. 2884

The purpose of this bill is to provide equitable salary adjustments for the following public officers and employees: the Executive Director of Housing Finance and Development Corporation; the members of the Public Utilities Commission; the members of the Labor and Industrial Appeals Board; the members of the Hawaii Labor Relations Board; and the Director of the Office of Veteran Services.

Your Committee has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill for fiscal year 1989-1990 exceeds the state spending limit to comply with constitutional and statutory requirements.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2884, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2884, H.D. 2.

Signed by all members of the Committee.

SCRep. 513-90 Finance on H.B. No. 2926

The purpose of this bill is to provide recruiting flexibility and incentives to enhance the State's ability to compete for persons with the requisite skills and qualifications within a highly competitive labor market.

These recruitment incentives include:

- (1) Travel and transportation expenses; and
- (2) Monetary incentives.

Your Committee finds that these incentives will enable the State to recruit persons for the difficult to fill positions, including nurses, physicians, engineers, and social workers, which are essential to serving the public interest.

Your Committee has received favorable testimony from the Department of Personnel Services, the Department of Human Services, and the Department of Health.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2926, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2926, H.D. 2.

Signed by all members of the Committee.

SCRep. 514-90 Finance on H.B. No. 2820

The purpose of this bill is to enable the State to recover unclaimed properties identified in lawsuits currently involving the State.

The proposed amendments will permit the State to recover from an out-of-state holder of unclaimed property (such as a brokerage house) when the holder did not originate the unclaimed property but is an intermediate holder. In addition, this measure is intended to clarify that the current requirements are merely procedural, so that recovery of unclaimed property will not be jeopardized if the provisions are not strictly followed.

Your Committee understands that the State has joined with other states in two lawsuits relating to recovery of unclaimed property. In one case, Delaware v. New York, which is pending in the United States Supreme Court, involves a dispute as to which state or states are entitled to hold unpaid interest and dividends in brokerage accounts when the owners have not claimed the moneys. The other case, Alabama v. Bowsher, which is pending in the United States District Court for the District of Columbia, seeks to recover from the Federal Government certain unclaimed funds being held in the United States Treasury.

Based on testimony from the Department of the Attorney General, it is your Committee's understanding that the unclaimed property law be amended to enhance Hawaii's recovery in these two immediate lawsuits and future situations as they may arise.

Your Committee has amended this bill to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2820, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2820, H.D. 1.

Signed by all members of the Committee.

SCRep. 515-90 Finance on H.B. No. 2787

The purpose of this bill is to authorize the issuance of special purpose revenue bonds and refunding special purpose revenue bonds up to the amount of \$119 million to assist electric utilities in obtaining lower interest rate bond financing for capital improvement projects.

The Hawaiian Electric Company, Inc. and its subsidiaries testified in favor of the bill. They stressed that the interest and principal payment on these bonds, as well as all other associated costs, are obligations of the utilities, not the State. The proceeds of the sale of these tax-exempt revenue bonds will be used to finance capital improvements necessary to produce electricity for consumers.

Your Committee finds that this measure will lower interest costs of electric utilities. This savings will ultimately benefit consumers who will pay lower rates for electricity.

Your Committee made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2787, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2787, H.D. 2.

Signed by all members of the Committee.

SCRep. 516-90 Finance on H.B. No. 3356

The purpose of this bill is to create a corrections special fund to provide moneys for a program to assist state correctional facilities inmates' eventual reintegration into the community upon parole or release by providing work experience in the construction industry and supported by appropriate education and training.

Your Committee received testimony in support of this bill from the Department of Corrections.

Your Committee has amended the bill as follows:

- (1) Changed the sum appropriated to \$50,000; and
- (2) Made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3356, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3356, H.D. 2.

Signed by all members of the Committee.

SCRep. 517-90 Finance on H.B. No. 2890

The purpose of this bill is to meet the need for more affordable housing by authorizing the issuance of \$100 million of revenue bonds for financing or refinancing the development or acquisition of for-sale housing projects.

The Department of Budget and Finance, the County of Hawaii's Office of Housing and Community Development, and the Affordable Housing Alliance supported this measure.

The Department of Budget and Finance testified that the existing funds in the Homes and Dwelling Unit Revolving Funds were insufficient to meet the anticipated funding demand because of the accelerated development schedule of the Housing Finance and Development Corporation. In addition, the Department anticipates requests from private developers of affordable housing for State assistance in the form of low-interest interim construction financing.

Your Committee concurs with the need to issue \$100 million in bonds to provide an alternative source of funding for the development and construction of for-sale housing.

Your Committee has amended this bill by inserting a new Section 3 authorizing the Housing Finance and Development Corporation as the expending agency for the appropriation. Your Committee has further amended this bill to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2890, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2890, H.D. 1.

Signed by all members of the Committee.

SCRep. 518-90 Finance on H.B. No. 2874

The purpose of this bill is to authorize the Attorney General to appoint one or more executive security guards who will have the power and authority to provide security for the Governor and other public officials of Hawaii.

In addition, this measure will sunset the Hawaii Criminal Justice Commission to provide for the more efficient management and delivery of crime prevention, research, and other criminal justice related programs of the Department of the Attorney General.

This measure reestablishes the statutory authority of executive security personnel who are assigned to perform security functions for the Governor and Lieutenant Governor. There are 14 state law enforcement officers who are currently assigned to perform these security functions.

Under Act 211, Session Laws of Hawaii 1989, the statutory authority for these security officers to perform their duties, will be repealed on July 1, 1990. Without a statutory basis, the executive security personnel in the civil service will be without the necessary powers to perform their duties. This bill provides the same statutory authority for these personnel as they presently have.

To ensure there is no inadvertent change in their statutory powers, your Committee has amended this measure so that there will be no confusion about the continuation of statutory powers for these personnel.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2874, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2874, H.D. 2.

Signed by all members of the Committee.

SCRep. 519-90 Finance on H.B. No. 3174

The purpose of this bill is to appropriate funds to establish a steering committee to prepare and submit a preliminary report and a final report of findings and recommendations for implementation of a formal Capitol tour and information service program, which will include the surrounding Capitol District, by 1994.

Your Committee finds that there is an excellent educational and cultural opportunity available in the development of a tour and information program for the State Capitol and the surrounding areas. Our State Capitol reflects our rich heritage and is of great relevance for residents and tourists alike. The area surrounding the Capitol, which includes Iolani Palace, the Judiciary History Center, the Mission House Museum, Kawaiahao Church, and the YWCA is also rich in historical value and reflects our multicultural heritage.

Testimony in support of the bill was received from the Department of Education, the Office of Information, the Hawaii Credit Union League, the Bishop Museum, and the University of Hawaii, Kapiolani Community College.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3174, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3174, H.D. 2.

Signed by all members of the Committee.

SCRep. 520-90 Finance on H.B. No. 3098

The purpose of this bill is to create a two-year pilot program to develop visitor industry practicum courses at Waipahu and Farrington High Schools.

Your Committee finds that the program initiated by this bill would build on an existing program at Waipahu High School. It would also take advantage of Farrington High School's transition center and exemplary Japanese language program.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3098, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3098, H.D. 2.

Signed by all members of the Committee.

SCRep. 521-90 Finance on H.B. No. 2891

The purpose of this bill is to clarify amendments made in Act 385, Session Laws of Hawaii 1989, which allowed members of the Employees' Retirement Service to purchase military service credit.

This measure will reduce the cost of purchasing previous general membership service for police officers, firefighters, corrections officers, investigators of the prosecuting attorney and attorney general, and narcotics enforcement investigators from a rate of 10.4 or 12.2 percent to 6 or 7.8 percent.

Your Committee finds that this measure mandates that active military service must be in the armed forces of the United States and delineates service credit for active military service as follows:

- (1) The acquisition of membership service credit for noncontributory members will be at no cost;
- (2) Membership service credit for active military service will now be available to retirees who have at least three years of credited service during reemployment; and
- (3) Active military service will be considered service in the contributory member's occupation at the time the service is purchased and will provide a corresponding retirement benefit.

This measure also enables noncontributory members to acquire active military service, as well as other previous service, at no cost. Service credit will be earned at the rate of one month for each month of service rendered instead of being purchased after five years of service at a nonrefundable cost.

In addition, this measure allows noncontributory members who purchased service credits after June 30, 1989 to receive a refund of the purchase cost by December 31, 1990.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2891, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2891, H.D. 2.

Signed by all members of the Committee.

SCRep. 522-90 Finance on H.B. No. 2600

The purpose of this bill is to increase fees charged by the District Courts for the institution of actions, the filing of certain pleadings, and the issuance of writs and garnishee summonses.

Your Committee received testimony in support of this bill from the Judiciary of the State of Hawaii. The Judiciary indicated that District Court fees have not been increased in over twenty years and the proposed increases are necessary due to inflation and increased processing costs.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2600, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2600, H.D. 1.

Signed by all members of the Committee.

SCRep. 523-90 Finance on H.B. No. 2258

The purpose of this bill is to create a Joint Legislative Management Committee within the Legislature to establish general policy directions and to evaluate, supervise, and coordinate activities among the legislative support service agencies.

Your Committee finds that with the increased workload of the Legislature and the growing demand for public access to legislative information, there is a need for improved coordination of services provided by and among legislative support service agencies and those provided by each chamber of the Legislature.

Your Committee further finds that while the rapid growth in automated legislative data systems has served the Legislature well in providing access to current information, there is a need to consolidate the computer systems within the Legislature into a inclusive network to better serve the Legislature and the public, at a potential savings in cost of operation.

Accordingly, your Committee believes that the establishment of a Joint Legislative Management Committee to develop policies and coordinate legislative activities would result in more efficient legislative operations and improved public access to legislative information.

Your Committee received testimony supporting the intent of this measure from the Legislative Reference Bureau, the Office of the Legislative Auditor, the Office of the Ombudsman, Common Cause Hawaii, NFIB Hawaii, and GTE Hawaiian Tel.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2258, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2258, H.D. 2.

Signed by all members of the Committee.

SCRep. 524-90 Finance on H.B. No. 2262

The purpose of this bill is to ensure the effective management of Hawaii's fishing resource by establishing an advisory task force within the Department of Land and Natural Resources to evaluate the adequacy of the State's fishing laws and rules.

The Department of Land and Natural Resources submitted testimony in support of the measure, and noted that: (1) the advisory task force composition from the public-at-large may not have the extensive technical knowledge required for the evaluations requested; and (2) the time frame would be too short to do an adequate job.

Your Committee finds that an advisory task force composed of public representatives will present an objective evaluation of the State's fishing laws and rules.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2262, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2262, H.D. 1.

Signed by all members of the Committee.

SCRep. 525-90 Finance on H.B. No. 2273

The purpose of this bill is to appropriate funds to create a weekly half-hour news program produced by Hawaii Public Television focusing on issues and developments in the Pacific Region.

By providing current in-depth reporting of Pacific Region issues from a Hawaii base, this weekly news program will promote international literacy among Hawaii's people, highlight the international expertise available in the State, and provide valuable training experience to communications professionals in Hawaii.

Apart from the \$500,000 direct appropriation, the bill provides \$1 for purposes of continued discussion, to be paid into the Public Broadcasting Revolving Fund to be matched on a dollar-for-dollar basis through a special fund-raising effort by the Hawaii Public Broadcasting Authority. Any portion of this appropriation not matched by June 30, 1991 shall revert to the general fund.

Testimony in support of the bill was submitted by the Hawaii Public Broadcasting Authority and the Screen Actors Guild of Hawaii.

Technical, nonsubstantive amendments have been made to the bill for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2273, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2273, H.D. 2.

Signed by all members of the Committee.

SCRep. 526-90 Finance on H.B. No. 2264

The purpose of this bill is to appropriate funds for an audit of the Department of Land and Natural Resources' Division of Conservation and Resources Enforcement by the Legislative Auditor.

During a series of statewide public hearings in December 1989, the House Committee on Ocean and Marine Resources found that there is a need to better enforce the existing fishing laws and rules of the State. However, before prudent recommendations can be made, the State should first determine the adequacy and effectiveness of the current level of enforcement. An audit by the Legislative Auditor would help the State to evaluate the Division's enforcement of Hawaii's marine fishing laws and rules.

Technical, nonsubstantive amendments have made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2264, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2264, H.D. 2.

Signed by all members of the Committee.

SCRep. 527-90 Finance on H.B. No. 2279

The purpose of this bill is to appropriate funds for a comprehensive study on the feasibility of establishing a reverse equity mortgage program for persons on a fixed income who are sixty-five years of age and older.

Under a reverse equity mortgage program, the elderly will be able to receive monthly supplements to their income by tapping their home equity. When the homeowner dies, the loan is paid by selling the home. This study, to be conducted by the Housing Finance and Development Corporation, will determine the feasibility of such a program in Hawaii.

Your Committee received testimony in support of this bill from the Housing Finance and Development Corporation.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2279, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2279, H.D. 2.

Signed by all members of the Committee.

SCRep. 528-90 Finance on H.B. No. 2293

The purpose of this bill is to appropriate funds to conduct a comprehensive review of the State's financial institutions laws to strengthen the regulatory framework for, and to preserve public confidence in, these institutions.

The Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs submitted testimony in support of this measure. The Commissioner noted that the State's laws relating to financial institutions are among the oldest in the nation, and amendments to the statutory scheme have been done in a piecemeal fashion throughout the years. The Commissioner further testified that a recodification of the State's banking laws would benefit financial institutions, attorneys, accountants, regulators, and most importantly, the community in clarifying and articulating what is expected and permissible for financial institutions in the provision of services to the public.

The bill has been amended by appropriating \$150,000 for fiscal year 1990-1991 for the comprehensive review. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2293, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2293, H.D. 2.

Signed by all members of the Committee.

SCRep. 529-90 Finance on H.B. No. 2296

The purpose of this bill is to better equip the State to handle population growth by funding two-year carrying capacity studies in the counties to assess the capabilities of these regions to absorb the projected de facto population.

The Office of State Planning will conduct the studies, recognizing the needs of regions that are faced with rapid growth and change, availability of data, and other suitable criteria.

Your Committee heard favorable testimony from the Office of State Planning and the Hawaii Hotel Association.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2296, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2296, H.D. 2.

Signed by all members of the Committee.

SCRep. 530-90 Finance on H.B. No. 2267

The purpose of this bill is provide the greatest possible level of information about foreign investment by having government agencies cooperate with each other to share the information they already gather and compile it in one report.

Your Committee finds that investment from outside Hawaii is essential to our State's economy, and it is not the intent of your Committee to discourage stable, long-term investments that strengthen Hawaii's economy. On the other hand, excessive and wasteful speculation of Hawaii's resources are harmful to the State, and those who would exploit these limited resources must be discouraged and stopped.

While it may be clear as to what types of investments are beneficial for the State and what types of investments are undesirable, accurate figures and information on the present scope and composition of foreign investment are difficult to obtain. A comprehensive system of obtaining information on foreign investment is essential to ensure that decision-makers and the public are well-informed.

Your Committee received testimony in favor of this bill from the Department of Business and Economic Development, the Department of Commerce and Consumer Affairs, and the Mayor's Office of the City and County of Honolulu.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2267, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2267, H.D. 2.

Signed by all members of the Committee.

SCRep. 531-90 Finance on H.B. No. 2270

The purpose of this bill is to expand cooperative education in Hawaii by providing funding to the University of Hawaii for its Cooperative Education Program.

Your Committee finds that cooperative education programs benefit both students and businesses. Cooperative education programs enable employers to train potential employees while they are still pursuing their education.

Your Committee received testimony in favor of the bill from the University of Hawaii, the Pacific Association for Cooperative Education, and several individuals who are graduates of cooperative education programs.

This measure has been amended to clarify that the sum appropriated would be used for administrative expenses of the Cooperative Education Program and for program grants.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2270, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2270, H.D. 2.

Signed by all members of the Committee.

SCRep. 532-90 Finance on H.B. No. 2215

The purpose of this bill is to support the Hawaii Natural Energy Institute (HNEI) in its efforts to conduct present and proposed research in the field of alternative energy testing and development.

This measure will ensure that HNEI will be able to continue work on the Kahua Wind Energy Storage Test and Wind/Hydrogen Program, which enables further development of hybrid energy systems, energy storage capacity, and wind-hydrogen research.

Your Committee finds that it is important for Hawaii to become more self-sufficient in energy production by encouraging and supporting the development of alternative forms of energy that do not adversely affect the environment.

Your Committee has amended the bill by appropriating \$100,000 for the research project. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2215, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2215, H.D. 2.

Signed by all members of the Committee.

SCRep. 533-90 Finance on H.B. No. 2218

The purpose of this bill is to provide funding to develop a hydroelectric facility and to implement a demonstration wind-hydroelectric project that utilizes wind-generated energy to pump water to a higher elevation, and then generate energy as the water descends.

Your Committee finds that the State must become less dependent on imported fuel sources and encourage all forms of energy generation using technology that does not adversely affect the environment.

Your Committee has amended the bill by incorporating the recommendations of the University of Hawaii's College of Tropical Agriculture and Human Resources who testified in favor of the bill. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2218, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2218, H.D. 2.

Signed by all members of the Committee.

SCRep. 534-90 Finance on H.B. No. 2271

The purpose of this bill is to appropriate funds to the public broadcasting revolving fund to produce a public television documentary series of thirteen thirty-minute programs on the family.

Your Committee received testimony in favor of the bill from the Department of Health, the Hawaii Public Broadcasting Authority, and the Screen Actors Guild Hawaii.

Your Committee has amended the bill by appropriating the sum of \$260,000 to fund the production of this documentary series.

Technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2271, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2271, H.D. 2.

Signed by all members of the Committee.

SCRep. 535-90 Judiciary on H.B. No. 3169

The purpose of this bill is to provide for the mandatory suspension of a person's driver's license upon being convicted of drug offenses under Part IV of Chapter 712.

Your Committee received testimony from the Attorney General's Office, the Department of Transportation, the Public Defender's Office and the American Civil Liberties Union. Your Committee was concerned that the bill as drafted is too narrow in scope and lacks the appropriate nexus between the commission of a crime and the privilege of driving.

Accordingly, your Committee has amended this bill to provide that the court, upon finding that a person convicted of a class C felony, misdemeanor, or petty misdemeanor operated a motor vehicle during the commission of the offense, may suspend the driver's license of the offender for a period of up to two years. Your Committee also made technical changes to the bill for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3169, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 536-90 Judiciary on H.B. No. 2398

The purpose of this bill is to create a new offense under the penal code relating to "peeping toms."

Testimony on this bill was received from the Honolulu Police Department, the Prosecutor for the City and County of Honolulu, the Office of the Public Defender, and individuals from the community.

Your Committee is concerned and aware of the number of incidents which have recently occurred involving "peeping toms." Your Committee is also aware of the possibility of trespass and surveillance incidents escalating to incidents of sexual assault.

Your Committee has amended this bill by adopting language from the Model Penal Code relating to persons who trespass for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place. Unlike the Model Penal Code, however, your Committee categorized this offense as a fourth degree sexual assault case because "peeping toms" engage in such behavior in order to observe others in various states of undress or private activities. A defendant may be charged with attempted sexual assault in the fourth degree if no one is in the private place at the time the offense occurred.

Your Committee has also amended this bill by clarifying certain sections to avoid vagueness and ambiguity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2398, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine and Yoshimura.

SCRep. 537-90 Judiciary on H.B. No. 2843

The purpose of this bill is to allow a county clerk to remove a voter from the list of registered voters; provided that the voter wishes to be removed from the list and properly notifies the clerk pursuant to the procedures established by the chief election officer.

Your Committee received testimony from the Office of the Lieutenant Governor and the Association of Clerks and Election Officers.

Current law is unclear as to whether the clerks have the authority to remove a voter's name upon that voter's request. In a 1987 Hawaii State Supreme Court memorandum opinion, it was ruled that the law does not authorize the clerks to do so. This bill would provide explicit statutory authority to remove the name of a voter from the registration rolls upon that voter's request.

It was recommended by those testifying that a proposed sentence in section 2 of the bill be deleted, it being redundant in content. Your Committee agrees with the recommendation and believes that, as amended, the clarity of the bill would be improved.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2843, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2843, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 538-90**Judiciary on H.B. No. 3410**

The purpose of this bill is to prohibit access to voter registration information except for election or governmental purposes, and to provide special protection for certain law enforcement personnel.

Testimony on this bill was received from the Office of the Lieutenant Governor and the Association of Clerks and Election Officers.

Your Committee finds that the law currently maintains that the county register shall be open to public inspection and shall be a public record. There exists no provisions for confidentiality in regards to the dissemination of information held within the public record though situations may warrant them. Your Committee believes that this public record being made available to the general public produces a chilling effect on the ability of law enforcement personnel from exercising their right to vote.

Your Committee understands that during the 1988 general election, many law enforcement personnel placed requests to the office of the chief election officer requesting cancellation of their voter registrations. These officers undertook such actions after an earlier incident occurred when information received from the county register was not used in an appropriate manner. The officers did not understand at the time they registered that state law requires their names and addresses to be publicly posted. The agents realized that they could not vote if their registrations were cancelled, but wanted to cancel them anyway because they feared for their safety and the safety of their families.

Your Committee is of the firm belief that law enforcement personnel provide important and valuable services to the public, some at the risk of danger to themselves and families. They are often forced to give up their right to vote in order to protect themselves. While nothing can guarantee them absolute protection, this bill represents a step in guarding the affirmative release about them.

Your Committee has amended this bill to maintain the integrity of the intent of the bill, that of providing a special protection for law enforcement personnel who show good cause that a life threatening circumstance exists to the law enforcer or a member of the law enforcer's household.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3410, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3410, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 539-90**Judiciary on H.B. No. 2076**

The purpose of this bill is to enact alternative sentencing in criminal cases concerning defendants who are convicted of sexually assaulting children who are members of their family.

Testimonies on this bill were received from the Department of the Attorney General, the Office of the Public Defender, the Office of the Prosecutor of the county of Kauai, the Office of the Prosecutor of the county of Hawaii, and various community and professional organizations.

Your Committee understands that should this bill be adopted the following procedure would occur to a person accused of intra-family sexual assault and the victim was under the age of eighteen:

- 1) The police would shall make a good faith effort to provide written notice to the alleged offender under investigation of the existence of the intra-family sexual assault alternative sentencing. This notice is not a prerequisite to taking a statement;
- 2) The alleged offender consults with a defense attorney who must advise the offender that if the offender is guilty, there exists benefits in proceeding pursuant to alternative sentencing should the offender qualify;
- 3) The alleged offender must request a "no objection" statement from the appropriate prosecuting authority within fourteen days of receiving the notice from the police and must meet certain criteria;
- 4) The prosecuting authority retains absolute discretion as to whether the offender may receive alternative sentencing depending on what best serves that county's community and particular circumstances; and
- 5) The alleged offender must, within seven business days of receipt of the prosecutor's written statement of "no objection" unless the time limit is waived by the prosecutor:
 - a. move out of the home;
 - b. confess to the sexual assault(s);
 - c. waive indictment and preliminary hearing; and
 - d. plead guilty to the appropriate charge or charges, not to lesser charges.
- (6) At sentencing, the court, which will be guided by statute rather than an informal agreement, may order the offender to go to jail for up to one year, be placed on specialized probation for up to ten years, participate in

treatment, comply with the orders of the civil child protective proceeding, and enter any other appropriate orders; and

- (7) Revocation of probation would occur if probation is violated and the offender may be ordered to serve the remainder of the full mandatory jail term.

Your Committee understands that should this bill be adopted the following anticipated impacts would occur:

- (1) The victim/child would be able to return home at a sooner date (if the child had to ever leave home);
- (2) The pressure would be removed from the child that he or she would now or sometime in the future be the primary witness against a family member in regards to the applicable case; and
- (3) The effectiveness of the police, prosecutors, and the courts would be enhanced in these cases.

Based upon testimony supplied to your Committee, your Committee believes that both civil and criminal legal tools are necessary for an effective child protective system.

Currently, a civil proceeding may be commenced in Family Court within days of the confirmation of the report of intra-family child sex abuse. A criminal case will most often not be filed and even if filed will not be tried or otherwise result in a conviction for months or years, if ever. It is estimated that less than twenty five percent of the cases which are confirmed by the CPS social workers on Oahu are ever prosecuted. Not every case reported will, of course, result in a prosecution. It is understood that cases of intra-family sexual assault of a child victim are very difficult to investigate and very difficult to prosecute to a criminal conviction.

In understanding that a criminal conviction is the result of proving guilt beyond a reasonable doubt, it is not difficult to understand the trauma that a child must go through, that of testifying against a loved one. It is often that the child victim, as well as the family, balances the well being of the of the child victim against that of the alleged offender and the entire family. The burden upon the child victim is exceedingly great.

Compounding the problem is the counseling that an alleged offender may receive from the defense attorney. Emphasis may be placed on the fact that any cooperation, acceptance, or help that the alleged offender may provide to the police or prosecutor may result in a conviction. A potential prison term of twenty years or more is made known. This, combined with the fact that the family income and reputation will be destroyed lead many of the non-offending family members to believe that the child victim is either lying or confused and will in turn support the offending family member. Thereafter, the rest of the child victim's family aligns against the child victim and the child victim then retracts the original statement and becomes a poor or reluctant witness.

The same situations which hamper criminal proceedings also infest civil cases. The reluctance of the child victim to testify severely undermines the ability by the servicing agency to protect the child and the agency's goal of helping the family to safely unite is lost.

Your Committee believes that alternative sentencing will provide the offender who is capable of benefiting from treatment, or who can otherwise control his or her conduct, with every positive motivation to do so, such as helping to save his or her child and his or her family, as well as real motivation which comes from the desire to avoid serving twenty years in prison. The legal system would thus become better equipped to convict and help the offenders who can be helped and to convict and imprison many more of those who refuse to be helped. The offenders who want help will self-identify, freeing the criminal system to focus on the more difficult and dangerous offenders while allowing the civil proceeding to move quickly into working on making the family home safe for the child victim.

Your Committee believes that there exists a potential positive impact upon the child victim by the existence of alternative sentencing. Once the offender confesses within a short period of time, the child victim will be relieved of the burden of having to testify as a primary witness in a criminal proceeding. The questioning will end and the child victim will be believed. This is a very positive step for the child victim and marks a crucial step toward successful therapy for the entire family.

Your Committee after careful consideration of all testimony and weighing the impact of the bill upon all parties involved, amends the bill in two areas.

First, in regards to the giving of written notice by the law enforcement agency to the alleged offender the time sequence "as soon as practicable" is changed to "before interrogation."

Second, in regards to probation, a separate subsection will be added stating that probation will be favored where the offender qualifies for alternative sentencing with the stipulation that this presumption is not a conclusive presumption.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2076, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2076, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

The purpose of this bill would to expressly provide for the ability of the Chief Election Officer or Clerk to investigate and determine objections to a candidate's nomination papers beyond the current 48-hour time limit.

Testifying before this Committee were the Office of the Lieutenant Governor and the Department of the Attorney General.

Under existing law, an unqualified candidate may run for office and be listed on the ballot, unless the candidate's nomination papers are challenged within 48 hours of the close of filing. This bill would provide expressly, rather than impliedly, the ability of the Chief Election Officer or Clerk to investigate and determine objections to a candidate's nomination papers beyond the short 48-hour time limit.

Your Committee is of the opinion, though, that the bill is vague concerning the ability of the Chief Election Officer or Clerk to object to the validity of the candidate's nomination papers until "the candidate is elected." Your Committee feels that a time more definite is needed since a candidate may be elected on one day and certified on another.

Your Committee has therefore amended this bill for clarity purposes to read that an objection may be raised by the Chief Election Officer or the County Clerk of a candidate's nomination papers at any time until election day itself, rather than use the ambiguous phrase "until the candidate is elected."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2207, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 541-90 Judiciary on H.B. No. 2204

The purpose of this bill is to raise the penalty for voter fraud to a class C felony.

Testimonies received on this bill were presented by representatives of the Office of the Lieutenant Governor, the Office of Hawaiian Affairs, the Association of Clerks and Election Officers, and the Honolulu Police Department.

This bill amends Chapter 19, Hawaii Revised Statutes, by adding a new section explicitly stating what constitutes voter fraud. The spokesperson for the Office of the Lieutenant Governor recommended that the new proposed section in Chapter 19 be named "Voter fraud" instead of "Registration fraud" to clarify application of the new section. The spokesperson for the Honolulu Police Department also recommended that at the end of subsection (1) of the new section the word "or" should be added. This would avoid the possibility of misinterpreting the need of both subsections (1) and (2) needing to be found to constitute the elements of the offense of voter fraud. A second recommendation by the Honolulu Police Department was that subsections (3) and (4), concerning false statements under oaths, should be deleted since those actions are already criminally penalized under the Public Administration chapter of the Hawaii Penal Code.

Your Committee is of the opinion that these recommendations are made with merit and these recommendations are incorporated within this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2204, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 542-90 Judiciary on H.B. No. 2206

The purpose of this bill is to amend the filing deadlines for special elections held to fill vacancies occurring during the term of office of a state senator, Board of Education member, or Office of Hawaiian Affairs trustee so that they comply with federal recommendations for mailing of absentee ballots.

Your Committee received testimony from the Office of the Lieutenant Governor and the Association of Clerks and Election Officers.

Your Committee notes that this bill would amend time frames of procedures used to fill vacancies which occur when an elected official is unable to complete the officer's term. Your Committee believes that the proposed changes would establish consistency among the vacancy provisions and permit the Office of the Chief Election Officer enough time to print ballots and honor federal recommendations to mail absentee ballots to voters 35 days prior to an election.

Your Committee also believes that this bill's repeal of HRS §17-5 relating to the filling of a vacancy caused by a "failure to elect" a person at an "uncontested" general election is warranted as the ambiguous nature of this section and its undefined language makes its interpretation and application very uncertain.

Your Committee believes that in order to make Chapter 12, Hawaii Revised Statutes, consistent with the provisions in this bill, the following sections of the chapter be amended in the following manner:

- (1) That HRS §12-2.5 relating to "Nomination papers; when available," be amended to provide that in case of a special primary or special election, nomination papers shall be made available for "at least ten days," instead of sixty days, before the close of filing. Such an amendment is deemed necessary since the proposed provisions allow a minimum of ten days between the date a vacancy occurs and the close of filing date for the election to fill such a vacancy;

- (2) That HRS §12-6 relating to "Nomination papers; time for filing; fees." be amended to provide that in case of a special primary or special election, nomination papers would be filed fifty days, instead of sixty days, prior to the election. Such an amendment is necessary since the proposed provisions provide a minimum of fifty days between the close of filing and the holding of the election; and
- (3) That HRS §12-5 relating to "Nomination papers; number of signers." be amended to eliminate the need for voter signatures in the case of candidates running in a special primary or special election to fill a vacancy.

Your Committee is of the opinion that this bill, as amended, constitutes consistent and clear procedures to fill vacancies that occur when an officer is unable to complete the officer's full term.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2206, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2206, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 543-90 Judiciary on H.B. No. 2360

The purpose of this bill is to add a new section to Chapter 663, Hawaii Revised Statutes, making it possible for a person aggrieved by an allegedly false statement but against whom the defense of public figure is raised may seek a declaratory ruling in circuit court to determine whether the published material is false.

Testimony was received by a concerned member of the public as to the merits of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2360 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 544-90 Judiciary on H.B. No. 3407

The purpose of this bill is to allow a candidate for state office to transfer funds into that campaign from a previous federal campaign that the candidate had conducted.

Your Committee recognizes that there are no applicable laws pertaining to the transfer of funds by a candidate from a previously run federal campaign to a currently run state campaign. Your Committee believes that the lack of applicable law on this area furthers confusion and wastes resources.

Your Committee believes that this bill clarifies and is an important addition to existing campaign spending laws.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3407, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 545-90 Judiciary on H.B. No. 2088

The purpose of this bill is to amend, reenact, or repeal various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the purposes of correcting errors, clarifying language, correcting references, and deleting obsolete or unnecessary provisions. All amendments are of a purely technical nature and contain no substantive changes to the law.

The reasons for amending the sections are as follows:

Section 1. L 1989, Act 120, section 2, amended section 11-218, and in so doing, inadvertently changed "county" to "city" when referring to "council member". The fact that the change was made without the usual bracketing and underscoring indicates that the change was probably an inadvertent typographical error rather than an intentional amendment. Section 11-218(b) should be amended to change "city" to "county".

Sections 2 to 3. L 1987, Act 191, repealed chapter 443A, and enacted a new chapter 443B, containing sections formerly in chapter 443A. Sections 40-82.5 and 231-13 contain references to chapter 443A, which set forth the bonding requirements for collection agencies. Sections 40-82.5 and 231-13 should be amended to delete the reference to the repealed chapter and to include the reference to the new chapter.

Section 4. L 1987, Act 62, section 5, repealed section 356-292, and Act 337, section 12(8), repealed chapter 356, part II. Act 337 also enacted a new chapter 201E containing sections which were formerly in chapter 356, part II. L 1989, Act 80, repealed the then existing chapter 47, and enacted a new chapter 47 containing sections formerly in the original chapter 47, but with different section numbers. Section 46-15.2 contains references to these repealed provisions and should be amended to refer to the current provisions.

Sections 5 and 6. L 1989, Act 80, repealed the then existing chapter 47, and enacted a new chapter 47 containing sections in the original chapter 47, but with different section numbers. Sections 46-105(c) and 237-27.6(c) contain cross references to chapter 47 which were not updated to reflect the new numbering, and should be amended to do so.

Section 7. L 1989, Act 334, section 1(1), amended section 87-1, and in so doing, inadvertently amended the wrong version of the section. The fact that the change was made without the usual bracketing and underscoring indicates that the change was probably an inadvertent error rather than an intentional amendment. Section 87-1(8) should be amended to reflect the correct version.

Section 8. L 1987, Act 347, repealed chapter 431, and enacted a new chapter 431 containing sections formerly in the original chapter 431. Section 88-119 contains references to sections 431-286, 431-287, and 431-293 which have been repealed and should be amended to refer to the current provisions.

Section 9. L 1988, Act 263, repealed chapter 70 and renumbered section 70-111 as section 46-74.2. Section 101-23 refers to section 70-111 and should be amended to refer to section 46-74.2.

Sections 10 to 12. L 1988, Act 65, amended various sections of the Hawaii Revised Statutes to substitute "condominium property regime" for "horizontal property regime". Sections 206X-6, 206X-7(b), and 514C-1 refer to "horizontal property regime" and should be amended to substitute "condominium" for "horizontal" in the phrase "horizontal property regime".

Section 13. Section 239-5 refers to a formula to determine the rate of the tax on gross income for public utilities. It appears that a printing error was made inadvertently dropping the word "on" when section 239-5(a) was amended in 1963. The formula should read "rate of the tax on gross income for the utility in question:". Section 239-5(a) should be amended to reflect the correct formula.

Section 14. L 1989, Act 208, repealed sections 431:10C-501 to 504, and added a new article 10G to chapter 431. Section 286-26(i) contains a reference to section 431:10C-502 and should be amended to refer to section 431:10G-106.

Sections 15 to 17. L 1987, Act 341, repealed chapter 333, and enacted a new chapter 333F, containing sections formerly in chapter 333. Sections 286-104, 571-50, and 607-5 refer to chapter 333 and should be amended to refer to chapter 333F.

Section 18. L 1989, Act 270, repealed sections 560:5-501 to 5-502, and enacted the Uniform Durable Power of Attorney Act, chapter 551D. Section 327D-26 refers to the durable powers of attorney pursuant to chapter 560 and should be amended to refer to chapter 551D.

Section 19. L 1987, Act 234, repealed chapter 321, part XVII, and enacted a new chapter, which was formally codified as part I (Smoking in public places) of chapter 328K, containing sections formerly in chapter 321, part XVII. During that same year, L 1987, Act 245 enacted another new chapter, which was formally codified as part II (Smoking in the workplace) of chapter 328K. Section 328K-16, one of the sections enacted by Act 245, refers to provisions under chapter 321, part XVII and should be repealed to delete the obsolete reference.

Section 20. The word "anabolical" in section 329-45 is a misuse of the term and should be "anabolic" in conformance with the provisions of the section which uses the term "anabolic". In addition, the section refers to the term "his" and should be amended to the gender neutral phrase "the practitioner's". Section 329-45(a)(2) should be amended to make these corrections.

Section 21. L 1989, Act 212, section 4, added section 342H-1, and in so doing, inadvertently neglected to add a comma between "trust" and "estate" in the definition of "Person". This section should be amended to make this correction.

Section 22. L 1989, Act 375, section 1, added section 352D-6, and in so doing, inadvertently dropped an "s" in the word "grant" and neglected to add a comma between "grant" and "subsidies" in paragraph (12). This section should be amended to make these corrections.

Section 23. L 1978, Act 241, abolished the office of the state fire marshal, and transferred the functions and responsibilities of the state fire marshal to the respective counties and the county fire chiefs. Section 352D-8(a) refers to the state fire marshal which is obsolete and should be amended to refer to the county fire chief.

Section 24. L 1987, Act 347, repealed chapter 431, and enacted a new chapter 431 containing sections formerly in the original chapter 431. Section 386-207(e) refers to repealed sections of chapter 431 and should be amended to refer to current provisions.

Section 25. Section 387-2 includes references to obsolete minimum wage provisions. This section should be amended to delete all references to obsolete provisions.

Section 26. L 1987, Act 105, section 1, added a new chapter which the revisor of statutes numbered as chapter 421H, and in so doing, inadvertently neglected to include a chapter reference in section 421H-6(a). This omission was made before the chapter was numbered. The reference, however, appears to be to the chapter of which the section is a part, rather than to another chapter. Section 421H-6(a) should be amended to refer to "this chapter".

Section 27. L 1989, Act 288, section 1, added section 425D-1106. The section title incorrectly refers to "part" instead of "chapter". The section should be amended to make the correction.

Section 28. L 1989, Act 335, section 2, added section 431:10A-522, and in so doing, inadvertently refers to "chapter" instead of "part" in the last two sentences. The section should be amended to make the correction.

Section 29. L 1986, Act 142, section 2, amended section 454D-2, and in so doing, inadvertently referred to "commissions" instead of "omissions" in the phrase "errors and commissions insurance". This section should be amended to make the correction.

Section 30. L 1989, Act 181, section 6, amended section 463E-5, and in so doing, inadvertently neglected to add the phrase "of each even numbered year" with regards to reregistration. Conference Committee Report No. 70 (April 21, 1989) specifically refers to the amendment to be made as "no later than January 31, of each even numbered year" instead of "biennially in each even-numbered year, not later than January 31". The intent of L 1989, Act 181, section 6, was to eliminate redundancies in section 463E-5, not to require reregistration and 40 hours of continuing education each year. Section 463E-5 should be amended to make the correction.

Section 31. L 1989, Act 110, section 2, added section 466-11.5, and in so doing, inadvertently refers to "action brought under this section" instead of "action brought under this chapter". This section should be amended to make the correction.

Section 32. L 1988, Act 341, section 1, amended section 467-14, and in so doing, changed "license" to "licensee" in the last paragraph of the section. The fact that the change was made without the usual bracketing and underscoring indicates that the change was probably an inadvertent typographical error rather than an intentional amendment. This section should be amended to change "licensee" to "license".

Section 33. L 1987, Act 125, section 1, added section 521-74.5 which refers to "penalties available under section 480-2". This reference appears to be a typographical error, as section 480-2 refers to unfair competition practices that are declared unlawful. Section 480-3.1, on the other hand, refers to the civil penalty for violations of section 480-2. Section 521-74.2 should be amended to change the second reference to section 480-2 to 480-3.1.

Sections 34 and 35. L 1989, Act 247, section 1, repealed section 364-4, and in so doing abolished county administrators of the department of human services. Sections 571-62 and 578-8 refer to "county administrator" and should be amended to delete these obsolete references.

Section 36. Section 608-1.5 as enacted by L 1989, Act 271, section 1, refers to a judicial salary commission. The title incorrectly refers to "Judiciary salary commission". House Standing Committee Reports No. 393 (February 17, 1989) and No. 875 (March 3, 1989), and Senate Standing Committee Reports No. 1102 (March 20, 1989) and No. 1312 (March 31, 1989) all refer to the establishment of a "judicial salary commission". Section 608-1.5 should be amended to eliminate the incorrect title.

Section 37. L 1989, Act 164, section 8, amended section 803-46, and in so doing, inadvertently omitted the words "the offense" from the phrase "committing the offense and whose communications" in subsection (a). The fact that the omission was made without the usual bracketing indicates that the change was probably an inadvertent typographical error rather than an intentional amendment. This section should be amended to add the words "the offense" to the phrase "committing and whose communications".

Section 38. L 1989, Act 164, section 8, amended section 803-46 by deleting the words "or wireless" from the phrase "wire or wireless" and substituting the phrase ", oral, or electronic". In section 803-46(i), the phrase "wire or wireless" appears. To be consistent with the other uses of this phrase in the section as amended by Act 164, the phrase should be amended by deleting the words "or wireless" and substituting the phrase ", oral, or electronic". Section 803-46(i) should be amended to correct the inconsistency in phrasing.

Section 39. L 1989, Act 261, section 23, amended section 804-4, and in so doing, inadvertently dropped the words "petty misdemeanor" from the phrase "a misdemeanor, petty misdemeanor or violation" in the second sentence of the section. The fact that the omission was made without the usual bracketing indicates that the change was probably an inadvertent typographical error rather than an intentional amendment. This section should be amended to add the words "petty misdemeanor" to the phrase "a misdemeanor or violation". In addition, the section refers to the word "he" and should be amended to refer to the phrase "the court".

Section 40. L 1989, Act 266, section 2, amended chapter 408. However, the lead language of section 2 purported to amend chapter 408 "to read as follows", inadvertently repealing any section in chapter 408 which was not specifically set out in section 2. A review of Act 266 indicates that the intent was to amend the title and sections 408-1, 408-2, and 408-2.1, not the whole chapter. This intention is indicated in section 3 of Act 266, which amends sections of chapter 408 that are not mentioned in section 2. To avoid the inadvertent repeal of many sections in chapter 408, the prefatory language in section 2 of Act 266 should be amended to add the language "by amending the title and sections 408-1, 408-2, and 408-2.1" after the words "is amended".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2088 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

Testimony in support of this bill was received from the Office of the Lieutenant Governor and the Association of Clerks and Election Officers.

Act 209 of the 1987 Session Laws of Hawaii enabled the chief election officer to recruit and train about 300 sixteen and seventeen year old precinct workers for the 1988 general election. As a direct result, election officials were given increased flexibility in hiring precinct workers and precincts which have experienced shortages in recent elections were better staffed to handle election responsibilities. Indirectly, young adults were able to experience and be involved with the election process. Chairpersons at the precincts involved were asked to evaluate the work by these young adults and over 96% of the chairpersons desired services again.

Your Committee finds that because of a sunset clause in Act 209 these workers can no longer be recruited. Passage of this bill would make the availability of these young adults a permanent part of the election process. This bill would also expand the pool of young adults from which to draw workers by moving the date upon which they need to be sixteen from December 31 of the year preceding their appointment to June 30 of the year in which they are appointed.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2202 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 547-90 Judiciary on H.B. No. 2903

The purpose of this bill is to allow pharmacists, registered nurses, or licensed practical nurses to administer or dispense methadone under supervision by and under order of a duly licensed and registered practitioner.

The Department of Health testified in support of this bill.

Your Committee finds that this bill would conform Hawaii law with federal guidelines and provide more services to people in need.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2903 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 548-90 Judiciary on H.B. No. 3081

The purpose of this bill is to extend the period that the points for evaluating the operating records of motor vehicle operators will exist on the drivers' records, and to provide authority for permanent revocation of drivers' licenses.

Your Committee received testimony on this bill from the Attorney General's Office, the Department of Transportation, the Public Defender's Office and the Hawaii Insurers Council.

Your Committee finds that highway safety is a great concern, and the current point system for operator evaluation should be strengthened to penalize individuals who violate traffic laws. Extending the period for which the points are accumulated will enhance the significance of this system.

Your Committee has amended this bill by removing the authority of the court to permanently revoke a driver's license, and by removing the provision requiring proof of financial responsibility.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3081, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3081, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 549-90 Judiciary on H.B. No. 2367

The purpose of this bill is to increase penalties for failure to properly register new ownership of motor vehicles.

Testimony on this bill was received from the spokesperson representing the office of the public defender. Concern was expressed by the office over the language regarding the penalty provisions of this bill.

The spokesperson noted that while the proposed \$20 penalty for a late vehicle registration under Section 286-52, Hawaii Revised Statutes, appeared to be reasonable, a violator of this section would also be subject to the proposed penalty provisions of Section 286-61, Hawaii Revised Statutes, making the violator's offense a misdemeanor.

Your Committee has corrected this situation and has amended this bill by mandating a specified fine for a violation of Section 286-52, Hawaii Revised Statutes, be included within that section. Your Committee has also deleted any reference to Section 286-52, Hawaii Revised Statutes, in the penalty provision of Section 286-61, Hawaii Revised Statutes. Your Committee believes that this amendment would be consistent with the intent of the previous committees which heard this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2367, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2367, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 550-90 Judiciary on H.B. No. 2994 (Majority)

The purpose of this bill is to prohibit the operation of thrill craft and motorized vessels towing a person engaged in parasailing in designated waters of the State from the high water mark to one thousand feet offshore; and, to prohibit their operation between December 15 and May 15 of each year, and all weekends and state and federal holidays throughout the year to minimize adverse impacts on endangered sea creatures such as migratory humpbacked whales and sea turtles.

Your Committee received testimony in favor of this bill from the Department of Transportation, the Maui Hotel Association, the Napili Kai Beach Club, the West Maui Taxpayers Association, the Ka'anapali Beach Hotel, and the Sierra Club Legal Defense Fund.

Supporting testimony indicated that the continuous daytime traffic by thrill craft and parasail boats near shore and in shallow waters threaten the recovery of the humpback whale population. The underwater noise of these crafts adversely disrupt the whales acoustical environment, its mating system, and the survival of calves.

Your Committee is aware and mindful of the urgent need to protect this endangered species and believes that steps must be taken to protect our whale population.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2994, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.
(Representative Bellinger did not concur.)

SCRep. 551-90 Judiciary on H.B. No. 3044

The purpose of this bill is to prohibit the taking, killing, selling, or offering for sale or possession of Kona crabs during the months of May, June, July, and August.

Your Committee received testimony from the Department of Land and Natural Resources and the Environmental Center of the University of Hawaii at Manoa. Your Committee believes that lengthening the closed season for Kona crabs will enhance the spawning stock of these crabs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3044, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 552-90 Judiciary on H.B. No. 3282

The purpose of this bill is to prohibit the taking of certain species of live stony coral of the taxonomic order, Madreporaria, except with a permit, and to prohibit their sale after July 1, 1992, except for coral rubble pieces or fragments imported for the manufacture and sale of coral jewelry or obtained through dredging operations in Hawaii for agricultural or other industrial uses.

Your Committee received testimony from the Department of Land and Natural Resources, the Ocean Recreation Council of Hawaii (TORCH), and the Environmental Center of the University of Hawaii at Manoa. Your Committee understands that it is impossible to distinguish certain dead Hawaiian stony coral from those brought into the State from other countries, and that a total ban on the sale of all stony corals is not warranted. Additionally, prohibiting the sale of certain stony corals will help to establish the economic and environmental value of whole, live reef systems.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3282, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 553-90 Judiciary on H.B. No. 2011

The purpose of this bill is to increase penalties for the improper transportation of loads on our highways.

Testimony against the passage of this bill was received from the Hawaii Transportation Association. This organization stated that stricter carrier penalties for improper transportation loads would make it difficult to find and retain drivers in an environment that is already short of labor.

Your Committee finds that increasing the penalties for the improper transportation of loads is justified in light of the immense danger that such illegally loaded vehicles pose on our highways. Your Committee further finds that increasing the penalties would act to enhance voluntary compliance of our present laws.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2011, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 554-90 Judiciary on H.B. No. 2845

The purpose of this bill is to amend the procedures to fill candidate vacancies in the event of death, withdrawal, or disqualification.

Testimony was received by the Office of the Lieutenant Governor and the Association of Clerks and Election Officers.

Your Committee finds that this bill would correct existing ambiguities in the current law and set specific time lines and procedures for handling candidate vacancies. Its passage would give political parties greater flexibility in filling candidate vacancies, yet protect the ability of election officials to finish balloting in conformance with federally required guidelines.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2845 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 555-90 Finance on H.B. No. 463

The purpose of this bill is to permit bona fide organizations to raise funds through bingo games. This bill establishes guidelines for the regulation, licensure, and taxing of bingo games as well as for the regulation and licensure of bingo game suppliers.

Your Committee recognizes the legitimate concerns raised by the City and County of Honolulu's Police Department with regard to this bill, as drafted. At the same time, your Committee is mindful of the positive results that could come about from this type of legislation; ie. needed income to organizations that, in turn, will benefit the greater community. Moreover, your Committee believes that if sufficient restrictions and other controls can be included into the bill, then the State can ensure a legitimate program that is free of the often-mentioned concerns usually tied to such activities.

Upon further consideration, your Committee has replaced the language in this bill with new language that provides the following:

1. Regulates all phases of the conduct of bingo and raffles except bingo games using free cards and donated prizes for which no payment of consideration is made by participants;
2. Establishes a seven-member Board of Bingo Control within the Department of Commerce and Consumer Affairs (DCCA) to be appointed by the Governor. Among other things, this Board would hear appeals on denials of licenses by DCCA and conduct hearings on the suspension or revocation of a license;
3. Specifies DCCA's role regarding license eligibility requirements, application procedures, fees, as well as authority to issue or deny licenses;
4. Establishes qualifications of persons who can play or conduct bingo, the location and frequency in which bingo can be played, and the prizes that can be played for;
5. Limits the top prize award value, organization expenses that may be incurred in connection with bingo, and the manner in which profits may be spent;
6. Imposes substantial civil and criminal penalties for violations of various provisions and lesser penalties for violations of other provisions. The Attorney General and prosecuting attorneys are authorized to investigate, charge, and prosecute persons/organizations for violations of law;
7. Requires timely financial reporting to the Board and annual reporting to organization membership;
8. Imposes a 4 percent tax on gross receipts received from the conduct of bingo, and excludes bingo from exempt activity under the general excise tax law;
9. Specifies limits on the number of raffles allowed, license requirements, fees, form of tickets, use of profits, records to be kept, and procedures for applicant upon denial of application;
10. Imposes civil and criminal sanctions for violations of raffle provisions; and
11. Excludes bingo and raffle activity from definition of gambling under the Penal Code.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 463, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 463, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 556-90 Judiciary on H.B. No. 2233

The purpose of this bill is to define the marine waters of the State to include all waters twelve miles seaward from the upper reaches of the wash of the waves and including the archipelagic waters.

Your Committee is cognizant of President Reagan's Proclamation 5928 of December 27, 1988, wherein the President extended the territorial sea of the United States from three to twelve nautical miles, but also stated that the Proclamation did not alter existing Federal or State law regarding the new boundaries in question. Your Committee is also aware that the Hawaiian Islands have historically been archipelagic since at least the days when King Kamehameha I established a unified kingdom in 1794. The current status of the waters covered by this bill, as between the State and Federal governments, remains undefined and this bill is intended to establish all rightful claims of the State to the subject waters.

Your Committee has amended this bill by adding the definition of State marine waters to Chapters 187A and 195D to conform with the intent of this bill. Your Committee has also made technical changes for clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2233, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2233, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 557-90 Finance on H.B. No. 690 (Majority)

The purpose of this bill is to appropriate funds for the purchase of the Queen Emma Garden apartment complex located near Downtown Honolulu.

Due to series of complex legal and financial transactions following the death of the original building owner, Robert Black, many tenants are facing the prospect of escalating rents or evictions due to the inability to meet increased rent demands. This measure would appropriate funds to the Department of Budget and Finance for the purchase of the Queen Emma Garden apartment complex.

Your Committee has amended this bill by:

- (1) Editing the purpose section of the bill and limiting the discussion to salient facts; and
- (2) Inserting the nominal sum of \$1 in the appropriation section for purposes of continued discussion.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 690, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 690, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kawakami.
(Representative Duldulao did not concur.)

SCRep. 558-90 Finance on H.B. No. 2905

The purpose of this bill is to repeal the "drop-dead" provision of Act 381, Session Laws of Hawaii 1989, pertaining to dependent adult protective services.

Representatives of the Department of Human Services, the Commission on Persons With Disabilities, the American Association of Retired Persons, and the Kokua Council for Senior Citizens testified in favor of the bill.

The Department of Human Services testified that if the "drop-dead" provision is not repealed, the State will have no legislation pertaining to adult abuse, neglect, or exploitation as of June 30, 1993. The Department further testified that the temporary nature of Act 381 prevents the Department from establishing permanent staff positions to carry out the mandates of the Act, and that temporary staff positions are difficult to fill and are subject to a high turnover rate.

Based on these recommendations, your Committee believes that it is in the public interest to maintain the provisions relating to protection of dependent adults on an ongoing basis.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2905 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 559-90**Finance on H.B. No. 2299**

The purpose of this bill is to establish a statewide after-school program in the public schools which provides affordable and quality after-school supervision for students enrolled in kindergarten through grade six from households headed by a single working parent or two working parents.

The bill also proposes to allow the appropriate agencies to:

- (1) Employ staff on a part-time basis, exempt from Chapters 76 and 77; and
- (2) Request criminal history record clearances of program staff from the Hawaii Criminal Justice Data Center.

Your Committee received testimony in support of the intent of the bill from the Lieutenant Governor, the Department of the Attorney General, the Department of Education, the United Church of Christ, and the Hawaii State Teachers Association.

The Department of Education (DOE) testified that the Board of Education (BOE) adopted an after-school plan for fiscal year 1990-91. The BOE approved the expansion of the program to children of parents attending school or job training for career development. In addition, the BOE approved other program improvements, including lowering of the adult to child ratio from 1:20 to 1:15.

The Department of Education further testified that the cost for the entire program for fiscal year 1990-91 will be \$17,479,700.

Under the BOE approved program, an increase in the monthly fees is also being proposed. Under the proposed program, all eligible children, with the exclusion of those qualifying for free or reduced lunch, will be required to pay a monthly fee rate of \$25. This is an increase of \$2 per month or 10 cents per day over the rate charged by the pilot after-school program currently being implemented. The projected increase in the monthly fees is expected to provide \$4,155,469 of the entire program costs.

Your Committee has amended the bill by:

- (1) Appropriating \$17,479,700 for the operation of the program; and
- (2) Expanding the program's target population to include public school students enrolled in kindergarten through grade six with parents working in the program or parents who are attending school or job training for career development.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2299, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2299, H.D. 1.

Signed by all members of the Committee.

SCRep. 560-90**Finance on H.B. No. 628**

The purpose of this bill is to appropriate funds to initiate a program to improve the statewide rainfall and flood information system.

Your Committee has made the following revisions to the bill:

- (1) Designated fiscal year 1990-1991 for the sum appropriated; and
- (2) Changed the effective date of the measure to July 1, 1990.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 628, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 628, H.D. 1.

Signed by all members of the Committee.

SCRep. 561-90**Finance on H.B. No. 2489**

The purpose of this bill is to require that individuals who established a prior unemployment insurance benefit year must work in covered employment and earn wages of at least five times the individual's weekly benefit amount to establish a subsequent benefit year.

It is your Committee's understanding that this additional requirement for receipt of unemployment benefits is intended to conform with Section 3304(a)(7) of the Federal Unemployment Insurance Employment Act (FUTA).

Failure to conform with FUTA requirements will result in higher unemployment insurance tax liabilities for all employers in the State because of the loss of FUTA tax credits.

Technical, nonsubstantive amendments have been made for purposes of style and clarity and to correct a statutory drafting error.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2489, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2489, H.D. 1.

Signed by all members of the Committee.

SCRep. 562-90 Finance on H.B. No. 2358

The purpose of this bill is to establish a second permanent condominium specialist position within the Department of Commerce and Consumer Affairs to inform, advise, and refer consumers with regard to any matter relating to condominium property.

Your Committee received testimony in support of this bill from the Department of Commerce and Consumer Affairs (DCCA). According to DCCA, currently there is one condominium specialist in the DCCA. This condominium specialist has greatly assisted consumers, apartment owners, boards of directors, associations, managing agents, real estate licensees, government officials, and the general public with needed information, education, and advice on condominium law and management. However, increased visibility and an increasing array of duties and tasks have resulted in a workload too extensive for one condominium specialist to handle.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2358, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2358, H.D. 2.

Signed by all members of the Committee.

SCRep. 563-90 Finance on H.B. No. 2789

The purpose of this bill is to provide a pension adjustment bonus to retirees who have ten or more years of credited service, on July 1, 1990 and each July 1st thereafter. The bill also makes provisions for varying bonus amounts based upon the number of years of retirement.

The Hawaii State Teachers Association, the Coalition of Hawaii State-Counties Retirees, and HGEA/AFSCME Local 152 submitted testimony in support of this measure.

For purposes of continued discussion, your Committee has amended by the bill by deleting the actual dollar amounts for the pension adjustment bonuses and appropriating a nominal sum of \$1. Other technical, nonsubstantive revisions have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2789, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2789, H.D. 2.

Signed by all members of the Committee.

SCRep. 564-90 Finance on H.B. No. 2871

The purpose of this bill is to appropriate funds from the general revenues of the State to satisfy claims for legislative relief, judgments against the State, or settlements and miscellaneous claims.

Your Committee received testimony from the Attorney General's Office indicating that since this measure was first introduced, an additional case has been resolved for additional amounts for which the Attorney General recommends payment.

Your Committee has amended this bill by including the City and County of Honolulu's claim for \$20,800 pursuant to Section 70-111, Hawaii Revised Statutes. Other technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2871, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2871, H.D. 2.

Signed by all members of the Committee.

SCRep. 565-90 Finance on H.B. No. 3114

The purpose of this bill is to appropriate funds to the City and County of Honolulu for landscaping, irrigation, and other improvements to Kapiolani Park, Kuhio Beach Park, Waikiki mini-parks, Ala Wai Boulevard, Ala Wai Canal, the Ala Wai promenade and Ala Moana Park.

In conjunction with major construction and renovation projects for Waikiki which, on any given day, attracts approximately 60,000 or more visitors, irrigation and landscaping improvements to major parks, other open space areas,

and surrounding areas should be undertaken. Cumulatively, these projects and activities should enhance Waikiki's ability to maintain its reputation as a premier visitor destination.

Your Committee has amended this measure by inserting the nominal sum of \$1 in the appropriations section for purposes of continued discussion. Other technical, nonsubstantive revisions have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3114, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3114, H.D. 2.

Signed by all members of the Committee.

SCRep. 566-90 Finance on H.B. No. 3095

The purpose of this bill is to establish a Division of Tourism, headed by a Deputy Director of Tourism, within the Department of Business and Economic Development. The measure also renames the Department as the Department of Business, Economic Development, and Tourism.

The Deputy Director of Tourism would be responsible for:

- (1) Contracting with the Hawaii Visitors Bureau and other organizations;
- (2) Establishing the Tourism Impact Management System; and
- (3) Planning for the integrated and coordinated development and expansion of the tourism industry in Hawaii.

The bill also creates a Commission on Tourism to set state policy on matters relating to the development of a State Tourism Strategic Marketing Plan.

The Department of Business and Economic Development, the Hawaii Hotel Association, and the Outrigger Hotels Hawaii submitted testimony in support of the creation of a position for a deputy director on tourism. However, they opposed the creation of the commission and the division.

However, in light of the State's substantial dependence on tourism, it is important that the government coordinate and plan tourism growth and development in a manner consistent with the economic interests of the State.

Your Committee has made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3095, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3095, H.D. 2.

Signed by all members of the Committee.

SCRep. 567-90 Finance on H.B. No. 2878

The purpose of this bill is to establish a new meat inspection service for exotic animals.

More specifically, this bill proposes to:

- (1) Establish a new exotic animal and game meat reimbursable inspection service, to be provided on request;
- (2) Establish a self-supporting exotic animal inspection revolving fund to handle receipts and disbursements;
- (3) Stiffen the penalties for violations of the Hawaii meat inspection law;
- (4) Liberalize the meat inspection exemptions for custom preparation services, and retail stores and restaurants selling only meat which has passed inspection;
- (5) Provide for payment to the State for any overtime meat inspection services; and
- (6) Set forth factors which the Board of Agriculture shall consider when determining whether the public interest will be adequately served by issuing a written notice of warning for minor violations rather than a citation or summons.

Your Committee received testimony in support of the bill from the State Board of Agriculture. This testimony indicated that the bill would enable the Department of Agriculture to provide necessary services to a fledgling animal industry and provide a marked improvement in other areas of the Hawaii Meat Inspection Act. The Board also noted that the bill provides protection to the consumer from the sale of uninspected meat.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2878, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2878, H.D. 1.

Signed by all members of the Committee.

SCRep. 568-90 Finance on H.B. No. 2793

The purpose of this bill is to allow a portion of the unemployment insurance experience record of a predecessor employer to be transferred to successor employers.

Under this bill, the accumulated unemployment reserve may be divided among the successor employers based on the percentage of historical contributions made for each successor's employees during the previous three years.

Under current law, only the successor employer with the larger employee base is permitted to succeed to the experience record of a predecessor employer. This means that when there is more than one successor employer, the second or third employer must start out with a zero unemployment reserve and must pay the "new employer" taxation rate. This bill seeks to provide relief to successor employers, who acquire a clearly identifiable and segregable portion of a business from a predecessor and who continue to employ all or nearly all of the predecessors' employees, by allowing them to receive proportional reallocations of the unemployment reserve.

Your Committee received supporting testimony from the Department of Labor and Industrial Relations, the Chaminade University of Honolulu, the Saint Louis Catholic Marianist School for Boys, and the Marianist Center of Hawaii. The Chamber of Commerce of Hawaii opposed the bill.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2793, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2793, H.D. 2.

Signed by all members of the Committee.

SCRep. 569-90 Judiciary on H.B. No. 2965

The purpose of this bill is to amend the powers of the Civil Rights Commission, and to streamline the operation of the Commission.

H.B. No. 2965 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 long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2965, as amended herein, and recommends that it be recommitted to the Committee on Judiciary, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2965, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Hirono, Oshiro, Takamine and Anderson.

SCRep. 570-90 Planning, Energy and Environmental Protection on S.B. No. 1810

The purpose of this bill is to create an agency, the Natural Energy Laboratory of Hawaii Authority, which would consolidate the management of the Natural Energy Laboratory of Hawaii (NELH) and the Hawaii Ocean Science and Technology (HOST) Park.

Your Committee finds that it is essential for the State to foster an integrated approach to energy development and assist all forms of technology that provide a potential alternative to the combustion of fossil fuel in the generation of energy. In addition to mitigating the adverse affect that fossil fuel has on the atmosphere, alternative energy is essential in accelerating Hawaii's energy independence. Your Committee further finds that the state is gifted with the natural resources necessary to accomplishing the goal of energy independence. The merger of NELH and HOST Park and the formation of a natural resource and energy authority represents the type of methodology that will accelerate alternate energy technology development.

Your Committee has amended this measure by changing the administrative agency from the Department of Business and Economic Development to the Department of Land and Natural Resources. Natural energy development is a function of proper utilization of natural resources, and your Committee has determined that this is better accomplished under the Department of Land and Natural Resources. This measure has been further amended by changing the dates for the appropriations to fiscal years 1990-1991, 1991-1992, and by changing the name of the authority from the Hawaii Island Natural Resource and Technology Authority to the Natural Energy Laboratory of Hawaii Authority.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 1810, S.D. 2, H.D. 2, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 1810, S.D. 2, H.D. 3.

Signed by all members of the Committee.

SCRep. 571-90 Intergovernmental Relations and International Affairs on H.B. No. 2338

The purpose of this bill is to allow the counties greater flexibility in determining the form of the annual supplement to comprehensive ordinance codes.

Presently, statutes require that these annual supplements be published as cumulative pocket part supplements. Your Committee finds that the problem of re-publishing the cumulative materials contained in the supplement is cumbersome and time consuming, causing an unacceptable hiatus between the enactment of ordinances and the publication of the supplement. The looseleaf form permitted under this measure would greatly aid in the timely processing and publishing of the supplement.

Your Committee received testimony in support of this measure from the Department of Corporation Counsel of the City and County of Honolulu.

Technical, nonsubstantive amendments have been made to the bill for the purposes of style and clarity.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of H.B. No. 2338, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2338, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 572-90 Consumer Protection and Commerce on H.B. No. 3082

The purpose of this bill is to amend Sections 514A-13.5 and 514A-82.3, Hawaii Revised Statutes, for housekeeping purposes and to clarify 1988 amendments to these sections.

Your Committee heard testimony from the Real Estate Commission ("Commission"), condominium occupant owners and the Hawaii Independent Condominium and Co-operative Owners ("HICCO").

The Commission testified that the word "to" between "limited" and "common elements" in Section 514A-13.5 is superfluous.

The Commission testified that the wording in Section 514A-82.3 creates confusion because it appears to require the approval of both the owners of fifty per cent of the common interest as well as the owners of fifty per cent of the units, without regard to the common interest of the owners of those units, to authorize the borrowing of money by the association. The Commission pointed out that this requirement of fifty per cent of the owners' approval is not in keeping with other statutory provisions requiring owner approval in which ownership is based on the per cent of ownership of the common interest, not on the unit itself. Therefore, the Commission supports eliminating the requirement that owners of fifty per cent of the units must also approve a loan. The fact that the repayment cost of a loan would also be based on the owner's percentage of common interest lends support to the fairness of this proposed amendment.

Your Committee heard testimony from HICCO who are opposed to the proposed change to Section 514A-82.3. HICCO expressed general concern regarding authorizing boards to borrow money. In their view, requiring fifty per cent of owners to approve loans provides a further check on these boards. Moreover, HICCO believes that the percentage of ownership approval required should be increased to sixty-five per cent. The Commission noted, however, that such an increase would create major difficulties for many condominiums. Although the Committee recognizes that there are many concerns regarding the authority of boards to borrow money and impose assessments, the intent of this bill is to clear up confusion created by the 1988 amendments to these sections. Therefore, your Committee has made only technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3082 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3082, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 573-90 Agriculture on H.B. No. 2879

The purpose of this bill is to fulfill the intent of the State agricultural park program by amending Chapter 166, Hawaii Revised Statutes, in the following manner:

1. Broadening the source of funding for the maintenance of all roads within agricultural parks. Under current law, Section 166-4 provides that only the agricultural park special fund can be used for this purpose;
2. Clarifying the administrative process relative to the execution of partnership agreements and clarifying the authority to manage agricultural parks;
3. Providing the program with flexibility to issue authorizations for the development and maintenance of agricultural parks;
4. Requiring the consent of the Board of Agriculture for any transfer of interest in an agricultural park lease, including the stock of a corporation or the interest in a partnership or association. Under current law, a

number of lessees have manipulated the use of corporate entities to transfer agricultural park leases to non-qualified persons and thereby profit from the sale of these leases;

5. Clarifying that applicants may include partnerships, corporations, or associations when at least seventy-five per cent of the partners, stockholders, or members of such entities qualify individually as farmers;
6. Clarifying that "new farmers", receiving preference in obtaining an agricultural park lot, pertain to those applying for an agricultural park lot and not to those who qualify under agricultural loans;
7. Removing references to provisions, especially in Chapter 171 (Public Lands), which cannot be consistently followed in adopting program rules;
8. Broadening the uses of the agricultural park special fund to include the maintenance and operation of facilities related to the operation of agricultural parks; and
9. Clarifying that all moneys collected for the use and maintenance of a domestic and irrigation water system shall be from such a system that is within, not outside of, an agricultural park. This would prevent the commingling of moneys collected for a water system that is outside of an agricultural park.

Testimony from the Department of Agriculture (DOA) centered around the tightening of provisions on the assignment of leases to corporate successors. The DOA testified that a speculative pattern has emerged where lessees sell their interests for profit to unqualified assignees who use the leased lands primarily for residential purposes rather than for the intended purposes of farming. This situation is perpetuated because the statutory provisions governing agricultural parks:

1. Permit the assignment of leases to a corporate successor without requiring checks on the qualifications of the new assignees; and
2. Do not permit the DOA to evaluate and approve the terms and conditions of sale.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2879 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 574-90 Agriculture on H.B. No. 2880

The purpose of this bill is to clarify the loan authorization restriction and eligibility requirements for the agricultural loans program.

Currently, the Department of Agriculture (DOA) is authorized to grant agricultural loans as a last resort to help borrowers when they cannot qualify for loans from the Farmers Home Administration or the appropriate farm credit system banks (namely, the Production Credit Association of Hawaii, the Federal Land Bank Association of Hawaii, and the Sacramento Bank for Cooperatives) and two private lenders. The word, "or," may be construed to mean that the disapproval of the loans is required from either one of the lending entities when, in fact, disapprovals are required from four entities.

Furthermore, the law provides that seventy-five per cent of the members or stockholders of partnerships and corporations must be residents of the State who are also "qualified farmers" in order for the partnerships and corporations to be eligible for the agricultural loans. This qualification requirement for "qualified farmers" contradicts the definition for "qualified farmers" in the definition section, where there are no requirement specified that seventy-five per cent of the residents must be "qualified farmers."

Under this bill, the restriction and eligibility sections of the law would be amended to:

- (1) Indicate clearly that the applicants for the agricultural loans must have failed to secure loans from both the Farmer Home Administration and the appropriate farm credit system banks as well as two private lenders before they would be eligible for the agricultural loans; and
- (2) Delete the inconsistent qualification in the eligibility section for partnerships and corporations to make this section consistent with the definition section of the law as it pertains to "qualified farmers."

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2880 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 575-90 Agriculture on H.B. No. 2881

The purpose of this bill is to allow the Department of Agriculture to charge interest rates on agricultural loans on a more consistent basis with other similar type State programs.

This bill would improve the administrative and program service aspects of the agricultural loans program by:

- (1) Setting the interest rates for class A, B, C, and E loans at a rate one per cent below the prime rate or seven and one-half per cent a year, whichever is lesser. The prime rate to be used would be determined on January 1 and July 1 of each year, using the prime rate charged by the two largest banks in the State. When the prime rate charged differs, the lesser of the prime rate would be used; and
- (2) Providing that if the money loaned is borrowed by the Department of Agriculture (DOA), the interest rate on loans of classes A,B,C,E, and F would be determined as set out above or at one per cent over the cost to the State for borrowing the money, whichever is greater.

Testimony from the DOA and the Hawaii Farm Bureau Federation indicated that rather than using the varying loan rates charged by the farm credit system banks for similar types of loans, there is a need for a more consistent way to establish the loan rates for the various classes of agricultural loans program.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2881 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 576-90 Health on H.B. No. 2637

The purpose of this bill is to amend Act 205, Session Laws of Hawaii 1988, relating to the Dispersal Review Council.

Your Committee heard testimony from the Dispersal Review Council and an individual in support of this bill.

While in agreement with the intent of the bill to provide effective dates for implementation, your Committee believes that the implementation date for Oahu is overly restrictive. Your Committee has therefore amended the bill by deleting (2) under SECTION 6 reading, "The council shall concentrate on implementation of this Act on Oahu until July 1, 1990."

In addition technical, nonsubstantive changes were made to the bill for clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2637, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2637, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 577-90 Health on H.B. No. 2691

The purpose of this bill is to clarify existing statutes and to add definition where it may be currently lacking with respect to membership of the Subarea Health Planning Councils and the Hawaii Statewide Health Coordinating Council under the State Health Planning and Development Agency.

Your Committee heard testimony from the Department of Health, the State Health Planning and Development Agency (SHPDA), the Hawaii Nurses' Association Collective Bargaining Organization, and an individual in support of this bill. Testimony in opposition was received from Koolau Radiology, Inc., the Hawaii Medical Association and the Hawaii Federation of Physicians and Dentists.

Your Committee recognizes that the bill, in its present form, lacks clarity and intent. Representatives from SHPDA and the Hawaii Federation of Physicians and Dentists met, by request, and submitted language amenable to both parties. The definition of "consumer" has not been amended. Based upon the recommendation by the Deputy Attorney General the definition of "health care provider" has been deleted from the bill. Technical, nonsubstantive amendments have also been made to the bill for purposes of style and clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2691, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2691, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 578-90 Judiciary on H.B. No. 2183

The purpose of this bill is to amend section 7 of Act 260, Session Laws of Hawaii 1988, by removing the sunset provision that would have taken effect on June 30, 1990.

Your Committee received testimony from the Department of the Attorney General, which advocated the repeal of the sunset provision and making Chapter 712A, H.R.S, permanent, and the Office of the Public Defender, which recommended the continued legislative monitoring of this Act.

The Department of the Attorney General spokesperson testified that this law is an important tool for law enforcement authorities and that the eighteen months that have passed since the enactment of Chapter 712A have been marked by cautious and judicious use of the forfeiture law. Attempts have been made to fairly balance the need to accomplish the purpose of the law against the rights of claimants. It is the spokesperson's belief that the provisions of the law have been liberally construed in favor of claimants who have been given the benefit of the doubt whenever possible.

The Office of the Public Defender, while having no direct experience with any of the proceedings that have arisen under this chapter, is concerned with the language of the statute.

The spokesperson for the office believes that it is axiomatic in legal jurisprudence that an impartial and fair judicial or hearing officer preside over a disputed claim. This officer must have no vested interest in the outcome of the dispute. The administrative forfeiture procedure in this statute, however, affords no impartiality. Under present law, "law enforcement officers" or "prosecuting attorneys" seize the property, act as the accusers in proceedings for the forfeiture of the properties, judge as to the propriety of the seizures through the attorney general, and jointly benefit from the property received. The spokesperson also notes that the attorney general is given the authority to promulgate rules and regulations exempt from Chapter 91 requirements. It is the recommendation of the Office of the Public Defender that continued monitoring by the legislature of Act 260, Session Laws of Hawaii 1988, be done to assure that the administrative forfeiture procedure continues to be fairly administered.

Your Committee believes both testimonies to have merit and recommends the continued existence of 712A with the condition that the sunset provision be extended for an additional three years.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2183, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2183, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 579-90 Judiciary on H.B. No. 2191

The purpose of this bill is to prohibit the possession of a firearm or ammunition in, on, or within 750 feet of schools and makes it a Class A felony to do so. This bill also makes it a Class C felony to possess a deadly weapon or a switchblade knife in, on, or within 750 feet of schools.

Your Committee received testimony from the President of the Hawaii Rifle Association, numerous representatives from the public, the Public Defender's Office, the Attorney General's Office, the Superintendent of the Department of Education, Hunting Supplies of Hawaii, the Hawaii Historic Arms Association, Security Equipment Corp., and Koko Head Skeet Club.

Your Committee finds that there is a need to curb incidences of violence in, at, or near our schools, such as drive-by shootings. A strong deterrence against firearms, deadly weapons, and switchblades is needed in order to keep our schools safe and secure so that our students may pursue knowledge to the best of their abilities.

Your Committee also notes, however, that the bill as drafted presents problems for law-abiding citizens who may otherwise be transporting their firearms legally. Accordingly, your Committee has amended this bill by deleting the affirmative defense provision and stating that subsection (a) of the statute shall not apply to persons in compliance with Sections 134-2.5, 134-5, 134-6, or 134-9, Hawaii Revised Statutes, or within an exemption provided by Section 134-11. The purpose of this change is to require the prosecution to prove that the defendant was not in compliance with those sections, rather than to place the burden on the defendant to prove compliance. Thus, a person who is carrying an unloaded rifle in an enclosed container from the person's residence to a target range would not be in violation.

Your Committee has also amended this bill by deleting the phrases "without possibility of parole" and "without possibility of probation" so as to allow parole or probation in the appropriate cases. Your Committee has also deleted the references to "ammunition".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2191, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2191, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 580-90 Judiciary on H.B. No. 2818

The purpose of this bill is to create a presumption of custody by the relative who has been the caretaker of the child.

This bill will hopefully assist the custodial parent of a child born out of wedlock when the child is involuntarily removed out of the home by the other parent. This bill will also assist children who require medical consents where only the custodial parent is available.

Your Committee has amended this bill by changing the word "relative" to "parent". The purpose of this change is to limit the presumption of custody to parents.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2818, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 581-90 Judiciary on H.B. No. 3265

The purpose of this bill is to add a new section to the Penal Code mandating that the Department of Corrections expeditiously notify the victim or a surviving immediate family member of the escape of the prisoner who committed an offense against the victim.

Your Committee received testimony from the Department of Corrections and the Honolulu Police Department in favor of the bill.

Your Committee understands that this bill would allow a victim or a surviving immediate family member to request in writing by certified mail that notice be given to the victim or family member of an escape by the prisoner who committed the offense against the victim. The notice will be made by the Department of Corrections by the most reasonable and expedient means available and will be sent to the last address provided to the Department by the requesting party.

Your Committee would like to make it clear that the failure by an officer or employee to carry out the stated requirements of this section would not subject the State, the officer, or the employee to liability in any civil action.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3265 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Hiraki, Okamura, oshiro, Peters, Takamine, Anderson and Cavasso.

SCRep. 582-90 Judiciary on H.B. No. 2400

The purpose of this bill is to make it a misdemeanor for a person to intentionally discharge a firearm in a populated area, a residential area, or within the boundaries of any road, street, or highway.

Your Committee received testimony from the Police Department for the County of Kauai and the Honolulu Police Department in support of this bill. Your Committee finds that the discharge of a firearm around other persons or in an area likely to have other persons is an inherently dangerous act which should be discouraged.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2400 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 583-90 Judiciary on H.B. No. 2014

The purpose of this bill is to amend Section 286-15, Hawaii Revised Statutes, by creating a definition for a "pickup truck".

Your Committee received favorable testimony from the Department of Transportation.

Your Committee accepts the proposed definition for "pickup truck" and also finds that the bill clarifies the exemption clause in subsection (b) of Section 291-14, Hawaii Revised Statutes, relating to pickup trucks and passenger restrictions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2014, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 584-90 Judiciary on H.B. No. 2478

The purpose of this bill is to amend Section 296-46.1, subsection (d), Hawaii Revised Statutes, to allow for a limitation on the age of school buses contracted by the state for the purpose of transporting pupils.

Your Committee finds that an age limitation on the buses that transport Hawaii's school children would greatly enhance the safety and quality of the school childrens' transportation. Your Committee also finds that the National Transportation Safety Board has requested all states to adopt legislation establishing a date by which school buses manufactured before April 1977 be phased out of use for the transportation of students.

Favorable testimony on this bill was received from the department of accounting and general services, the department of transportation, and a spokesperson for the community.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2478 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 585-90 Judiciary on H.B. No. 2002

The purpose of this bill is to make it unlawful for a driver of a motor vehicle to operate, or permit the operation of, any sound amplification system which can be heard outside the motor vehicle from a distance of 60 or more feet when the motor vehicle is being operated on a highway.

Your Committee received testimony from the Public Defender's Office, Car Audio Specialists Association, Inc. (CASA), the Department of Health, Citizens Against Noise and the Honolulu Police Department.

Your Committee finds that there is a growing problem of noise pollution emitted from motor vehicle audio systems. Your Committee further finds that there is a problem of enforcement because it is difficult to record noise levels from moving vehicles.

Your Committee has amended this bill by changing the chapter being amended from Chapter 342F to 291, Hawaii Revised Statutes, (HRS) because the offense is in essence a traffic violation. Your Committee has also amended this bill by incorporating language from Section 711-1101, HRS, on disorderly conduct to provide requisite states of mind and enforcement guidelines. This bill was also amended by adding a police officer as a person who may be a complaining witness to the offense, whereas the disorderly conduct statute may require members of the public to testify as to the physical inconvenience or alarm caused by the noise. Other changes were made for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2002, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2002, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 586-90 Judiciary on H.B. No. 3442

The purpose of this bill is to prohibit the possession or use of gill nets in embayment estuaries and marine life conservation districts in the State. This bill gives authority to the Department of Land and Natural Resources to adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, to define and delineate the boundaries of embayment estuaries and marine life conservation districts, if such boundaries are not already established by statute or rules.

Your Committee received testimony from representatives of the Department of Land and Natural Resources and the University of Hawaii Environmental Center in favor of the passage of this bill. Your Committee is aware that gill nets often result in indiscriminate destruction of marine life. This bill is intended to protect marine life by placing a total ban on gill nets in embayment estuaries and conservation districts delineated by the Department of Land and Natural Resources. Your Committee is also aware that the Department has authority under Chapter 190 to adopt rules prohibiting the use of gill nets. This bill, however, will remove any doubts as to the authority of the Department.

Your Committee has amended this bill by incorporating the proposed law into Section 188-30.2, Hawaii Revised Statutes, instead of creating a new section. Your Committee has also amended this bill by making technical changes for style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3442, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3442, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Okamura, Peters, Takamine and Anderson.

SCRep. 587-90 Finance on H.B. No. 2458

The purpose of this bill is to appropriate moneys to enable the Housing Finance and Development Corporation to conduct a study which will examine existing rental housing trust fund programs and develop guidelines and necessary proposed legislation for the establishment and operation of a rental housing trust fund in Hawaii to assist very-low and low-income families.

Your Committee received testimony in support of this bill from the Housing Finance and Development Corporation, the Office of Housing and Community Development of the County of Hawaii, the Affordable Housing Alliance, Homeless Aloha, Inc., and a private citizen.

The Affordable Housing Alliance indicated that housing trust funds in other jurisdictions have been successful in assisting low income families to obtain affordable rental housing.

Homeless Aloha, Inc., testified that a rental housing trust fund would provide preventive assistance for people "at risk" of becoming homeless, as well as real alternatives for those moving through emergency shelters and transitional housing.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2458, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2458, H.D. 2.

Signed by all members of the Committee.

SCRep. 588-90 Finance on H.B. No. 2986

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds to Linguatron (USA) Limited for the establishment of an electronic computer equipment assembly plant and related facilities pursuant to Part III, Chapter 39A, Hawaii Revised Statutes.

Under Part III, Chapter 39A, the Department of Budget and Finance, with the approval of the Governor, is authorized to issue special purpose revenue bonds for assisting manufacturing enterprises.

Linguatron (USA) Limited, a Hawaii corporation, is involved in the commercialization of high technology machines, which will ultimately form a sophisticated communications equipment system that will break communications barriers between persons who speak or write in different languages. Your Committee finds that this corporation will assist in the diversification of Hawaii's economy and produce new engineering, software, and assembly jobs for our citizens.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2986, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2986, H.D. 2.

Signed by all members of the Committee.

SCRep. 589-90 Finance on H.B. No. 2645

The purpose of this bill is to appropriate funds to educate families of mentally ill persons, in order to assist them in understanding and providing for mentally ill family members.

Your Committee received testimony in overwhelming support of the bill from the Department of Health, the Hawaii State Alliance for the Mentally Ill, and the Oahu Alliance for the Mentally Ill, Inc.

Your Committee has amended the bill, as recommended by the Oahu Alliance, by replacing the reference to the "Hawaii Mental Health Association" with the "Oahu Alliance for the Mentally Ill." Your Committee has also amended the bill by changing "Hawaii Alliance for the Mentally Ill" to read "Hawaii State Alliance for the Mentally Ill."

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2645, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2645, H.D. 2.

Signed by all members of the Committee.

SCRep. 590-90 Finance on H.B. No. 2888

The purpose of this bill is to divide the responsibility of administering the State Elderly Housing Program between the Housing Finance and Development Corporation (HFDC) and the Hawaii Housing Authority (HHA).

Under this bill, the elderly housing revolving fund as well as all assets and management of elderly housing projects developed by HFDC would be transferred to HHA. In addition, this bill generally limits state elderly housing to those 62 years of age or older.

The Department of Budget and Finance and HHA supported this bill. According to the Department of Budget and Finance, HFDC is currently charged with the responsibility of administering the State Elderly Housing Program. Under the proposal, HFDC would be responsible for the planning and development of elderly housing projects which is in keeping with its overall planning responsibilities. At the same time, HHA would be responsible for operating and managing the elderly housing projects. Since HHA is currently responsible for the management of low-rent housing projects, the transfer of these CIP-funded elderly housing projects would be consistent with HHA's functions.

Your Committee has amended the bill by amending Sections 46-4(d), 321-15.6, 321E-2, and 359-121, Hawaii Revised Statutes, pertaining to the definition of elderly persons. Your Committee has also made other technical, nonsubstantive amendments to the bill for the purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2888, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2888, H.D. 2.

Signed by all members of the Committee.

SCRep. 591-90 Finance on H.B. No. 2902

The purpose of this bill is to approve a two-year pilot autonomy project at Maui Memorial Hospital.

Your Committee finds that the Maui Memorial Hospital was to be a pilot project before system wide changes are attempted. Maui Memorial was selected as the pilot institution mainly because it already has a strong foundation of local community support and activity.

Your Committee received testimony in strong support of the bill from the Department of Health. The Department testified that this legislation would make public hospitals more responsive to local needs and would allow for greater autonomy and ownership of hospital operations at the community level.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2902, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 592-90 Finance on H.B. No. 2057

The purpose of this bill is to statutorily attach the Judiciary History Center to the Judiciary for administrative purposes.

The Center will be operated by a board appointed by the Chief Justice. The costs of establishing and operating the Center will be paid by the Judiciary.

The Judiciary History Center, located on the ground floor of the Alii'olani Hale Building, was created to promote the educational, historical, and cultural interests of the people of Hawaii. Creation of the Center was funded by a combination of State, federal, and private grants. The Center opened in August 1989. This bill will establish a new administrative structure for the Center.

Testimony in support of this measure was submitted by the Judiciary, the Friends of Iolani Palace, the Historic Hawaii Foundation, the Hawaii Museums Association, and many other community organizations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2057, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 593-90 Finance on H.B. No. 3385

The purpose of this bill is to assist the Pilot Outreach Program of the Office of Children and Youth by providing for a program development outreach specialist to serve the literacy needs of the people on the island of Hawaii.

Your Committee finds that the Governor's Council for Literacy, in conjunction with the Office of Children and Youth, have established Literacy Coalitions in each county. Also, public and private agencies throughout the State have developed programs to address the literacy problem. However, a well-coordinated effort is needed to effectively address the problem in targeted areas, especially in rural areas where there is a higher incidence of functional illiteracy.

Accordingly, your Committee believes that an outreach specialist on the island of Hawaii will serve to improve the effectiveness of the program.

The Office of Children and Youth testified in favor of the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3385 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 594-90 Finance on H.B. No. 2899

The purpose of this bill is to amend Chapter 333F, Hawaii Revised Statutes, to clarify that the Department of Health is authorized to establish and administer special funds for the deposit and expenditure of earned Title XIX funds collected for Medicaid community programs servicing the developmentally disabled.

Your Committee finds that by enacting Act 341, Session Laws of Hawaii 1989, the Legislature intended to grant the Department of Health the authority to establish and administer special funds to maximize the use of federal (Title XIX) funds collected for services to persons with developmental disabilities. However, because this grant of authority was not drafted as a statutory amendment, its language is not presently contained in Chapter 333F. This has resulted in considerable confusion which has made it difficult for the Department of Health to establish special fund accounts.

Your Committee received testimony in strong support of the bill from the Department of Health, the State Planning Council on Developmental Disabilities, the Commission on Persons with Disabilities, and the Protection and Advocacy Agency of Hawaii.

The testimony indicated that the clarification provided by this bill will greatly facilitate the implementation of Medicaid community-based programs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2899 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 595-90**Finance on H.B. No. 2908**

The purpose of this bill is to raise the expenditure ceiling for personal care services to 75 percent of the annual Medicaid cost for comparable care in order to maintain recipients of personal care services safely and adequately in the home setting.

Your Committee received testimony in support of this bill from the Department of Human Services, the Commission on Persons with Disabilities, the American Association of University Women, and the Kokua Council for Senior Citizens.

The Department of Human Services indicated that because personal care and skilled nursing costs have risen dramatically, it has become more and more difficult to adequately maintain recipients under the current requirement of not exceeding 65 percent of the annual Medicaid cost for comparable institutional care. In particular, the 65 percent ceiling has made it difficult to adequately maintain those who require maximum service, such as the severely disabled. Additionally, the present ceiling may jeopardize the safety of those who choose to remain in the home setting because it allows for less and less service hours over time.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2908 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 596-90**Finance on H.B. No. 2943**

The purpose of this bill is to allow certifications of total disability to be obtained from qualified out-of-state licensed physicians for state income tax purposes.

Your Committee received testimony in support of this bill from the Department of Taxation and the Tax Foundation of Hawaii.

Under current law, certain tax benefits are available to persons who are totally disabled. However, to take advantage of these benefits, a person's total disability must be certified by a qualified physician, licensed under Chapter 453 or 460 of the Hawaii Revised Statutes. As a result, the Department of Taxation has had to deny benefits to persons because their total disability status was certified by out-of-state licensed physicians or commissioned medical officers of the military.

Your Committee finds this bill will eliminate a restriction from the current law which has impeded totally disabled persons from qualifying for their tax benefits.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2943 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 597-90**Finance on H.B. No. 2909**

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to certify for exemption from general excise tax, qualified persons or firms involved with rehabilitation or construction for or by HHA.

Your Committee received testimony in support of this bill from the Department of Taxation and HHA.

Your Committee has amended this bill to clarify that the exemption from general excise tax is applicable to the particular project certified by the HHA and not to the entire business of the person involved. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2909, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2909, H.D. 1.

Signed by all members of the Committee.

SCRep. 598-90**Finance on H.B. No. 2989**

The purpose of this bill is to change the current 40 percent ad valorem tax on cigarettes to a fixed excise tax of 1.8 cents on each cigarette sold by the wholesaler or dealer.

Currently, cigarettes are defined as a "tobacco product" under Section 245-1, Hawaii Revised Statutes. The sale or use of all "tobacco products" by a wholesaler or dealer is subject to an excise tax of 40 percent of the wholesale price of the product sold. Based on current wholesale prices, this translates to 36 cents per pack. Under this bill, a separate excise tax would be imposed on only cigarettes equal to 1.8 cents for each cigarette sold or used by a wholesaler or dealer. Assuming 20 cigarettes per pack, this also translates to 36 cents per pack. Other tobacco products such as cigars, snuff,

chewing tobacco, and smoking tobacco would continue to be subject to the existing excise tax of 40 percent of the wholesale price of the product sold.

In urging passage of this bill, The Tobacco Institute, Philip Morris U.S.A., R.J. Reynolds, and the Hawaii Food Industry Association made the following points:

- (1) Currently, the Legislature does not have an active hand in setting the excise tax for tobacco products, because the tax is dependent on the wholesale price which, in turn, is dependent on inflation as well as other factors such as transportation and warehousing costs. Under this bill, the Legislature would be responsible for making a decision whether to increase or decrease the tax on cigarettes whenever it determines any change in the cigarette tax is necessary.
- (2) Hawaii is the only state that imposes an ad valorem tax on cigarettes. Currently, Hawaii's effective tax rate is one of the highest in the nation.
- (3) Switching to a fixed tax rate would help to avert any tax erosion when smokers switch to lower quality and less expensive cigarettes.

In opposing this bill, the Department of Taxation made the following points:

- (1) The proposed change will, in actuality, result in a reduction of State revenues because:
 - (A) It will not be affected by inflation; and
 - (B) The national trend for the consumption of cigarettes has been declining (a 2.2 percent decrease in 1988, and an expected 3.8 percent decrease in 1989).
2. The new tax will increase the administrative burden of the Department because compliance efforts will shift to the monitoring of taxed and untaxed cigarettes. A costly regulation system such as stamping is foreseen.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of style and clarity, including references to the new tax in Sections 237-24 (10) and (18), 237-25, 238-3, and 445-15, Hawaii Revised Statutes.

Your Committee finds that the changes contained in this bill are both fair and reasonable, and will bring the method of taxation of cigarettes in line with those of other states.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2989, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2989, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 599-90 Finance on H.B. No. 3236 (Majority)

The purpose of this bill is to create a self-esteem task force to identify ways in which people's self-esteem can be raised, and in particular, to identify ways in which parents, schools, and society can help promote children's self-esteem.

Your Committee received testimony in strong support of this bill from the Departments of Education, Health, Human Services, Corrections, and the Attorney General; the Office of Children and Youth; the American Association of University Women; the Hawaii Psychological Association; the Hawaii Educational Council; the YWCA (Oahu); the Health and Community Services Council of Hawaii; and many private citizens.

The testimony indicated that focusing on the enhancement of the self-esteem of our population, and especially of our children, will provide a powerful, unifying theme in the prevention of detrimental health and social behaviors.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3236, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3236, H.D. 2.

Signed by all members of the Committee.
(Representative Liu did not concur.)

SCRep. 600-90 Finance on H.B. No. 2104

The purpose of this bill is to appropriate funds to determine the feasibility of cleaning the Ala Wai Canal to improve water quality in the canal to standards acceptable for water recreational activities.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources, the Department of Health, the Department of Transportation, the Environmental Center, the Honolulu City Council, the City and County Department of Parks and Recreation, the Waikiki Improvement Association, the Hawaii Hotel Association, the Lokahi Canoe Club, the Ocean Recreation Council of Hawaii, the Waikiki Residents Association, the Seagrass Advisory Council and other interested parties.

Your Committee amended this measure by reducing the sum appropriated to \$1 for purposes of continued discussion.

Technical, nonsubstantive revisions have also been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2104, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2104, H.D. 1.

Signed by all members of the Committee.

SCRep. 601-90 Finance on H.B. No. 2791

The purpose of this bill is to establish a temporary committee to preserve Waipio Valley to evaluate a variety of issues relating to the possible purchase and management of Waipio Valley.

Many consider Waipio Valley to be a place of exceptional natural and spiritual beauty, a symbol of Hawaiian cultural development, the seat of Hawaiian kings, and a major archaeological resource. In addition, the valley has potential for continued development as a source of taro and floriculture.

Your Committee finds that the feasibility study will evaluate and balance the cultural, historical, agricultural, and tourism needs of Waipio Valley and the best means of managing and preserving it.

In addition, your Committee is cognizant of the agricultural aspects associated with Waipio Valley and the need to bring stability to those farmers presently working the land. Your Committee recommends that the study give due consideration to the attendant leasehold interests and the possibility of converting long-term tenure to fee simple.

Testimony in support of this measure was received from the Department of Land and Natural Resources, the Department of Research and Development of the County of Hawaii, the Bishop Museum, the Waipi'o Farmers' Association, and a member of the County Council of the County of Hawaii.

For purposes of continued discussion, your Committee has amended the appropriations section of the bill by inserting the sum of \$1. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2791, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2791, H.D. 2.

Signed by all members of the Committee.

SCRep. 602-90 Finance on H.B. No. 3043

The purpose of this bill is to appropriate moneys to fund the increase in minimum wage implemented by the University of Hawaii for student employees, as well as to fund proportionate raises across the board for student assistants currently working at higher pay levels at the University.

Your Committee received testimony in support of this bill from the University of Hawaii and the Associated Students of the University of Hawaii at Manoa.

The University of Hawaii testified that student employees provide the workforce which is the backbone of its departmental administrative functions. However, on the Manoa campus alone, approximately 400 of the 3,000 student assistant positions remain vacant from term to term. More than 75 percent of these positions are in the lower classifications with hourly wages of less than \$5. In comparison, nearly 90 percent of the off-campus positions listed with the University's Manoa Student Employment/Cooperative Education Office pay above \$5 per hour.

This bill will help the University to attract more students to take on-campus positions by funding the increase in pay scale which it has implemented to correct the disparity between on-campus and off-campus pay scales.

Your Committee has amended the bill by inserting an appropriation of \$726,830, as recommended by the University of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3043, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3043, H.D. 2.

Signed by all members of the Committee.

SCRep. 603-90 Finance on H.B. No. 2259

The purpose of this bill is to appropriate funds to promote improved public access throughout the State of Hawaii using technological and other means.

Your Committee finds that the development of electronic information services will foster the development of private and additional public information providers. Accordingly, this measure appropriates funds for the purchase of public access terminals, related communications lines, software development, other related equipment, and technical staffing in the public schools, public school libraries, state public libraries, University of Hawaii library system, neighbor island state office buildings, and state court libraries.

In recognition that it is equally important to improve public access to legislative facilities, this measure also provides for the installation of benches outside conference rooms at the State Capitol.

Testimony in enthusiastic support of this measure was presented by state government representatives and the general public. Your Committee finds that this positive response reaffirms its belief that the people of Hawaii are ready to become active participants in the Age of Information.

Your Committee has changed some of the dollar amounts appropriated in the measure based on the recommendations of the affected governmental agencies. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2259, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2259, H.D. 2.

Signed by all members of the Committee.

SCRep. 604-90 Finance on H.B. No. 2277

The purpose of this bill is to appropriate funds for the provision of a continuum of substance abuse services, including information, education, counseling, intervention, treatment, and rehabilitation.

Your Committee finds that every effort must be made to combat substance abuse in Hawaii's diverse communities, beginning with prevention, education, and aggressive outreach efforts for our young people and other identified high risk populations. Compassionate, flexible, comprehensive, and cost-effective programs must be provided for the continuum of care programs for those who require acute detoxification and residential care.

It is also disturbing to note that Hawaii is not alone in its efforts in the "war against drugs". Approximately 37 million Americans used an illegal substance during 1989. And it is reported that nearly 100,000 ten and eleven-year olds across the Nation report that they get drunk at least once a week.

The costs of substance abuse are staggering. More than \$200 billion is lost in the United States each year to the economic and social drain that substance abuse perpetuates. Crime, unemployment, lost productivity, chronic illness, abusive family relationships, and death are all direct consequences of drug and alcohol abuse by addicts and alcoholics.

Even more destructive and irreversible are the consequences of substance abuse that victimize families. Drug and alcohol abuse are an intergenerational phenomena--abusers pass on to their children not only the emotional, social, and financial havoc that drug and alcohol habits create, but also pass a greater risk of developing addictions themselves.

The prognosis need not remain bleak, and efforts should not falter in the face of adversity. Your Committee is committed to supporting those programs and activities that will make a difference in society's battle against drug and alcohol abuse and addiction. The methodology of this measure that addresses the broad spectrum of services and programs is a very positive step in the right direction.

To preserve the integrity of the budget process and to meet the concerns of the Committee, the measure has been streamlined with the transfer of purchase of service items and grants-in-aids requests, as well as large capital improvement projects, into other more appropriate budget vehicles. As a result, the total appropriation for the remaining items has been reduced to \$3,451,624 for fiscal year 1990-1991.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2277, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2277, H.D. 2.

Signed by all members of the Committee.

SCRep. 605-90 Finance on H.B. No. 3171

The purpose of this bill is to establish a program to provide low-interest loans of up to \$15,000 per residential unit for design alterations, which must be made to accommodate a person or persons with disabilities.

The program would be administered by the Housing Finance and Development Corporation. Rules to establish income eligibility, certification of medical need or degree of disability, and other applicable considerations will be adopted for the equitable administration of this program.

Modifications to homes are frequently necessary to allow persons with physical impairments or disabilities to remain at home. Oftentimes medical or other special costs are incurred in caring for the disabled person, and further depletes monetary resources available to the disabled person and his or her family. Financial assistance in the form of low-interest design and construction loans are necessary to preserve the independence of those persons in the gap group with physical disabilities.

Testimony submitted by the Department of Health, the State Planning Council on Developmental Disabilities, the Housing Finance and Development Corporation, the Commission on Persons with Disabilities, the Kauai Center for

Independent Living, the Hawaii Centers for Independent Living, the Hawaii Public Health Association, and many other concerned organizations and individuals were overwhelmingly in support of this measure.

Your Committee has amended the bill by:

- (1) Inserting the nominal sum of \$1 in the appropriations section for purposes of continued discussion; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3171, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3171, H.D. 1.

Signed by all members of the Committee.

SCRep. 606-90 Finance on H.B. No. 3018 (Majority)

The purpose of this bill is to empower the Director of Human Services with the authority to prioritize the services provided by the Department of Human Services.

The measure also establishes a child protective services team program within the Department of Human Services to provide decentralized services in any community that has a higher than average proportion of cases of child abuse and neglect, but whose members are unable to easily access crisis and long-term services because of distance from the services.

For purposes of continued discussion, the appropriations section of the bill has been amended with the insertion of \$1.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3018, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3018, H.D. 2.

Signed by all members of the Committee.
(Representative M. Ige did not concur.)

SCRep. 607-90 Agriculture on H.B. No. 3071

The purpose of this bill is to change the lawful height established for livestock fences. Under this bill, the minimum height would be changed to four feet from the current required four and a half feet.

Testimony from the Department of Agriculture and the Hawaii Cattlemen's Council indicated that a standard four foot high hog wire, strung with a combination of barbed wire or plain wire and supported and fastened on posts, would be capable of turning all stocks from attempting to pass through the fence. From a practical aspect, a four foot standard height would eliminate the need to string another wire for an additional six inches of fence and would result in cost savings in terms of reduced wire expense, labor, and maintenance.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 3071 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 608-90 Housing on H.B. No. 2858

The purpose of this bill is to allow prospective purchasers of dwellings developed under projects sponsored by the Housing Finance and Development Corporation or county housing agencies to be assisted in qualifying for mortgage loans by a co-mortgagor who is a family member.

Recent changes in Federal Housing Administration (FHA) underwriting guidelines have created problems for many people hoping to purchase homes in affordable housing projects because the FHA no longer looks favorably upon applicants who have co-signers. The FHA, however, will allow applicants assisted by co-mortgagors.

Contrary to FHA guidelines, current State law does not allow a home purchaser to be assisted by a co-mortgagor who already owns real property. As a result, parents owning property are not able to help their children buy a home. The bill would rectify this situation by allowing a co-mortgagor to assist a blood or legal relative in qualifying for a mortgage loan, regardless of whether the co-mortgagor owns residential real property. Additionally, by limiting the co-mortgagor's interest to one percent, the bill virtually eliminates the motivation to be a co-mortgagor for personal investment gain.

Your Committee heard testimony in support of the intent of this bill from the Housing Finance and Development Corporation (HFDC), the Department of Housing and Community Development of the City and County of Honolulu, and the Mortgage Bankers Association of Hawaii.

Your Committee understands that HFDC will develop rules to clarify the definition for "family member" and will set up procedures and guidelines for certification of eligibility.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2858 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 609-90 Labor and Public Employment on H.B. No. 2892

The purpose of this bill is to provide that if a member candidate for the Board of Trustees is unopposed after the close of filing for candidacy, the member shall be declared duly elected without an election.

Your Committee is sensitive to measures that would result in avoiding unnecessary expenditures for the State. This bill provides such a fiscal measure.

Your Committee heard favorable testimony from the Department of Budget and Finance.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 2892 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 610-90 Transportation on H.B. No. 2368

The purpose of this bill is to exempt persons possessing disabled parking placards from paying metered parking fees for any designated metered parking space.

Your Committee received testimony from the Department of Accounting and General Services, the Paralyzed Veterans of America, the Commission on Persons with Disabilities, and several concerned citizens.

Your Committee finds that the basic premise for the issuance of a disabled parking placard is to address the needs of individuals with a mobility impairment which limits that individual's ability to walk long distances or to provide such individuals with a larger parking stall to enter or exit the automobile. Your Committee further finds that the State's disabled parking program is in compliance with all federal guidelines and specifications. Your Committee further finds that the number of parking stalls for disabled persons in State parking facilities has been increased to accommodate the needs of disabled individuals.

Your Committee finds, however, that there are situations where a disabled person may have a disability which makes it difficult, or precludes that individual from feeding a parking meter. Your Committee further finds that assessing meter fees for a patron of a disabled parking stall is not a functional means of parking fee assessment.

Your Committee has amended this bill by limiting the exemption of metered parking fees to parking stalls that are reserved for disabled persons.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2368, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2368, H.D. 1.

Signed by all members of the Committee.

SCRep. 611-90 Transportation on H.B. No. 2428

The purpose of this bill is to modify the definition of "school vehicle" to exclude a privately-owned motor vehicle when such transportation is provided by a non-profit corporation incorporated with the Department of Commerce and Consumer Affairs which operates for the purpose of promoting ridesharing and traffic flow reduction.

Your Committee received testimony from the Department of Transportation, the Department of Education, the Hawaii State Teachers Association, Save Money and Ride Together (SMART), Mililani Paratransit Services, and several concerned citizens.

Your Committee finds that transportation alternatives are needed to alleviate traffic congestion. Your Committee further finds that non-profit corporations may help ease the traffic burden on our highways by implementing various forms of ridesharing programs, some of which may involve the transportation of private school students to and from school.

Your Committee has amended this bill by deleting "traffic flow" from page 2, line 3 to limit this exclusion from the definition of "school vehicle" to non-profit corporations operating for the purpose of promoting ridesharing.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2428, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2428, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 612-90 Transportation on H.B. No. 2424

The purpose of this bill is to amend Section 286-53, Hawaii Revised Statutes, by changing the requirement from having to place two temporary plates on a motor vehicle to one which requires one temporary plate to be attached to the rear of a new motor vehicle sold by new vehicle dealers.

Your Committee received testimony on this bill from the City and County Department of Finance.

Permanent vehicle number plates are required by the State for reasons of fast and accurate identification of vehicles under traffic conditions. Among the requirements, due to the identification purposes of number plates, is placement. Pursuant to Section 249-7, Hawaii Revised Statutes, there shall be two number plates, one attached to the front portion of a vehicle and one to the rear. Currently, under Section 286-53, Hawaii Revised Statutes, temporary plates follow the same placement requirements.

Your Committee finds that the purpose of temporary plates is to allow the operation of a new vehicle until the dealer has processed the proper documents for registration and the permanent plates have been obtained.

Your Committee finds that temporary plates do not fulfill the identification purpose that permanent number plates do. Your Committee further finds, therefore, that one temporary plate attached to the rear of a vehicle is sufficient to meet the purposes of temporary plates.

Your Committee has amended this bill by including a provision specifying that any marking or printing on a temporary number plate in addition to that which is required under this section shall render that temporary plate invalid.

Your Committee has further amended this bill by making miscellaneous amendments for the purposes of style and clarity.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2424, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2424, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 613-90 Transportation on H.B. No. 2430

The purpose of this bill is to clarify the design requirements of special license plates and to amend the cost of purchasing and renewing these special license plates.

Your Committee received testimony from the Department of Finance of the City and County of Honolulu.

Your Committee finds that the new license plate design will be phased in starting with the registration period beginning January 1, 1991. Your Committee further finds that currently there is a one-time fee for special license plates. Your Committee also finds that there have been several concerns filed by applicants who purchase special plates immediately prior to a new license plate issuance year, utilize these special plates for a short duration, and then are required to pay the fees again for the new design plates.

Your Committee has amended this bill by changing the effective date to July 1, 1990.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2430, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 614-90 Transportation on H.B. No. 2781

The purpose of this bill is to add a new section to the Hawaii Revised Statutes requiring the Department of Transportation to hold public hearings prior to initiating any construction on a commuter artery with a volume of traffic greater than three thousand vehicles per hour during peak commuter hours.

Your Committee received testimony on this measure from the Department of Transportation and a concerned citizen.

Your Committee finds that even the most simple of road maintenance or construction can easily interrupt the normal flow of traffic on a major highway. Your Committee further finds that this interruption is compounded, often to the point of gridlock, when taking place on a highway that serves as a commuter artery.

Your Committee finds that there is a growing problem of delay in commuter traffic on major highway arteries caused by the addition of new traffic stop lights. Your Committee further finds that the commuters most affected by these new traffic stop lights are often those who do not live in the areas where the traffic lights are placed. Your Committee further finds that the views, ideas, understanding, and need for information on such new traffic stop lights by these commuters are important and will help secure better traffic solutions.

Your Committee has amended this bill by removing references to any or all construction work, and limiting the bill to only the construction of traffic lights on a commuter artery. Your Committee has further amended this bill by requiring the Department of Transportation to hold public informational meetings, rather than public hearings, prior to the initiation of construction on new traffic stop lights.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2781, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2781, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 615-90 Transportation on H.B. No. 2957

The purpose of this bill is to raise the appraisal value at which abandoned vessels may be disposed of without requiring a public auction. This bill also eliminates the need for public advertisement prior to the Department of Transportation selling a vessel by negotiation, disposing of the vessel as junk, or donating the vessel to any governmental agency.

Your Committee received favorable testimony from the Department of Transportation.

Your Committee finds that the administrative costs of holding a public auction for vessels that have been appraised lower than \$250, are often greater than the auctioned vessel.

Your Committee has amended this bill by retaining the provision for public advertisement of vessels prior to selling a vessel by negotiation, disposing of it as junk, or donating the vessel to any governmental agency. Your Committee feels that a public advertisement is necessary to adequately notify the public about the intent to dispose of the vessel.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2957, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2957, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 616-90 Transportation on H.B. No. 2160

The purpose of this bill is to revise the definition of a moped.

Your Committee received testimony on this bill from the State Department of Transportation and the Hawaii Motorcycle Dealers' Association.

Your Committee finds that by revising the definition of a moped, the State will be consistent with the recommended definition from the Federal Department of Transportation. Your Committee further finds that by adopting this revised definition, the motorcycle industry can avoid the necessity of building vehicles to fit each state's requirements.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2160 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 617-90 Transportation on H.B. No. 2006

The purpose of this bill is to extend the demonstration project with off-hour roadwork on Interstate H-1 between the Kapiolani and Kahauiki interchanges until June 30, 1991.

Your Committee received testimony in favor of this measure from the Department of Transportation.

Your Committee finds that Interstate H-1 is a heavily used traffic corridor and any road construction, repair or maintenance work results in traffic congestion. Your Committee also finds that off-hour roadwork has proven to be an effective method of repairing and maintaining roads while minimizing traffic congestion.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2006 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 618-90 Transportation on H.B. No. 2431

The purpose of this bill is to amend Section 286-2, Hawaii Revised Statutes, to amend the definition of a total loss insurance salvage rebuilt vehicle.

At present, Section 286-2, HRS, defines a rebuilt vehicle as one which has sustained material damage to the engine, transmission, frame, unitized structure, or suspension of the vehicle and the projected cost of repairing this damage exceeds the market value of the vehicle. Since it is difficult to visually determine whether a structurally damaged vehicle has been repaired correctly or not, this statute informs prospective owners that the vehicle has been repaired following an accident which resulted in structural damage.

Your Committee received testimony favorable to the passage of this bill from the City and County of Honolulu Director of Finance.

Currently, however, as permitted by definition, insurers have been submitting total loss insurance salvage affidavits for vehicles that sustained damage to only the engine or transmission since the cost of repairs exceeds the value of the vehicle. These repaired vehicles are designated "insurance salvage rebuilt vehicles" by a notation on the vehicle's registration and title.

Your Committee finds that, unlike the repair of a vehicle which has sustained major, latent structural damage, the entire engine or transmission can be replaced without affecting the structural integrity of the vehicle. Your Committee further finds that by deleting engine and transmission damage from the rebuilt vehicle definition, vehicles that have had engine or transmission repairs exceeding the value of the vehicle, would not be placed in the same category as vehicles that have had major repair done to its frame or other structural portions.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2431 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 619-90 Transportation on H.B. No. 2951

The purpose of this bill is to amend Section 286-105, Hawaii Revised Statutes, to exempt from having to obtain a non-resident commercial driver's license, those individuals who have a valid commercial motor vehicle driver's license from any state of the United States, or any province of the Dominion of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's licenses.

Your Committee received testimony on this bill from the State Department of Transportation and the Hawaii Transportation Association.

Pursuant to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA), Title XII of Public Law 99-570, states are required to implement the provisions of this Act or jeopardize federal highway construction funds. Furthermore, one of the provisions of the CMVSA requires that states allow a person possessing a valid commercial vehicle license issued by another state or by a province of the Dominion of Canada in accordance with the minimum federal standards, to operate a commercial motor vehicle in that state.

Currently, Section 286-102, Hawaii Revised Statutes, requires that all persons in this state be appropriately examined and duly licensed as a qualified driver of a particular motor vehicle category before operating that category of motor vehicles. Among those exempt from that requirement are those listed under Section 286-105.

Your Committee finds that by including persons licensed in other states, or provinces of Canada in the list of exemptions under Section 286-105, the state will be in conformance with the federal Commercial Motor Vehicle Safety Act. Your Committee further finds that this bill will permit the State of Hawaii to comply with federal law by implementing this program of reciprocity between the United States and Canada.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2951 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 620-90 Transportation on H.B. No. 2953

The purpose of this bill is to amend Section 291-35, Hawaii Revised Statutes, by adjusting the definition of "L" in the formula used to determine the maximum allowable gross weight for loads transported on highways other than interstate highways. This bill also modifies the formula for determining the maximum allowable load that can be transported on interstate highways.

Your Committee received testimony from the Department of Transportation.

Your Committee finds that to prevent the oversteering of highways, the formula for allowable loads on highways other than interstate highways should take into consideration the distance between consecutive axles in addition to the distance between the first and last axles. Your Committee further finds that this bill will implement necessary adjustments to the formula for determining whether a vehicle is oversteering highway facilities.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2953 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 621-90 Transportation on H.B. No. 2429

The purpose of this bill is to amend Sections 249-7 and 249-9, Hawaii Revised Statutes, to allow the staggered issuance of the new license plates.

At present, Sections 249-7 and 249-9, Hawaii Revised Statutes, call for the uniform issuance and renewal of number plates. The current statutes are premised on the previous system of license plate renewal, when all license plates expired on December 31 of each year. This system, which has since been replaced by a staggered system, did not require the validation emblems during the first year new series of license plates. In addition, validation emblems in subsequent years indicated only the year a registration expired. The present staggered system requires that a validation emblem, indicating the month and year a registration expires, be issued with the new series of license plates.

Your Committee received testimony for this bill from the City and County of Honolulu, Director of Finance.

Your Committee finds that since the new series of license plates will be issued on a staggered basis resulting in both old and new license plate designs on vehicles being driven in the State, the uniformity provisions of the current statutes are no longer applicable.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2429 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 622-90 Judiciary and Intergovernmental Relations and International Affairs on H.B. No. 3030

The purpose of this bill is to require all state and county executive agencies' hearing notices be mailed to all elected state and county officials.

Your Committees believes that current law does not address the issue of making available information pertaining to executive agencies' public hearings as succinctly as desired.

Your Committees takes the position that to better serve the communities which they represent, elected officials must be aware when matters and decisions of importance within the state and local governments are made so that they may have the opportunity to participate and represent their constituency.

Your Committees believes that this bill is explicit in its purpose and language and will make for better government representation by all concerned.

Your Committees on Judiciary and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 3030 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bybee, Horita, Souki, Yonamine and Marumoto.

SCRep. 623-90 Judiciary on H.B. No. 2038

The purpose of this bill is to allow health and safety information produced in discovery in a personal injury action for wrongful death to be shared by an attorney with another attorney notwithstanding a protective order prohibiting such disclosure. This bill applies to protective orders issued after July 1, 1990, provided the court grants permission after notice and hearing.

Your Committee understands that this bill also requires that the attorney who receives the information will agree, in writing, to be bound by the terms of the protective order.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2038, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 624-90 Judiciary on H.B. No. 3428

The purpose of this bill is to amend the requirements for the filing of judgments in the state to impose additional safeguards to properly identify entities against whom judgments are entered.

Testimony was received from the Escrow Association of Hawaii, the Hawaii Bankers Association, and the Hawaii League of Savings Institutions.

Your Committee finds that the present system for the filing and recording of judgments utilizing names fails to identify persons, corporations, partnerships, and other entities properly. In numerous instances, lien free individuals and entities whose names are very similar to individuals and entities against whom judgments have been filed have been delayed in completing real estate sales and loan transactions until the confusion has been resolved.

Your Committee also finds that this misidentification of individuals and entities hinders and obstructs the free flow of economic transactions, and adversely affects credit ratings of persons, corporations, partnerships, and other entities in our state. Your Committee believes that the promotion of the state's economic well being is a matter of compelling state interest.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3428 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 625-90 Judiciary on H.B. No. 2112

The purpose of this bill is to permit a civil suit by the government declaring a nuisance all those places where violations of drug offenses occur.

Your Committee finds that the original intent of the nuisance statute is to stop certain prohibited offenses from occurring in publicly visible places. Testimony by the Office of the Public Defender and the Honolulu Police Department identified prostitution and pornography cases as examples.

Your Committee understands that the intent of this bill is to close down crack houses or locations where illicit drugs are made. Your Committee is concerned, however, whether innocent landlords may be affected if their tenants violate this statute. This bill would permit a civil suit by the government declaring a "nuisance" all those places where violations of drug offenses occur. Once a place is declared a nuisance, the court may order injunctive relief against the owner barring the impermissible activity from continuing or may order the place closed for up to a year.

Your Committee's concern involves the possible broad interpretations of this bill. Since any place may be declared a nuisance, a landlord of a rental unit will be affected if the tenant possesses illicit drugs for personal use. Roommates of illicit drug users may also be subject to having their places being declared a nuisance and will have to vacate. Any bar, nightclub, hotel, or restaurant may be subject to this nuisance statute if anyone on the premises is found to possess an illicit drug prohibited by the applicable section.

Your Committee is of the opinion that the original intent of the nuisance statute is to stop certain prohibited offenses from occurring in publicly visible places. Currently, there are problems with certain locations and establishments that are, despite repeated arrests, continually involved with illicit drug activities. The bill's intent is to relieve the neighborhood from any bad reputation because of the close association with such activities.

Your Committee believes that the passage of this bill would provide an effective means of closing down locations which are repeatedly used to conduct illicit drug activities.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2112 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 626-90 Judiciary on H.B. No. 3220

The purpose of this bill is to amend Section 607-14.7, Hawaii Revised Statutes, to provide that a court shall award a landowner reasonable attorney's fees, costs, and expenses incurred by the landowner in successfully protecting the incidental rights of land ownership. Incidental rights of land ownership include the right to be free from any encroachment by landowners of adjacent lands and the right to lateral and subjacent support of land by adjacent lands.

Your Committee received testimony in support of this measure by a concerned member of the public.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3220 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 627-90 Judiciary on H.B. No. 2842

The purpose of this bill as amended is to provide for the registration of voters by self subscribing oaths and through the mail; and to clarify, streamline, and update statutory provisions relating to voter challenges and questionable address procedures taken during elections.

Testimony was received on HB 2842 by various government, union, and community spokespersons. All testified in favor of this bill.

The law currently states that, in regards to elections,

- 1) Voter applicants must register with the county clerk during business hours;
- 2) Voter applicants not registering in person before a clerk must do so before another person empowered by state or federal law to administer oaths; and
- 3) Clerks shall remove the names of those registered voters from voting lists whose mail is returned as undeliverable;

The current law is vague as to the length of time before an appeal must be brought by an applicant declared ineligible to vote. Also, the law does not state who, other than government representatives, may disseminate voter application forms.

Your Committee believes that declining voter participation is unhealthy. This bill would make the process of voter registration more convenient to applicants and would create a uniform voter registration system by establishing a single registration procedure. People would register by completing a registration affidavit, signing a self-subscribing oath, and returning the form to election officials, either in person or through the mail.

The benefits of this bill would encompass the following:

- 1) Enabling voter application forms to be made available to any qualified person through community groups, political parties, drivers licensing bureaus, and other groups prescribed by the chief elections officer;
- 2) More people could register to vote because of the access of the application forms and the ease of mail registration;
- 3) Disabled, home-bound, and overseas citizens could register by using the self-subscribing oath provided for in this bill;
- 4) County and city clerks will be better able to update and maintain voter registration rolls; and
- 5) It will be easier for Hawaii's highly mobile population to reregister after moving within the state.

Of the 27 states which use mail registration all have found that it works well. One state, Oregon, uses mail registration as its only method of voter registration. Jurisdictions across this country have noted rising rates of voter participation. Few or no cases of fraudulent registration or other problems have been reported. This was a matter of concern to your Committee when it was first considered during the 1989 session.

This bill would also enable voter applicants to restore their names onto the register, should their names have been mistakenly removed, or, if the applicant is denied the opportunity to vote, specifies the parameters of the applicable appeals process. The importance of minimizing unnecessary delays when time is of the essence was one factor which moved your Committee to amend this bill by inserting additional sections.

Your Committee is committed to increasing public participation in the political life of our state and believes that the strength of our democratic form of government depends on the fullest voter participation possible.

Portions of two bills were inserted into this bill to avoid repetitiveness. Amendments to HRS §§11-15 and 11-16 have been added to the bill in Sections 2, 3, and 4. Amendments to HRS §286-108 are added Section 10 of the bill. All of these additions relate primarily to providing for the registration of voters by the use of self-subscribing oaths. Other technical, nonsubstantive changes have been made to the bill for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2842, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2842, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hayes.

SCRep. 628-90 Judiciary on H.B. No. 2872

The purpose of this bill is to authorize the Attorney General:

- (1) To require applicants for civil identification certificates to furnish documents, including original or certified copies of documents to establish their identities; or to support or corroborate civil identification applications;
- (2) To establish by rule what documents will be required to support or corroborate civil identification applications; and
- (3) To dispose of civil identification information or records which do not include a social security number, without regard to the provisions of Chapter 94, whenever the Attorney General determines that retention of such information or record is no longer required or practicable.

Your Committee received testimony from the Attorney General's office that it is being required to keep thousands of useless records. Many records relate to persons who died long ago. The office maintains approximately two million records on file. A practical solution to this problem is to allow the Attorney General discretion to dispose of useless records.

Your Committee also received testimony from the Attorney General's office that in order to maintain the integrity of the civil identification process, discretion is needed to require that applicants for civil identification certificates produce original or certified copies of documents. This bill is intended to grant the requested authority to the Attorney General.

Technical, nonsubstantive changes have been made to the bill for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2872, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2872, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hayes.

SCRep. 629-90 Judiciary on H.B. No. 2022

The purpose of this bill is to promote the prompt appointment of persons to fill vacancies in the state Senate and House of Representatives by providing a time frame in which the Governor must make the appointments.

Your Committee is in agreement with the purpose of this bill and believes that prompt appointments will serve to maintain public confidence in representative government.

Your Committee has amended this bill by changing the forty-five day period, exclusive of Saturdays, Sundays, and holidays, to a sixty calendar day period, to simplify computation of the period. Your Committee has also amended this bill by dividing Section 17-3, Hawaii Revised Statutes, into subsections (a), (b) and (c) for purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2022, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2022, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral and Andrews.

SCRep. 630-90 Judiciary on H.B. No. 1699

The purpose of this bill is to allow awards of attorneys' fees in any action that results in the enforcement of an important right affecting the public interest and in the conferring of a significant benefit upon the general public or a large class of persons. It provides incentive to private individuals to assume the role of "law enforcement officer" with respect to bringing certain legal issues such as those relating to the environment, the constitution, or medical and mental health, to the attention of the courts.

Your Committee heard testimony from the State Attorney General in opposition to this measure which indicated concern that the language of this bill was overbroad.

While your Committee is in agreement with the intent of this bill, your Committee has, upon further consideration, amended it by narrowing its scope to actions arising under chapter 342, Hawaii Revised Statutes, relating to environmental quality. Additionally, a new subsection (b) is incorporated which specifically provides for immunity to the state and counties.

Your Committee has also made technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1699, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1699, H.D. 2.

Signed by all members of the Committee except Representative Andrews.

SCRep. 631-90 Judiciary on H.B. No. 2201 (Majority)

The purpose of this bill is to amend the election laws by providing a certain and expeditious means for resolving a tie in the number of votes cast for two or more candidates in an election.

Under current law a resulting tie in an election between two or more candidates is settled by lot under the supervision of the Chief Election Officer or County Clerk.

Your Committee believes that this law is vague and lacks specificity in form and content. Your Committee also believes that a procedure that is form specific as to a method of tie breaking must be adopted to avoid confusion and thereby allowing the public the opportunity to fully participate in our election process.

Your Committee has amended this bill by deleting sections included in other proposed legislation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2201, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2201, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representative Cavasso did not concur.)

SCRep. 632-90 Judiciary on H.B. No. 2089

The purpose of this bill is to allow adoptees, adoptive parents, and natural parents to inspect adoption records, including the adoption decree and the original certificate of birth, upon request.

The current law allows inspection only upon order of the court, which order is often difficult, if not impossible to obtain.

Your Committee has amended this bill by providing that upon receipt of a request for inspection, the Department of Health shall mail a notice to each natural parent, advising them of the fact that they have thirty days to file a request for confidentiality. The Department is given thirty days to send the notice to the last known address of each natural parent. The Department is not expected to undertake extensive investigation into the current addresses of the natural parents and an inspection of the adoption records will suffice.

If no request for confidentiality is received from the natural parents, the Department shall allow inspection. If the request for confidentiality is received, the Department may only release information concerning ethnic background and medical history. The burden is on the natural parents or parent to renew their requests once every five years if they wish to maintain confidentiality.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2089, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Cavasso.

SCRep. 633-90 Judiciary on H.B. No. 2053

The purpose of this bill is to add the qualifying words, "where possible" and "whenever possible" to language requiring the Reapportionment Commission to maintain legislative districts within basic island units.

This bill will help bring state constitutional language within conformity of federally mandated equal representation requirements. Because of technical requirements associated with constitutional amendments, related constitutional amendments are sought through H.B. No. 2051 and H.B. No. 2054.

Your Committee has amended this bill by adding the phrase "whenever possible" to section 2. The term "whenever possible" is intended to require the Reapportionment Commission to apportion among the basic island units when it can be accomplished in compliance with federal law. If such reapportionment cannot be accomplished, the Reapportionment Commission may apportion otherwise.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2053, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2053, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 634-90 Judiciary on H.B. No. 2546

The purpose of this bill is to amend Chapter 329, Hawaii Revised Statutes, to regulate the sale and transfer of precursors used in the manufacturing of methamphetamine.

Testimony was received from the Department of the Attorney General, the Prosecuting Attorney of the City and County of Honolulu, and the Honolulu Police Department.

Your Committee understands that precursor chemicals are critical to the production of illicit drugs in illegal labs and that, generally, precursor chemicals have limited legitimate uses and are traded in small quantities. In recognizing this, your Committee has amended this bill by adding ten other identifiable precursors to be regulated by this section. Conversely, because essential chemicals are not critical to the manufacture of methamphetamine and are massively produced and distributed for a variety of needs, your Committee has deleted the essential chemicals from this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2546, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2546, H.D. 1.

Signed by all members of the Committee.

SCRep. 635-90 Judiciary on H.B. No. 2354 (Majority)

The purpose of this bill is to provide the Director of Corrections (Director) with the authority to furlough or parole any child committed to the Director's custody regardless of length of commitment.

Your Committee received testimony on this bill from the Judiciary, the Office of the Public Defender, the Department of Corrections, and the American Civil Liberties Union.

Your Committee understands that the Family Court presently maintains jurisdiction over juveniles on short-term commitments (up to one year).

Your Committee also notes that the thirty-day notice period is substantial, considering the period of confinement, and that the prosecuting attorneys should be notified of furloughs and paroles as well as discharges.

Your Committee has amended this bill as follows:

1. By allowing the Director sole authority to grant furloughs and paroles if the length of commitment is greater than one year;
2. By requiring the approval of the court if the length of commitment is one year or less;
3. By changing the thirty-day notice period to fifteen days;
4. By requiring notice to the appropriate prosecuting attorney for furloughs and paroles; and
5. By making other technical, nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2354, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2354, H.D. 2.

Signed by all members of the Committee.
(Representatives Anderson and Cavasso did not concur.)

SCRep. 636-90 Judiciary on H.B. No. 2269

The purpose of this bill is to amend the definition of "person" under Hawaii's organized crime law to include nonresident aliens. This amendment would emphasize that the penalty of forfeiture under Hawaii's organized crime law applies equally to residents and nonresidents alike who engage in prohibited criminal activity.

Your Committee finds that forfeiture is a particularly valuable weapon against those visitors who exploit their welcome in Hawaii by engaging in criminal enterprises.

Your Committee received testimony from the Department of the Attorney General and the Honolulu Police Department in support of this bill. The testimony indicated that while foreign nationals are much more difficult to extradite from overseas, the assets used in and acquired by their criminal acts in the State can be subject to forfeiture. Thus, subjecting nonresidents to forfeiture can be a powerful means of deterrence and prevention, even if the responsible person has fled criminal prosecution.

Your Committee has amended this bill by deleting the phrase "including any nonresident alien" from section 3 of this bill for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2269, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2269, H.D. 1.

Signed by all members of the Committee.

SCRep. 637-90 Judiciary on H.B. No. 2044 (Majority)

The purpose of this bill is to adopt a pilot program involving sterile needle and syringe exchange with intravenous drug users (IVDUs). The intent of this program is to prevent the transmission of the human immunodeficiency virus (HIV) and other blood borne diseases among IVDUs by allowing the exchange of sterile needles and syringes for used equipment, and to recruit IV drug users into treatment and rehabilitation.

Your Committee heard testimony in support of the bill from the Department of Health, the Governor's Committee on AIDS, the Hawaii Medical Association, the Hawaii Nurses' Association, the Sterile Needle Exchange Coalition, the Office of Children and Youth, and many other individuals and organizations. Testimony in opposition of the bill was heard from the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Police Department of the City and County of Honolulu.

Support for the program centered around evidence that existing programs do not increase substance abuse, do remove unsightly and dirty needles from the streets, and appear to be useful in recruiting drug abusers into treatment and rehabilitation. Testimony from former drug abusers and public health case workers who deal with the population on a daily basis substantiated these claims.

Your Committee notes that the pilot program, if initiated, would be completely under the guidance of the director of health, and that law enforcement agencies have indicated that they would continue to enforce the drug paraphernalia law in a strong and consistent manner. Your Committee also believes that the "mixed message" argument would have little or no effect upon those who are addicted to powerful drugs or those who have little contact with such populations. Your Committee acknowledges that treatment and rehabilitation are appropriate responses to the addict and recognizes the many programs the State already funds that targets illegal drug users.

Your Committee is persuaded that from the point of view of public health, the HIV epidemic requires creative and effective responses that may not always lend themselves to neatly and reasoned philosophy and theory. A recent, random survey of teenagers in mainland hospital emergency rooms found as many as ten percent infected with HIV. Extraordinary measures are required to ensure this does not happen in Hawaii. The recent increase in the number of "drug babies", coupled by the known risks of HIV transmission by dirty needles, creates a compelling argument for the pilot program suggested by this bill.

The Prosecuting Attorney expressed grave concern that this bill did not require the compilation of adequate criteria to measure the proposed needle exchange. To assure that this program is watched closely and that it meets the purpose for which it was intended, your Committee has made the following amendments to this bill:

- (1) That data be gathered on the numbers and rate of growth of drug addiction among newborn babies in Hawaii before and after each evaluation period;
- (2) That data be gathered on the numbers and rate of growth of HIV infected babies before and after each evaluation period;
- (3) That data be gathered on the numbers and rate of growth of HIV infection among intravenous drug users before and after each evaluation period; and
- (4) Data on the frequency and length of time each participant in the program enrolls for drug treatment.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2044, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2044, H.D. 2.

Signed by all members of the Committee.
(Representative Cavasso did not concur.)

SCRep. 638-90 Judiciary on H.B. No. 2573

The purpose of this bill is to enhance the enforcement of current laws prohibiting the unauthorized use of high occupancy vehicle lanes. This bill allows police officers to cite the registered owner of vehicles observed utilizing high occupancy vehicle lanes without the minimum number of required passengers without having to pull the vehicle to the side of the road during traffic.

Your Committee received testimony from the Department of Transportation, the Honolulu Police Department, the Office of the Public Defender, and Mililani Paratransit Services.

Your Committee finds that the unauthorized use of high occupancy vehicle lanes is a great and growing problem. Currently, the police department faces a dilemma since violators must be pulled over to the side of the road to be issued a citation. Pulling violators to the shoulder of the road from the high occupancy vehicle lane can be hazardous and often results in traffic congestion. Your Committee finds that a reasonable alternative for citing high occupancy vehicle lane violators is needed.

Your Committee has amended this bill by adding two new sections which describe the registered owner's presumption of responsibility and the course of action to be taken if the registered owner of a cited vehicle is the lessor of a U-drive or rental vehicle.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2573, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2573, H.D. 2.

Signed by all members of the Committee.

SCRep. 639-90 Judiciary on H.B. No. 2387

The purpose of this bill is to require all state agencies to obtain at least two appraisals before the purchase, transfer, or acquisition of any real property or interest therein; and requires the maintenance of a list of qualified, disinterested appraisers from which appraisers shall be selected on a rotating basis.

Testimonies from the Department of Land and Natural Resources, the Hawaii Housing Authority, and the Department of Budget and Finance expressed concerns over the increased costs to the state resulting from multiple appraisals and possible delays. Testimony was also received to the effect that multiple appraisals were repetitious in nature and unnecessary in transactions between government entities.

Your Committee has amended the bill to mandate that two appraisals shall be required by all state agencies before the purchase, transfer or acquisition of any real property or interest in property if the first appraisal amounts to \$20,000,000 or more.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2387, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2387, H.D. 2.

Signed by all members of the Committee.

SCRep. 640-90 Judiciary on H.B. No. 2353

The purpose of this bill is to clarify the duties of the Director of the Youth Correctional Facilities (Director) by stating that the Director shall provide institutional care and therapeutic services to facilitate the reintegration process, in addition to providing secure custody and punishment for children.

Your Committee received testimony from the Public Defender's Office, the Department of Corrections, and the the American Civil Liberties Union in support of the intent of the bill, but noting certain inconsistencies in the language.

Accordingly, your Committee has amended this bill by deleting the words "and punishment" and substituting "incarceration" for "secure custody".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2353, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2353, H.D. 2.

Signed by all members of the Committee.

SCRep. 641-90 Economic Development and Hawaiian Affairs on H.B. No. 2486

The purpose of this bill is to expressly authorize the Department of Hawaiian Home Lands (DHHL) to manage and dispose of lands acquired by the DHHL.

The Hawaiian Homes Commission Act, 1920, as amended (HHCA), allows the DHHL to manage and dispose of Hawaiian home lands acquired through land exchanges. The HHCA also allows the DHHL to acquire land through purchase, condemnation, or gift, but does not expressly authorize the DHHL to manage or dispose of these lands.

Testimony in favor of this bill was submitted by the DHHL.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2486 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 642-90 Economic Development and Hawaiian Affairs on H.B. No. 2487

The purpose of this bill is to amend the Hawaiian Homes Commission Act, 1920, as amended (HHCA), to allow the Department of Hawaiian Home Lands (DHHL) to obtain water for agricultural operations.

Section 221 of the HHCA allows the DHHL to obtain water for Hawaiian home lands to adequately "supply the livestock, aquaculture operations, or domestic needs of individuals on any tract". The HHCA omits agricultural operations as an allowable use for the DHHL to obtain water, yet agricultural operations are one of the major forms of homesteading. The Committee intends that the term "agricultural operations" shall include but not be limited to irrigation water for agricultural cultivation and pastoral uses.

Testimony in support of this bill was submitted by the DHHL.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2487 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 643-90 Economic Development and Hawaiian Affairs on H.B. No. 1807

The purpose of this bill is to:

- (1) Enable the Hawaii Information Network Corporation (HAWAII INC) to secure benefits for its employees by giving these employees the status of State employees exempt from Chapters 77 and 78, Hawaii Revised Statutes; and
- (2) Make technical statutory changes to Chapter 206P, the Hawaii Telecommunications and Information Industries Act.

HAWAII INC currently has five authorized positions. Rather than establishing a separate benefit package for these employees, it is more cost-efficient to have these employees receive benefits as part of the State employees benefit plan.

It is your Committee's understanding that the current budget for HAWAII INC includes funds for employee benefits, and that those funds can be transferred or otherwise used so that no additional financial obligation will be created by the inclusion of HAWAII INC's employees in the State employees benefit plan.

This bill has been amended to allow the HAWAII INC employees to also receive benefits conferred by collective bargaining agreements.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1807, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1807, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 644-90 Consumer Protection and Commerce on H.B. No. 2536

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to address issues related to foreign money claims.

The Hawaii Committee To Promulgate Uniform Legislation (Uniform Legislation Committee) testified in favor of this bill. The Uniform Legislation Committee stated that this bill would facilitate uniform judicial determination of claims when the issue of foreign money is involved; it requires judgments and arbitration awards in these cases to be entered in the foreign money rather than in United States dollars. The Uniform Legislation Committee further stated that this bill addresses a problem which is of particular importance to jurisdictions such as Hawaii where there is considerable international movement and commerce.

By way of background, American courts historically follow one of two different rules in selecting a time during litigation for converting foreign money into United States dollars. These are called the "breach day rule" (the date the money should have been paid), and the "judgment date rule" (when judgment is entered). Other counties use the "payment day rule" (when the judgment is paid). The "payment day rule" is endorsed in this bill as the merits of this approach have begun to be recognized in this country.

The Uniform Legislation Committee pointed out that this bill recognizes the right of the parties to agree upon the money that governs their relationship. In the absence of an agreement, the bill adopts the rule of giving the aggrieved party the amount entitled to the party in his own money or the money in which the loss was suffered; the principle being to restore the aggrieved party to the economic position he would have been in had the wrong not occurred. The bill also addresses other issues including revalorization and interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2536 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 645-90 Consumer Protection and Commerce on H.B. No. 2502

The purpose of this bill is to amend Section 431:10C-407, Hawaii Revised Statutes, to clarify the intent of current law to provide free motor vehicle insurance for those receiving public assistance only for personal use of the vehicle.

Your Committee received testimony in favor of this bill from the Department of Human Services (DHS) and the Hawaii Insurers Council (HIC). The HIC explained that some people on public assistance are using the free insurance to provide primary coverage on motor vehicles being used for taxicab purposes and then purchasing additional insurance as required by law on their own.

Your Committee believes that persons receiving public assistance should continue to be allowed to have free no-fault insurance. However, the use of the insured vehicle should be limited to personal use, such as seeking medical services and transportation to and from their place of employment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2502 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 646-90 Consumer Protection and Commerce on H.B. No. 2394

The purpose of this bill is to amend Section 451D-2, Hawaii Revised Statutes, to enable the Board of Psychology to communicate disciplinary actions to other federal, state, and county boards as well as to data banks and clearinghouses.

The Board of Psychology (Board), the Department of Health (DOH), and the Hawaii Psychological Association (HPA) testified in support of this bill. The Board testified that this bill would clarify the Board's authority to communicate and cooperate with other agencies, hospitals, and disciplinary data banks. The Board also believed that participation of licensed psychologists as consultants to the Board and as experts to the Department of Commerce and Consumer Affairs for investigations will enable the Board and DCCA to protect the public, health, safety, and general welfare of the people of this State.

The DOH testified that the communication by the Board to other federal, state, and county boards is a reasonable way to protect the public against those unscrupulous psychologists who have violated legal or ethical standards in Hawaii, and who might attempt to practice elsewhere.

The HPA explained that under the current statute, there is no mechanism for consulting psychologists to be involved in investigating complaints regarding other psychologists and be protected from civil liability. (By being included under Section 451D, the Director of Commerce and Consumer Affairs will be able to establish advisory committees to be consultants to the Board in the review of psychologists referred for possible disciplinary action and as experts to the department for investigation and be insured from civil liability.)

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2394 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 647-90**Consumer Protection and Commerce on H.B. No. 3083**

The purpose of this bill is to amend Article 3 of Chapter 490 to provide that any negotiable instrument marked "paid in full" or other similar words will not limit the payee to collect the actual amount owed unless agreed upon in writing.

Your Committee heard testimony in favor of the bill from the Hawaii Bankers Association (HBA), the Retail Merchants of Hawaii (RMH), and Liberty House (LH). The HBA representative testified that this bill would clarify that the payee must agree in writing to accept the amount stated in the instrument as being full satisfaction of an obligation. The RMH representative testified that they are currently prevented from collecting other amounts owed, if a check has the words "paid in full", even though it is for less than what is owed. The testifiers indicated that the situation is of concern because computers, rather than human beings, process payment checks in many instances. Once processed, the creditor is deemed to have accepted the payment, giving rise to the problem addressed by this bill. The LH representative stated that currently there is no statute that covers situations when checks are negotiated with the words "payment in full" in payment of a disputed claim. Further, LH believed that an accord and satisfaction should occur only in the event both parties make a knowing, deliberate decision to settle and compromise a claim.

Your Committee believes that many consumers may not keep all payment and credit receipts and therefore, when a dispute between creditor and consumer occurs, a consumer may not be able to prove payment was made to the creditor. A creditor could then unilaterally take the position that payment has not been in full, to the disadvantage of the consumer. Consequently, your Committee has amended this bill by deleting the language that states that the payee must agree in writing that the payment on the check is full payment of the obligation. Those testifying in support of this bill are in accord with your Committee's amendment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3083, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3083, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 648-90**Finance on H.B. No. 2896**

The purpose of this bill is to clarify the basis for determining the revenue due to the Office of Hawaiian Affairs for the betterment of the conditions of native Hawaiians under provisions of the State Constitution and Chapter 10, Hawaii Revised Statutes.

More specifically, this bill amends the definitions of "public land trust" and "revenues" to clarify which lands make up the public land trust for native Hawaiians and the general public and which revenues derived from those lands will be used in determining the income and proceeds to be transferred to the Office of Hawaiian Affairs (OHA) to be used for the betterment of native Hawaiians. In addition, this bill provides for a process for determining settlement of the retroactive amount due to OHA.

It is your Committee's understanding that this bill is the first step in the resolution of issues involving the extent of trust holdings and the trust obligations of the State to the native Hawaiian beneficiaries.

Your Committee received testimony in support of this measure from the Office of the Governor, the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands (DHHL), the Native Hawaiian Legal Corporation, and several private individuals. However, Ka Lahui Hawaii and other individuals expressed their opposition to the bill, citing among other problems, the need to first assist those native Hawaiian beneficiaries on the DHHL waiting lists for their homestead awards.

The Office of Hawaiian Affairs was created by the Legislature pursuant to a State constitutional amendment proposed by the 1978 Constitutional Convention and ratified by the people in Hawaii. OHA was charged to be the principal public agency in the State responsible for the programs and activities relating to native Hawaiians and Hawaiians.

With the confusion over its funding cleared up, OHA will be able to significantly increase its efforts for the betterment of the native Hawaiians.

Your Committee recognizes the many challenges OHA will face as it carries out its constitutional and statutory obligations to assist the native Hawaiians and Hawaiians. Your Committee respectfully requests that OHA in carrying out its duties actively cooperate and work with the Department of Hawaiian Home Lands to provide a balanced and comprehensive program of assistance to native Hawaiians and Hawaiians.

Upon further consideration, your Committee has amended the bill to ensure that the native Hawaiian beneficiaries will have access to information regarding the use of the trust proceeds by requiring OHA to submit an annual report to the Governor and the Legislature. The annual report will describe the use of the public trust proceeds for the betterment of native Hawaiians and provide other pertinent information.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2896, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2896, H.D. 3.

Signed by all members of the Committee.

SCRep. 649-90 Finance on H.B. No. 2956

The purpose of this bill is to allow the Department of Transportation to provide employees who participate in fire, crash, or other aircraft emergency rescue drills or operations the same rate of hazard pay as other comparable airline personnel.

The State Department of Transportation testified in favor of this measure noting other State employees performing identical services receive the pay differentials delineated in the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2956 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 650-90 Finance on H.B. No. 2904

The purpose of this bill is to establish the Job Opportunity and Basic Skills program in the State of Hawaii, consistent with federal regulations and requirements.

This program is a mandatory requirement for the State. If it is not implemented, Hawaii would lose in excess of \$50 million in Federal Assistance relating to the Aid to Families with Dependent Children Program.

Your Committee received testimony in support of this bill from the Department of Human Services, the Office of Children and Youth, and the Committee on Welfare Concerns.

Your Committee has amended the bill by deleting language relating to the client approving transportation and transitional assistance benefits because this provision would be contrary to federal regulations.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2904, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2904, H.D. 2.

Signed by all members of the Committee.

SCRep. 651-90 Finance on H.B. No. 2676

The purpose of this bill is to establish a state community noise code, which recognizes differences in noise level standards in urban and rural areas of the State.

Your Committee recognizes the need for regulatory requirements for the control and abatement of excessive noise in all counties. This measure would provide the people of the State with a more quiet, peaceful environment.

The Department of Health and Environmental Center presented testimony in support of this measure. The Department of Health indicated that it would require more time to adopt the statewide community noise code. Accordingly, your Committee has amended this bill to require that the code be adopted by June 30, 1991, instead of January 1, 1991.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2676, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2676, H.D. 2.

Signed by all members of the Committee.

SCRep. 652-90 Finance on H.B. No. 2647

The purpose of this bill is to increase the amount of resources and income which can be retained by a spouse of a medically institutionalized person.

Your Committee received testimony in support of this bill from the Department of Human Services, the American Association of Retired Persons, the National Association of Retired Federal Employees, the Founders' Group of the Kokua Council for Senior Citizens, and the American Association of University Women.

Upon further consideration, your Committee has amended the bill as recommended by the National Association of Retired Federal Employees by deleting language which would subject application of the proposed spousal impoverishment protection provisions to the appropriation of state funds and availability of federal financial participation.

Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2647, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2647, H.D. 2.

Signed by all members of the Committee.

SCRep. 653-90 Finance on H.B. No. 2075

The purpose of this bill is to require the notation in legible print of the date when a drivers' licensee will attain the age of twenty-one years on all Hawaii drivers' licenses issued to persons under twenty-one years of age.

The State Department of Transportation, the Hawaii National Federation of Independent Business, and the Department of Finance of the City and County of Honolulu, submitted testimony in support of this measure noting that the proposed distinction will immediately alert servers and sellers of alcoholic beverages that the holder of the license is not of legal drinking age.

Your Committee has amended the bill by:

- (1) Deleting the reference to Chapter 294 (Motor Vehicle Accident Reparations) which has been repealed; and
- (2) Making technical, nonsubstantive revisions for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2075, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2075, H.D. 2.

Signed by all members of the Committee.

SCRep. 654-90 Finance on H.B. No. 2841

The purpose of this bill is to establish an Advisory Commission on Structured Sentencing to develop and monitor a statewide policy on structured sentencing.

Before the Commission members are selected in 1991, the bill requires the Legislative Reference Bureau to conduct a study on the advantages and disadvantages of structured sentencing policies, alternatives to prison sentences, and methods by which other states are attempting to manage their prison populations.

Your Committee has amended this measure as follows:

- (1) Clarified that the Speaker of the House of Representatives and the President of the Senate each appoint one member from among the nine members of the Commission to serve as co-chairpersons of the Commission;
- (2) Changed the effective date so that the measure will take effect on July 1, 1991; provided that the sections relating to the Legislative Reference Bureau's study take effect on July 1, 1990; and
- (3) Made other technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2841, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2841, H.D. 2.

Signed by all members of the Committee.

SCRep. 655-90 Finance on H.B. No. 3111

The purpose of this bill is to establish a two-year pilot project for:

- (1) The development of 50 to 100 new cooperative housing units; and
- (2) The conversion of at least one rental project to the limited equity housing cooperative form for low income families.

The sum of \$150,000 would be appropriated to the Housing Finance and Development Corporation for the pilot project envisioned.

The Housing Finance and Development Corporation, the Affordable Housing Alliance, and the Office of Housing and Community Development for Hawaii County submitted testimony in support of this measure, noting that the proposed pilot project would make the benefits of home ownership available to families who would not otherwise be able to purchase residential real property.

Consistent with the recommendations of the Housing Finance and Development Corporation, the bill has been amended by:

- (1) Specifying that the pilot project could consist of the development of 50 to 100 new cooperative housing units, or the conversion of at least one rental project to the limited equity housing cooperative form;
- (2) Clarifying that the housing cooperative project would be a limited equity housing cooperative; and

- (3) Allowing the conversion of units as an option for the project.

Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3111, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3111, H.D. 2.

Signed by all members of the Committee.

SCRep. 656-90 Finance on H.B. No. 3238

The purpose of this bill is to appropriate funds for a study of innovative housing techniques utilizing energy efficient building designs, new technologies, and alternate energy devices. In meeting the mandate of this measure, the Housing Finance and Development Corporation will consult with housing advocacy groups and private individuals in the advance planning and actual study methodology.

The Department of Business and Economic Development, the Housing Finance and Development Corporation, and The Solar Electric Co. Inc. submitted testimony in support of this measure.

Technical, nonsubstantive revisions have been made to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3238, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3238, H.D. 2.

Signed by all members of the Committee.

SCRep. 657-90 Finance on H.B. No. 2046

The purpose of this bill is to support family caregivers, assure safe and adequate care to elders, and pursue cost-effective service options for older adults by providing grants to renovate and improve existing facilities used to deliver a variety of services.

This measure also increases the number of facilities for the provision of adult day care and adult day health programs.

For purposes of continued discussion, the appropriations section of the bill has been amended with the insertion of \$1.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2046, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2046, H.D. 2.

Signed by all members of the Committee.

SCRep. 658-90 Finance on H.B. No. 2092

The purpose of this bill is to establish a structure for delivery of social services at one-stop centers in rural areas. It creates the Social and Employment Services Incubator Project Board within the Department of Labor and Industrial Relations to plan and implement a social and employment services incubator project in Kapolei.

This project will result in a one-stop center where clients can receive a wide range of social services. The goal of the project is to make it easier for clients to obtain these services, improve the effectiveness of the services provided by placing their providers in proximity to each other, and identifying gaps in the existing system of social services. This is intended to be a pilot project for improvement of social service delivery to future master-planned communities throughout the State.

Testimony in support of this measure was submitted by the Department of Human Services, the Office of State Planning, the University of Hawaii, the West Oahu Employment Corporation, and several other organizations and individuals.

Your Committee has amended this bill to replace the Leeward Community College representative on the Board with a representative of the University of Hawaii. Technical, nonsubstantive amendments have also been made for purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2092, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2092, H.D. 2.

Signed by all members of the Committee.

SCRep. 659-90 Finance on H.B. No. 2960

The purpose of this bill is to change the designation of the Transportation Use Special Fund from a separate special fund in the treasury of the State to a separate account in the Airport Revenue Fund.

Your Committee finds that this measure will facilitate the accounting and administration of the Fund for bond purposes. The provisions of this bill are nonsubstantive and add clarity to the administration of the Fund.

Your Committee received testimony in support of this measure from the Department of Budget and Finance and the Department of Transportation.

Your Committee has made technical, nonsubstantive amendments to this measure for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2960, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2960, H.D. 1.

Signed by all members of the Committee.

SCRep. 660-90 Finance on H.B. No. 2588

The purpose of this bill is to require motor vehicle license plates to be placed at the location provided by the motor vehicle manufacturer, or in the absence of such a location, upon the bumpers of the vehicle in conformance with statutory tail light requirements.

At the present time, vehicle owners are allowed to place license plates within the entire front or rear area of the vehicle, provided the plates do not swing and are at least twelve inches from the ground. However, law enforcement officials reportedly face difficulties in identifying vehicles when they have to visually search for the license plates, especially on a speeding vehicle. A standard location for the placement of license plates on vehicles will assist law enforcement purposes.

Technical, nonsubstantive revisions have been made to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2588, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2588, H.D. 1.

Signed by all members of the Committee.

SCRep. 661-90 Finance on H.B. No. 3403

The purpose of this bill is to institute a tree replanting program on all suitable state controlled lands.

In addition to the replanting, funds are provided for:

- (1) Expanding nursery facilities on Oahu, Hawaii, Maui, and Kauai;
- (2) Educating the public on the importance of this program and the care and maintenance of various tree species; and
- (3) Increasing temporary staffing of the Department of Land and Natural Resources.

Your Committee is greatly concerned about the worldwide warming trend and the impact of this global climatic change on society as well as the environment. Your Committee notes that there is an emerging consensus that widespread planting of trees, along with conservation of existing forests, is one of the surest, easiest, and least expensive ways to begin to halt and even reverse the buildup of carbon dioxide in the air.

Your Committee received testimony supporting this bill from the Department of Land and Natural Resources, the Environmental Center, the Hawaii Audubon Society, and several concerned citizens.

It is the intent of your Committee that where possible, endemic tree species be used in the replanting programs. Your Committee believes that this program would demonstrate Hawaii's commitment in:

- (1) Protecting remaining forest growth and maintaining the islands' unique environment;
- (2) Contributing toward reversing the current trend in global warming; and
- (3) Conserving Hawaii's endemic trees.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3403, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 662-90 Finance on H.B. No. 3429

The purpose of this bill is to create an administrative procedure for the summary revocation of driver's licenses.

This bill also requires the installation of an ignition interlock system in certain instances.

Testimony in support of this measure was submitted by the Department of the Attorney General, the Department of Transportation, the Judiciary, the Chamber of Commerce of Hawaii, the Hawaii Insurers Council, Mothers Against Drunk Driving, the City and County Department of the Prosecuting Attorney, and other interested parties.

Based upon the recommendation of the Department of Transportation, your Committee has amended this bill by designating that the Administrative Director of the Courts shall certify or cause to be certified the ignition interlock systems for use in the State as well as adopt rules for the certification of the systems.

Technical, nonsubstantive revisions have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3429, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3429, H.D. 2.

Signed by all members of the Committee.

SCRep. 663-90 Finance on H.B. No. 2290

The purpose of this bill is to create the Hawaii Strategic Development Corporation to encourage and foster innovation and the development and application of high technology in Hawaii industries. The Corporation will provide assistance, financial and otherwise, to enterprises at every stage of business development from the exploration of an idea to the marketing of a product or service.

This bill is substantially the same as H.B. No. 9, which was passed by the Legislature in the 1989 Regular Session but was vetoed by the Governor for technical reasons. This bill incorporates changes made to correct the technical flaws of H.B. No. 9.

Testimony in support of this bill was submitted by the Department of Business and Economic Development and the Department of Budget and Finance.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2290, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2290, H.D. 2.

Signed by all members of the Committee.

SCRep. 664-90 Finance on H.B. No. 3296

The purpose of this bill is to provide comprehensive statutory protection to the unmarked burial sites of Native Hawaiians through the establishment of procedures that would address Hawaiian cultural and religious beliefs as well as the legal rights, interests, and needs of private landowners.

Specifically, this bill accomplishes the following:

- (1) Creates five island burial councils within the Department of Land and Natural Resources (Department) to timely and sensitively determine, *inter alia*, whether preservation in place or relocation of previously identified Hawaiian burial sites is warranted;
- (2) Revises the process for handling the inadvertent discovery of burial sites to include island burial council input;
- (3) Increases the penalty for violation of Chapter 6E, Hawaii Revised Statutes;
- (4) Prohibits the sale of human skeletal remains or burial goods;
- (5) Requires a permit from the Department for the out-of-state transport of human skeletal remains or burial goods;
- (6) Provides a process by which island burial council determinations may be appealed to a panel consisting of three members of the Board of Land and Natural Resources and three island burial council chairpersons; and
- (7) Provides protection to all unmarked burial sites by requiring, in the event that a burial site is found to be other than Hawaiian, that the Department decide the proper treatment thereof in consultation with appropriate ethnic organizations and the affected property owner.

Your Committee received testimony in support of the intent of this bill from the Office of Hawaiian Affairs; the Department of Land and Natural Resources; Hawaii Resort Developers Conference; Kamehameha Schools/Bernice Pauahi Bishop Estate; Bishop Museum; Hui Malama I Na Kupuna O Hawai'i Nei; the Maui and Lana'i Burial Council; and the Native Hawaiian Legal Corporation.

The testimony indicated that following the failure to resolve disagreements over S.B. No. 1787 during the 1989 legislative session, the Department, in consultation with Governor John Waihee, established island burial councils for Kauai/Niihau, Oahu, Molokai, Maui/Lanai, and Hawaii. These councils, operating on an ad hoc basis, have proven to

be successful vehicles for effective communication between the Department and the community regarding the protection, treatment, and management of Native Hawaiian burial sites.

The language of this bill is the product of extensive meetings between the Department, the various island councils, and persons who expressed reservations over the language contained in S.B. No. 1787.

Based on the foregoing testimony, your Committee has amended the bill as follows:

- (1) Clarified that when determining, pursuant to Section 6E-43(b), Hawaii Revised Statutes, whether an identified Hawaiian burial site requires preservation in place or relocation, the appropriate island burial council shall consider, *inter alia*, "that burial sites of high preservation value, such as areas with a concentration of skeletal remains, or prehistoric or historic burials associated with important individuals and events, or that are within a context of historic properties, or have known lineal descendants, shall receive greater consideration for preservation in place";
- (2) Directed that representatives of development and large property owner interests be included among the entities with which the Department must consult when adopting, pursuant to Chapter 91, Hawaii Revised Statutes, rules pertaining to the island burial councils, including, *inter alia*, the development of criteria for:
 - A. Determining the preservation or relocation of previously identified Hawaiian burial sites; and
 - B. Making recommendations regarding the appropriate management, treatment, and protection of Hawaiian burial sites; and
- (3) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3296, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3296, H.D. 2.

Signed by all members of the Committee.

SCRep. 665-90 Finance on H.B. No. 2950

The purpose of this bill is to amend the commercial motor vehicle driver licensing law to facilitate its implementation in accord with federal standards.

More specifically, this bill:

- (1) Allows the counties to contract to "third party examiners" the administration of the commercial vehicle skills test;
- (2) Exempts certain classes of drivers from the commercial motor vehicle skills test; and
- (3) Raises penalties for individuals who falsify or fail to report certain information, and for drivers who continue to drive after their license has been revoked, suspended, or cancelled.

Your Committee received testimony in favor of this bill from the Department of Transportation, the Department of Finance of the City and County of Honolulu, and the Hawaii Transportation Association.

Your Committee finds that this bill is necessary to bring state law into conformance with federal mandates.

Your Committee has amended this bill to require the driver to notify the employer in writing following the oral notification of the revocation, suspension, or cancellation of the driver's license.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2950, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2950, H.D. 2.

Signed by all members of the Committee.

SCRep. 666-90 Finance on H.B. No. 2985

The purpose of this bill is to amend Act 78, Session Laws of Hawaii 1989, to facilitate implementation of Section 6, which appropriated funds for two mental "clubhouse" facilities.

The bill authorizes the Department of Health to delegate to other state or county agencies the acquisition of land, design, and construction of projects when the expending agency determines it is advantageous to do so. The bill also changes the name of the Waipahu Mental Health Center to the Leeward Oahu Community Mental Health Center and the Kalihi-Palama Mental Health Center to the Lanakila Health Center.

Your Committee received testimony from the Department of Health in support of this bill.

The Department testified that the funds were not expended due to legal constraints engendered by the language in Act 78. Moreover, the Department indicated that it was the Department's intent to lapse the funds in Act 78 at the end of the fiscal year.

Therefore, your Committee has amended this bill by deleting all references to Act 78 and making the bill a simple appropriation bill. A provision authorizing the expenditure of the funds to lease has also been added.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2985, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2985, H.D. 2.

Signed by all members of the Committee.

SCRep. 667-90 Finance on H.B. No. 3302

The purpose of this bill is to discourage littering by:

- (1) Establishing a minimum fine of \$25 for litter violations;
- (2) Requiring that a person convicted of littering shall spend four hours picking up litter on public property for the first offense; and
- (3) Requiring that a person convicted of littering shall spend eight hours picking up litter on public property for any subsequent offense.

This bill also includes a provision mandating violators who fail to appear in court to pay a \$25 fine by mail to the court having jurisdiction. Finally, this bill provides that one-half of the fines collected be returned to the county in which the fine was collected.

Your Committee received supporting testimony from the Department of Health (DOH), the Department of Transportation, and the Maui Hotel Association. The DOH recommended that the three applicable sections of the law (Section 291C-132 - Traffic Code; Section 339-8 - Litter Control; and Section 708-829 - Penal Code) be made consistent with regard to a minimum \$25 fine and the required number of hours of litter pickup. The DOH further recommended that no bail forfeiture be permitted. The Maui Hotel Association urged that the minimum fine be increased to at least \$100.

Upon further consideration, your Committee has amended the bill as follows:

- (1) Inserted language in Section 291C-132 that requires the court, rather than making it an option, to impose sentences to defendants with regard to picking up litter on public property;
- (2) Inserted language in Section 291C-132 (d) that mandates a minimum fine of \$25 for violations;
- (3) Inserted language in Section 339-8 that spells out the sentences relating to the picking up of litter on public property; and
- (4) Deleted the proposed bail forfeiture language in Section 708-829 (5).

Finally, your Committee has also made technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3302, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3302, H.D. 2.

Signed by all members of the Committee.

SCRep. 668-90 Finance on H.B. No. 3355

The purpose of this bill is to appropriate moneys to the Department of Human Services and the Judiciary to enable them to develop an array of community-based prevention, training, support, and treatment programs in relation to foster care for children.

Your Committee received testimony in support of this bill from the Departments of Health, Human Services, and the Attorney General; the Office of Children and Youth; the Legal Aid Society of Hawaii; and Child and Parent Advocates.

The Department of Human Services indicated that the bill effectively responds to the recent Legislative Auditor's comprehensive study of the State's foster care system which identifies major gaps and deficiencies, and recommends a range of improvements to better serve children needing out-of-home care.

Your Committee has amended the bill by changing all appropriated amounts to \$2 for purposes of continued discussion.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3355, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3355, H.D. 2.

Signed by all members of the Committee.

SCRep. 669-90 Finance on H.B. No. 2288

The purpose of this bill is to promote the development of the Hawaii software industry by creating a Hawaii Software Service Center within the High Technology Development Corporation (HTDC).

This Center will assist Hawaii software companies by providing marketing and planning information that no company alone could afford to obtain. It will also promote coordinated efforts between the public and private sectors to enhance the competitiveness of Hawaii software companies.

The bill also gives HTDC the power to copyright software products developed for the State of Hawaii and to enter into licensing agreements with state agencies or the University of Hawaii to sublicense these products to Hawaii software companies for enhancement and resale.

In addition, at least twenty-five percent of annual state appropriations for software development will go to Hawaii software firms.

This measure appropriates \$233,000 to create the Hawaii Software Service Center and \$2 million to support software development programs at the University of Hawaii, to be distributed on the basis of competitive proposals judged by private industry representatives. The appropriation is made to the Department of Business and Economic Development, with the proviso that the money will not be made available to the University until it has submitted a detailed software development and marketing plan acceptable to the Department of Business and Economic Development.

In 1989, the Legislature directed HTDC to prepare a report on how Hawaii's software industry could be strengthened. This bill reflects the recommendations of that report.

Testimony in support of this bill was received from the Department of Budget and Finance, the University of Hawaii, HTDC, and the Pacific International Center for High Technology Research.

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

- (1) Deleting the requirement that twenty-five percent of the State's annual spending on software development be set aside for Hawaii software companies. Instead, this measure now provides that preference be given to Hawaii software businesses in the awarding of every state software development contract;
- (2) Requiring the Hawaii Software Service Center to publish and maintain a list of government contracts available to Hawaii software development businesses;
- (3) Directing the Department of Budget and Finance to provide information, including a description of a software development proposal and a timetable for development, to the Center on a timely basis;
- (4) Reducing the appropriation amount to support software development programs of the University of Hawaii from \$2 million to \$1 million; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

It is your Committee's intent that a significant portion of state government software development monies go to strengthen Hawaii software development businesses; and that the Hawaii Software Service Center be the advocate of the Hawaii software development industry to the public and private sectors in Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2288, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2288, H.D. 2.

Signed by all members of the Committee.

SCRep. 670-90 Finance on H.B. No. 2287

The purpose of this bill is to promote economic development and diversification by appropriating funds to define the requirements and provide start-up funds for the development of a financial mall in Honolulu.

Establishment of a financial services industry in Hawaii will provide significant diversification of our economic base, bring additional capital into the State, and create new areas of rewarding employment and new business for Hawaii telecommunication providers. The Legislature has previously indicated its desire to attract financial service providers in Act 295, Session Laws of Hawaii (SLH) 1988, and Act 118, SLH 1989, which provided a general excise tax exemption for certain activities of a securities exchange. This bill reinforces the efforts of the State to attract the financial services industry to Hawaii.

The most important aspect of this project is the definition of requirements for a financial mall in Honolulu. The choice of consultants will be critical in the success of this project. The following criteria should be followed in selecting the consultants for this project:

- (1) The consultants selected must have the knowledge and ability to develop a specific work plan, not a general one;
- (2) The consultants selected must be respected by the industry, so that their findings will be accepted by the various exchanges considering Hawaii as a base of operations;
- (3) The consultants selected must be able to do the work immediately; and
- (4) The consultants selected must be able to complete the work within the cost range provided.

Testimony in support of this bill was received from the Department of Business and Economic Development and the Economic Development Corporation of Honolulu.

Your Committee has amended this bill by reducing the appropriation to \$1.5 million. Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2287, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2287, H.D. 2.

Signed by all members of the Committee.

SCRep. 671-90 Finance on H.B. No. 2603

The purpose of this bill is to seek a state-funded grant or subsidy to supplement institutional health care reimbursements for providers of inpatient care services in Hawaii.

Your Committee finds that this measure was prompted by a perceived shortfall due to federal reimbursement constraints or ceilings imposed by Medicare and Medicaid.

Testimony was submitted by the Department of Health, the Department of Human Services, the State Attorney General, AARP, the Healthcare Association of Hawaii, the United States Department of Health and Human Services, and the National Association of Retired Federal Employees.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2603, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2603, H.D. 2.

Signed by all members of the Committee.

SCRep. 672-90 Finance on H.B. No. 2949

The purpose of this bill is to allow the City and County of Honolulu and the Counties of Hawaii, Maui, and Kauai to levy a general excise and use tax surcharge of one-half of one percent to fund the mass transit needs of the City and County of Honolulu and the infrastructure and park needs of the Counties of Hawaii, Maui, and Kauai.

This surcharge of one-half of one percent will be added to the existing four percent state general excise and use taxes for a five-year period.

The bill also provides that the State enter into a development agreement with the City and County of Honolulu for the development of a fixed guideway system mass transit system by November 15, 1991. This agreement must be submitted to the Legislature for review by December 1, 1991.

Various private entities have expressed an interest in building a fixed rail rapid transit system in Honolulu and have made several proposals to the City and County of Honolulu for the City's consideration. Some of the proposals indicated a willingness to absorb some or all of the construction costs to build such a system in return for various development rights and concessions. It is your Committee's intent that the City and County of Honolulu review and give serious consideration on all the proposals from the private entities before instituting the one-half percent excise tax.

Your Committee has amended this measure addressing problems concerning the filing of short period annual returns, the capital goods excise tax credit, and other miscellaneous amendments. The bill now provides that revenues generated in a county be assigned to that county.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2949, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2949, H.D. 2.

Signed by all members of the Committee.

SCRep. 673-90 Finance on H.B. No. 2582

The purpose of this bill is to assist the homeless by appropriating funds for shelters and programs and by improving the coordination of providers of services.

The measure also requests the Governor to appoint members to the Homeless Committee of the subcabinet task force.

This bill provides funding that would:

- (1) Support the operation of programs for the homeless;
- (2) Allow the Department of Human Services to add staff to develop and monitor contracts with private providers;
- (3) Retain consultant services;
- (4) Establish an emergency loan fund;
- (5) Allow the Department of Health to add staff to effect a program of street outreach and first response care for homeless families;
- (6) Provide a grant-in-aid for mobile health service; and
- (7) Provide a grant-in-aid to the Department of Labor and Industrial Relations and the Department of Corrections.

Your Committee received supporting testimony from the Department of Human Services, the Department of Health, the Department of Corrections, the Office of Children and Youth, the Office of Hawaiian Affairs, the Commission on the Status of Women, Protection and Advocacy Agency of Hawaii, the Affordable Housing Alliance, the Hawaii Ecumenical Housing Corporation, Homeless Aloha, Inc., the Institute for Human Services, Inc., and Aina Kupaa O Maili, Inc.

Your Committee finds that the problem of homelessness is severe and growing and now requires governmental action. At the same time, your Committee finds that a large percentage of the proposed appropriations constitute grants-in-aid/purchase of service funding that will be included in the supplemental budget bill. For this reason, your Committee has amended this bill by:

- (1) Deleting all of the appropriations except for those sections adding staff, retaining consultant services, and establishing an emergency loan program; and
- (2) Reducing the appropriation for consultant services from \$197,000 to \$155,000.

Finally, your Committee has also made technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2582, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2582, H.D. 2.

Signed by all members of the Committee.

SCRep. 674-90

Finance on H.B. No. 2308

The purpose of this bill is to provide for the development of a coordinated youth gangs response system that incorporates the critical elements of law enforcement/intelligence, training/community awareness, community intervention, community prevention, information, and evaluation.

Youth gangs are not a new phenomenon in America. Over the years many urban areas have experienced the unrest resulting from groups of young people banding together for a variety of reasons. These young people may want to occupy time, fill an emptiness in their lives or experience a sense of belonging. Whatever the reason, when a gang evolves, communities almost always suffer serious consequences.

As of December, 1988 the Honolulu Police Department identified 2 gangs on Oahu with an enrollment of approximately 450 young adults. These gangs range in size from 3 to 95 members. The median gang size is 14 members. And gang members range in age from 14 to 24 years old, with the median age being 18 years of age.

The problem of youth gangs is not restricted to the island of Oahu. Twenty youth gangs have been identified on the Big Island with an estimated membership of 200 young men and women. Five youth gangs have been identified on the island of Kauai. Two youth gangs have been identified on the island of Molokai. And according to the Maui Police Department, three youth gangs have been identified on the Valley Isle.

The methodology of this bill involves a coordinated effort on all the major fronts of the battle by all concerned groups in the development of a comprehensive strategy. Underlying social, emotional and family issues will also be addressed.

Your Committee received testimony in overwhelming support of this measure from a number of key law enforcement and social service agencies including: the Office of the Attorney General for the State of Hawaii, the Office of Youth Services, the UH Center for Youth Research, the Department of Health, the First Circuit Family Court, the Juvenile Justice Interagency Board, the Maui Police Department, the Hawaii Youth Services Network, the Department of Education, the Honolulu Police Department, and concerned individuals.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2308, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2308, H.D. 2.

Signed by all members of the Committee.

SCRep. 675-90 Finance on H.B. No. 2282

The purpose of this bill is to appropriate resources for the development of a comprehensive respite care system which includes assessment of the needs of caregivers; support services and training to caregivers, including family caregivers; establishment of a respite care advisory council; and development of in-home emergency care services for disabled or ill persons requiring long-term care

Your Committee received testimony in support of this bill from the Departments of Health and Human Services; the Executive Office on Aging; the State Planning Council on Developmental Disabilities; the Office of Children and Youth; the Commission on Persons with Disabilities; the University of Hawaii; Kapiolani Community College; Child and Family Service; the Federal Action Agency; the Pacific Head Injury Foundation; the Help, Understanding and Support Group; the National Association of Retired Federal Employees; the Community Elder Abuse and Neglect Task Force; the Business/Child Care Connection; the American Association of Retired Persons; and many family caregivers.

Based on the foregoing testimony, your Committee has amended the bill as follows:

- (1) Provided for the establishment of a Task Force, rather than an Advisory Council, for the purpose of advising the Department of Health on allocation and expenditure of moneys appropriated for respite care services and broad policy statements related to respite services;
- (2) Clarified that respite care services for families providing home care are for individuals with developmental disabilities and mental illnesses, including seriously or terminally ill child;
- (3) Directed that the assessment of at-home family caregiving be conducted by the Commission on Persons with Disabilities, and designated the Department of Health as the expending agency for moneys appropriated for the foregoing assessment;
- (4) Designated the Executive Office on Aging as the expending agency of moneys appropriated to expand the Crisis Intervention Services for the Elderly program;
- (5) Clarified that respite care services apply to a disabled adult or child;
- (6) Reduced to \$1,000,000, the appropriation for the provision of support services and training to family caregivers providing home care to individuals with developmental disabilities and mental illness, and for the establishment and development of respite care services to family caregivers providing care to family members in specified special needs groups;
- (7) Reduced to \$650,000, the appropriation for the expansion of respite care services, the establishment of a statewide caregiver training program, and the design and implementation of a pre-retirement and caregiver demonstration program for state employees;
- (8) Reduced to \$75,000, the appropriation for the establishment and development of respite care services for child foster care providers statewide, and the hiring of staff to recruit foster care respite providers;
- (9) Reduced to \$250,000, the appropriation for the expansion of the crisis intervention services for the elderly program;
- (10) Reduced to \$75,000, the appropriation for the provision of services and training, as well as the establishment and development of respite care services to families providing home care to a disabled adult or child; and
- (11) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2282, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2282, H.D. 2.

Signed by all members of the Committee.

SCRep. 676-90 Finance on H.B. No. 2938

The purpose of this bill is to clarify that the financial corporations exemption from the general excise taxes applies only to the income earned from moneyed capital transactions.

At the present time, the State allows certain financial entities whose activities include both banking and nonbanking transactions to be taxed only on net income, in an attempt to give equitable tax treatment to all banks and other entities dealing with moneyed capital. And while gross income earned by these entities from nonbanking type of activities is

subject to the general excise tax, the general excise tax scheme does not contain a provision which clearly delineates the legislative intent.

After consideration of the comments made with regard to this measure, your Committee has amended this measure by:

- (1) Revising the proposed language of the financial corporations exemption by deleting references to "dealings in moneyed capital" which is reportedly a term of art with no clear universal definition, and substituting references to "finance charge" and "annual percentage rate"; and
- (2) Changing the effective date from "upon approval" to July 1, 1990.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2938, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2938, H.D. 1.

Signed by all members of the Committee.

SCRep. 677-90 Finance on H.B. No. 2885 (Majority)

The purpose of this bill is to increase the sum which may be advanced from the general fund to the Homes Revolving Fund administered by the Housing Finance and Development Corporation (HFDC) from \$120,000,000 to \$170,000,000.

The bill also authorizes the HFDC to use moneys on deposit in the Homes Revolving Fund as equity capital for HFDC's Rental Housing System to keep up the scheduled production of rental units.

When the Homes Revolving Fund was established in 1988, the HFDC anticipated developing one major planned community at a time, with some overlap in development timetables. However, because of the acute housing shortage, HFDC has been working at an accelerated pace. In order to meet its goal of producing 20,000 housing units by the year 2000, additional funds are needed to maintain this pace.

Testimony in support of this bill was submitted by the Department of Budget and Finance.

Upon further consideration, your Committee has amended the bill by decreasing the sum which may be advanced from the general fund to the Homes Revolving Fund to \$155,000,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2885, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2885, H.D. 1.

Signed by all members of the Committee.
(Representative Marumoto did not concur.)

SCRep. 678-90 Finance on H.B. No. 3299

The purpose of this bill is to require the installation of solar energy systems, gas water heaters, or heat pumps for water heating in all new single-family homes, multi-unit residential buildings, and hotels.

The bill also provides energy conservation tax credits for the installation of heat pumps, gas water heaters, or other system which reduces the use of fossil fuels by producing energy from another source, such as solar or wind energy systems.

Testimony in support of this measure was submitted by numerous groups, including the Department of Business and Economic Development, the Department of Health, the Housing Finance Development Corporation, the Environmental Center of the University of Hawaii, and the Hawaiian Electric Company. However, many testifiers expressed concerns about certain provisions contained in the bill.

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

- (1) Deleted new single-family homes from the mandatory requirement of having solar water heaters or heat pumps;
- (2) Deleted all references to gas water heaters;
- (3) Required solar water heating systems in all new county funded, county sponsored, and county subsidized residential buildings and residential buildings built on county lands beginning in 1991;
- (4) Increased the maximum amount of the solar energy system tax credit from \$2,000 to \$2,500;
- (5) Provided a tax credit for heat pump installation; and
- (6) Made technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3299, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3299, H.D. 2.

Signed by all members of the Committee.

SCRep. 679-90 Finance on H. B. No. 2492

The purpose of this bill is to ensure the provision of long-term leases to certain permittees of agricultural land by eliminating the required cost of surveys that are currently payable by the permittees.

The Department of Land and Natural Resources testified in favor of the bill. The Department testified that Act 237, Session Laws of Hawaii 1988, mandates the Department of Land and Natural Resources to negotiate long-term leases under specific terms, conditions, and restrictions with certain permittees of agricultural land. One of the conditions is the requirement that the Department recovers, from the lessee-to-be, the cost of surveying the parcel incurred by the Department. The Department further testified that the exorbitant costs of these surveys will place a financial constraint on many of the permittees, which may deter them from applying for a long-term lease.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2492, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2492, H.D. 1.

Signed by all members of the Committee.

SCRep. 680-90 Finance on H.B. No. 2774

The purpose of this bill is to clearly identify the date from which retirement credits will be calculated for District Court and District Family Court judges under the Employees' Retirement System law.

This bill also allows retired judges to become active members of the retirement system again by paying for the prior service credit under Section 88-59, Hawaii Revised Statutes. This measure will place judges in a similar situation with other retirants who became reemployed under Section 88-98, Hawaii Revised Statutes.

The present Employees' Retirement System law is ambiguous as to whether the computation of the new retirement benefits relates back to the date when the judges began service in the System, or is limited to service after July 1, 1989. The present law is also ambiguous as to whether a former District Court or District Family Court judge who became a Circuit Court, Intermediate Court, or Supreme Court judge or justice as of July 1, 1989, would qualify for the new retirement benefits.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2774, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2774, H.D. 2.

Signed by all members of the Committee.

SCRep. 681-90 Finance on H.B. No. 2289

The purpose of this bill is to continue development of the Hawaii area-wide information access network (HAWIAN) begun by the Legislature in 1988.

This measure appropriates \$2,000,000 to be distributed among state agencies to assist their efforts to become information providers on HAWIAN, but requires the Department of Budget and Finance (B&F) to prepare a promotional and marketing plan for HAWIAN prior to the release of the funds. In addition, B&F is required to prepare an operations plan detailing the staffing and resources needed for the continuing operation and administration of HAWIAN, and appropriates an unspecified sum for the creation by B&F of a HAWIAN master plan and implementation timetable incorporating all branches of state government.

The implementation of HAWIAN will be one of the most exciting developments in Hawaii in this decade. It will rank Hawaii among the world leaders in telecommunications applications, and will enhance both the availability of information and services to citizens and the market for the information industry in Hawaii.

Testimony in support of this bill was received from B&F, the University of Hawaii, and the Department of Education.

Your Committee has amended this bill by:

- (1) Deleting the unspecified appropriation to B&F for the development of a HAWIAN master plan and implementation timetable;
- (2) Reducing the appropriation for further development of the State's information network to \$1,000,000; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2289, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2289, H.D. 2.

Signed by all members of the Committee.

SCRep. 682-90 Finance on H.B. No. 2649 (Majority)

The purpose of this bill is to establish two community-based teenage health clinics on the island of Oahu to improve health care to teenagers, particularly those often categorized as high risk, at risk, runaway, throwaway, or homeless.

This bill also establishes an outreach program for homeless persons under twenty-one years of age in one of the two proposed teenage health clinics.

Your Committee received testimony in support of this bill from the Department of Health; the Hawaii State Commission on the Status of Women; the American Association of University Women; Homeless Aloha, Inc.; the School of Public Health of the University of Hawaii; Hale Kipa, Inc.; Kokua Kalihi Valley Comprehensive Family Services; the Catholic Charities of the Diocese of Honolulu; and the Waikiki Health Center.

Based on the foregoing testimony, your Committee has amended the bill as follows:

- (1) Clarified that the Director of Health, with the assistance of the Director of Human Services, shall administer, as well as establish and operate, the proposed teenage health clinics;
- (2) Clarified that the Director of Health may enter into agreements, such as purchase of service agreements, as may be necessary to carry out the purposes of the Act;
- (3) Provided that a minor's consent to certain medical care is valid as provided in section 577A-2;
- (4) Changed the appropriated amount to \$1; and
- (5) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2649, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2649, H.D. 2.

Signed by all members of the Committee.
(Representative M. Ige did not concur.)

SCRep. 683-90 Finance on H.B. No. 3357

The purpose of this bill is to appropriate funds to ensure that the recommendations contained in the Legislative Auditor's report, entitled, Study and Plan for Maximizing Federal Medicaid Funds for Hawaii, are implemented.

The Department of Human Services testified that the \$2 million would not be needed to implement the recommendations of the report. They stated that existing funds will be used.

In testimony submitted to your Committee, the Department of Health noted that the implementation of the Medicaid financing option changes are in various stages of development requiring additional amounts of staff work by departmental personnel before Medicaid financing can be realized. Further, the creation of Medicaid planning capability in the Department of Health to manage the myriad of activities needed to complete the changes is necessary, and consistent with recommendations made by the Legislative Auditor.

Your Committee has amended the bill by:

- (1) Deleting the appropriation of \$2,052,500 to the Department of Human Services;
- (2) Reducing the appropriation for the creation of special Medicaid staffing to \$55,000; and
- (3) Making technical nonsubstantive revisions for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3357, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3357, H.D. 2.

Signed by all members of the Committee.

SCRep. 684-90 Finance on H.B. No. 2569

The purpose of this bill is to establish a State Transit Capital Development Fund to assist the counties with the capital costs involved in developing a mass transit system.

This fund would be used solely to provide financial assistance to the counties for capital and construction costs, and not for planning, design, or operational costs for mass transportation. In addition, no moneys from the fund will be available for use unless the county provides a dollar for dollar match of moneys.

This measure also provides that from 1991 through 1999, \$50 million from all general excise tax revenues realized by the State shall be deposited in the state treasury to the credit of the State Transit Capital Development Fund.

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

For purposes of continued discussion, the appropriations section has been amended by replacing the sum of \$50 million with \$1.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2569, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2569, H.D. 2.

Signed by all members of the Committee.

SCRep. 685-90 Finance on H.B. No. 3110

The purpose of this bill is to ensure the prompt start and continued flow of ordered child support payments from the responsible parent for the benefit of the child.

This bill also expedites the disbursement of child support payments.

Your Committee received testimony in support of the intent of this bill from the Department of the Attorney General, the Commission on the Status of Women, the Judiciary of the State of Hawaii, and a custodial parent.

Based on the foregoing testimony, your Committee has amended the bill as follows:

- (1) Clarified that an employer shall send amounts withheld pursuant to an assignment or income withholding order to the Child Support Enforcement Agency within five calendar days after the obligor is paid;
- (2) Directed that upon entering an income withholding order under Section 571-52.3, Hawaii Revised Statutes, the court shall designate a party who shall, within five calendar days of the filing of that order, serve a copy of the support order on the agency and a copy of the income withholding order on the employer of the responsible parent;
- (3) Clarified that upon issuing an income withholding order under Section 576E-16, Hawaii Revised Statutes, the Child Support Enforcement Agency shall designate a party who shall, within five calendar days of filing of the order, serve a copy of that order on the employer of the responsible parent; and
- (4) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3110, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3110, H.D. 2.

Signed by all members of the Committee.

SCRep. 686-90 Finance on H.B. No. 2281

The purpose of this bill is to demonstrate the effectiveness of the concept of community-based family support centers and to test different models of service delivery by establishing a family support center demonstration project with several family support centers in different locations statewide.

Your Committee received testimony in support of this bill from the Department of Health; the Department of Human Services; the State Planning Council on Developmental Disabilities; the Office of Children and Youth; the Family Court, First Circuit; the Hawaii State Commission on the Status of Women; and the Military Affairs Council of the Chamber of Commerce of Hawaii.

Your Committee has amended this bill by reducing the overall appropriation from \$1,500,000 to \$1,000,000, and reducing the funds for the family literacy programs from \$400,000 to \$325,000. Your Committee has also specified the Office of Children and Youth as the expending agency for the \$325,000. Your Committee has further amended this bill to correct certain typographic, technical, and stylistic errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2281, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2281, H.D. 2.

Signed by all members of the Committee.

SCRep. 687-90 Finance on H.B. No. 2280

The purpose of this bill, is to provide better prenatal and perinatal care services to promote the optimal health of pregnant women and ensure the best outcomes for all births.

To achieve this goal, this bill proposes to:

- (1) Facilitate access to perinatal care;

- (2) Provide incentives for pregnant women to use prenatal care;
- (3) Establish a demonstration project to provide comprehensive perinatal services for the counties of Hawaii, Maui, and Kauai;
- (4) Increase the medicaid reimbursement for deliveries to encourage medical providers to promote early pregnancy care; and
- (5) Supplement the federal Women, Infants, and Children (WIC) program to provide increased aid for pregnant women.

Testimony in support of this measure was submitted by the Department of Health, the Department of Human Services, the Office of Children and Youth, the Hawaii State Commission on the Status of Women, the Kapiolani Medical Center for Women and Children, the Hawaii Healthy Mothers, Healthy Babies Coalition, the Hawaii Public Health Association, and the American College of Obstetricians and Gynecologists.

Your Committee has amended this bill by:

- (1) Providing that demonstration projects will be targeted towards any area in the State which has a demonstrated need for perinatal services; and
- (2) Providing that the Department of Health shall establish adjunctive eligibility for the federally funded WIC program; and
- (3) Reducing the sum appropriated for the neighbor island comprehensive perinatal care project from \$450,000 to \$350,000; and
- (4) Reducing the sum appropriated for the medicaid patient delivery supplement project from \$1,500,000 to \$1,250,000; and
- (5) Reducing the sum appropriated to expand eligibility under the WIC program from \$650,000 to \$50,000.

Technical, nonsubstantive revisions have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2280, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2280, H.D. 2.

Signed by all members of the Committee.

SCRep. 688-90

Finance on H.B. No. 2059

The purpose of this bill, as received, is to increase the salaries of the justices and judges of the Hawaii Judiciary, as well as the members of the Public Utilities Commission and the Labor and Industrial Relations Appeals Board.

Your Committee finds that the recruitment and retention of the highest qualified individuals for public service as justices and judges require adequate financial incentives. However, judicial salaries have not been adjusted since 1986.

Your Committee further finds that judicial salaries should be comparable with salaries received by officers in the other branches of government and that judicial salaries should be evaluated on a comprehensive basis in light of the salary adjustments effected under Act 329, Session Laws of Hawaii (SLH) 1989, for the Governor, Lieutenant Governor, cabinet and sub-cabinet officers, and other officers in the executive and legislative branches of state government.

Upon further consideration, your Committee has amended the bill to provide annual salaries for justices and judges that are comparable with the salaries provided by Act 329, SLH 1989, for officers in the executive branch of state government.

More specifically, your Committee has amended the bill to provide the justices and judges the following annual salary:

- (1) Chief Justice of the Supreme Court:
 - (A) \$90,699, retroactively to January 1, 1989; and
 - (B) \$94,780, effective January 1, 1990.
- (2) Associate Justices of the Supreme Court:
 - (A) \$89,699, retroactively to January 1, 1989; and
 - (B) \$93,780, effective January 1, 1990.
- (3) Chief Judge of the Intermediate Court of Appeals:
 - (A) \$87,199, retroactively to January 1, 1989; and
 - (B) \$91,280, effective January 1, 1990.

- (4) Associate Judges of the Intermediate Court of Appeals:
 - (A) \$85,699, retroactively to January 1, 1989; and
 - (B) \$89,780, effective January 1, 1990.
- (5) Judges in the Circuit Courts:
 - (A) \$82,699, retroactively to January 1, 1989; and
 - (B) \$86,780, effective January 1, 1990.
- (6) Judges in the District Courts:
 - (A) \$77,699, retroactively to January 1, 1989; and
 - (B) \$81,780, effective January 1, 1990.

In addition, your Committee has provided salary increases for the administrative director of the courts and the deputy administrative director of the courts, who also have not had their salaries adjusted since 1986. The administrative director's annual salary will be increased, retroactively to January 1, 1989, to \$81,629, and effective January 1, 1990, to \$85,302. The deputy administrative director's annual salary will be increased, retroactively to January 1, 1989, to \$74,608, and effective January 1, 1990, to \$77,966.

Your Committee has further amended this measure by:

- (1) Deleting the provisions appropriating funds for and increasing the salaries of the members of the Public Utilities Commission and the Labor and Industrial Relations Appeals Board since their salary increases were provided in H.B. No. 2884, HD1, reported out earlier by your Committee;
- (2) Appropriating \$2,179,000 for fiscal year 1989-1990 and \$1,450,843 for fiscal year 1990-1991 for the salary increases and retroactive payments;
- (3) Adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements; and
- (4) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2059, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2059, H.D. 2.

Signed by all members of the Committee.

SCRep. 689-90 Finance on H.B. No. 2886

The purpose of this bill is to exempt market-priced units in integrated housing projects from the "buy-back" and owner-occupancy requirements of the Housing Finance and Development Corporation (HFDC).

This bill also clarifies that the HFDC has the option to buy-back dwelling units financed under a federally subsidized mortgage program. Additionally, this bill adds a definition of "cash equity" which is consistent with the definition currently being used by the HFDC and the counties when repurchasing units under buy-back statutes.

Your Committee received testimony in support of this bill from the HFDC. HFDC testified that at least 60 percent of the housing units in HFDC's integrated projects will be "affordable" to the HFDC's target population, with the remaining 40 percent being market-rate units. Because the purpose of the buy-back restrictions is to prevent speculation on homes that are offered to buyers at below-market prices, it is inappropriate to impose the same restrictions on market-priced homes which receive no government subsidies.

The bill was amended to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2886, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2886, H.D. 2.

Signed by all members of the Committee.

SCRep. 690-90 Finance on H.B. No. 2306

The purpose of this bill is to establish within the Legislative Reference Bureau a commission on drug abuse consisting of the following thirteen members: the four county prosecuting attorneys, the four county police chiefs, the Attorney General, two members appointed by the House Speaker, and two members appointed by the Senate President. The Superintendent of Education shall be an ex-officio member.

The commission will be responsible for the development of a comprehensive plan and strategy for drug rehabilitation and education programs and efforts. In addition, this bill would appropriate \$500,000 to the Attorney General for statewide drug enforcement and interdiction activities.

The elimination of the demand for drugs is a primary goal in addressing the State's drug abuse problem. And as the Attorney General notes in testimony submitted, demand reduction will require prevention through education, strong family support, early intervention, and treatment. At the same time the State must act to reduce the supply of drugs through interdiction, eradication, and deterrent penalties, including asset forfeiture. Solutions will be achieved through continuous and long-term commitment of resources.

Technical, nonsubstantive revisions have been made to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2306, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2306, H.D. 1.

Signed by all members of the Committee.

SCRep. 691-90 Finance on H.B. No. 2751

The purpose of this bill is to establish the Temporary Underground Storage Tank Revolving Fund and the Underground Storage Financial Responsibility Guarantee Fund.

The Temporary Underground Storage Tank Revolving Fund will establish a mechanism to provide loans to persons requiring financial assistance to:

- (1) Retrofit or replace underground storage tanks to meet new tank standards; and
- (2) Perform necessary corrective actions to mitigate the effects of a petroleum release that occurred before the person obtained coverage by appropriate financial assurance mechanisms.

The Underground Storage Tank Financial Responsibility Guarantee Fund will assist persons in meeting the requirements of financial responsibility established under the law.

Your Committee finds that because of the serious threats to human health and the environment posed by leaking underground storage tanks, the federal government and the State have established regulations and financial responsibility requirements for the proper maintenance of these tanks and for the cleanup of petroleum releases. Unfortunately, many businesses in the State do not always possess the financial capacity to afford the level of liability or financial responsibility coverage necessary under the law, or to maintain or repair leaking underground storage tanks.

Your Committee further finds that a mechanism should be established to assist underground storage tank owners in meeting the required standards of financial coverage and tank operation. Financial assistance is essential to the economic welfare of small business operators, whose ability to continue operating in an environmentally responsible manner may be jeopardized without this assistance. Financial assistance is especially needed for small business operators located in the rural areas of the State in order to ensure continued convenient availability of petroleum products in these areas.

Based on testimony received, your Committee has amended the bill to exempt aviation fuel from the petroleum tax in recognition of the fact that aviation fuel is stored in above-ground tanks and delivered directly to parked aircraft. In addition, taxing aviation fuel sold at the airport to fund non-aviation or non-airport purposes may jeopardize continued federal funding of the State's airport projects.

For the purposes of continued discussion, your Committee has also amended the bill by appropriating the nominal sum of \$1 to be deposited into the revolving fund and has deleted the appropriation to the financial responsibility guarantee fund. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2751, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2751, H.D. 2.

Signed by all members of the Committee.

SCRep. 692-90 Finance on H.B. No. 2418

The purpose of this bill is to replace preferential tax rates given to Hawaii insurance companies with a single insurance premium tax rate for all domestic and foreign insurers.

This bill also provides tax credits for eligible insurers who comply with the requirements. In addition, an alternate set of rates is provided in this measure if the first set of provisions is found unconstitutional.

Under current law, the State imposes a tax on the gross premium income on the Hawaii generated business of authorized insurance companies. The tax rates depend on the type of insurance product and on the state of incorporation of the insurance company subject to the tax. Presently, foreign insurers are taxed at a higher rate than domestic insurers on both life (3.197 per cent vs. 1.918 per cent respectively) and non-life (4.2824 per cent vs. 2.9647 per cent respectively) insurance business. The problem is that the Hawaii Tax Appeal Court (based on the U.S. Supreme Court decision in Metropolitan Life Insurance Co. v. Ward) found that the current statutory scheme to be unconstitutional.

This bill proposes to tax all authorized insurers at the same rates: 3.2 per cent for life insurance contracts and 4.3 per cent for non-life insurance contracts.

At the same time, this bill also provides for the allowance of credits against these same taxes to any authorized insurer that has:

1. A designated employee, residing within Hawaii, responsible for its insurance operations in the state; and
2. Annual gross premiums of at least \$250,000 received from all risks or property resident, situated, or located within the state.

These credits include:

1. Contributions made for the insurer's insurance operations in this state to the state unemployment compensation fund as well as for workers' compensation insurance;
2. Contributions to a group life insurance plan and a stock bonus, pension, profit-sharing or annuity plan; and
3. Taxes paid for persons employed in the state for the insurer's insurance operations in the State.

Finally, should the proposed premium tax legislation be found unconstitutional:

1. This bill proposes a "tie-breaker" provision to establish alternative tax rates of 2.9 per cent for life insurance contracts and 3.8 per cent for non-life insurance contracts;
2. The commissioner shall refund to each insured the excess taxes paid under protest over and beyond the taxes imposed by the proposed premium tax legislation; and
3. All authorized insurers entitled to the refund shall immediately reduce its premium rate to a point that effectively passes on to its insured the amount realized as a tax reduction.

Your Committee has amended the bill to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2418, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2418, H.D. 2.

Signed by all members of the Committee.

SCRep. 693-90 Finance on H.B. No. 2302

The purpose of this bill is to allocate 5 percent of the gross State general fund tax revenues, less adjustments, to the counties as grants-in-aid.

Under this scheme each county shall receive a set percentage of the allocation as follows:

| | |
|-----------------------------|------------|
| City and County of Honolulu | 50 percent |
| Hawaii County | 18 percent |
| Maui County | 18 percent |
| Kauai County | 14 percent |

Upon reviewing the comments of the Chair of the Intergovernmental Relations Committee of the Kauai County Council, your Committee notes that:

- (1) The counties require a predictable long-term and reliable revenue source to complement their need for long-range financial planning;
- (2) The revenue source provided must realistically accommodate the current needs of the counties; and
- (3) The distribution of moneys among the counties should not be based solely on the county's ability to generate the revenues, but more importantly, on the county's need for financial assistance.

It is the intent of your Committee that the counties also consider using the funds to develop an improved police telecommunications system.

The grants-in-aid scheme set forth in this measure meets the recommendations previously noted.

Your Committee has amended the bill by:

- (1) Specifying that the grants-in-aid received by the counties shall be utilized for highways, sewers, and infrastructure related improvements;

- (2) Requiring the county finance directors to submit to the Legislature, at least fifteen days prior to the convening of each regular session, a statement summarizing the expenditure of the grant-in-aid realized by the county under this provision for the prior year ending December 31st; and
- (3) Making technical, nonsubstantive revisions for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2302, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2302, H.D. 1.

Signed by all members of the Committee.

SCRep. 694-90 Finance on H.B. No. 2944

The purpose of this bill is to provide state income tax relief to all taxpayers.

This bill proposes to achieve this goal by:

- (1) Reducing the number of tax brackets to 4 with the lowest rate at 2 percent and the highest rate at 9 percent;
- (2) Increasing the standard deduction;
- (3) Combining the excise tax credit and food tax credit into a permanent food/excise tax credit; and
- (4) Eliminating the special tax rate for capital gains.

State income taxes have been lowered in each of the last three years. It is your Committee's understanding that the cumulative reduction in income taxes over the last four years has equaled \$325 million, not including the \$112.5 million general income tax credit enacted by the 1989 Legislature.

Specifically, taxes were reduced in 1987 by \$80 million to offset the increase in possible income taxes paid due to the State's adoption of the Federal Tax Reform Act of 1986. A further reduction occurred in 1988 through rate decreases of \$47 million and liberalization of the excise tax credit by \$5 million. Rates were again reduced in 1989 by \$54 million, the dependent care credit was liberalized by \$1.5 million, the renter's tax credit was liberalized by \$2.5 million, and a new medical service tax credit was added at an estimated worth of \$15 million.

It is estimated that the income tax reduction proposed equals \$40 million on a calendar year basis. Continued good growth combined with an expected surplus of some \$300 million as of June 30, 1990, leads your Committee to believe that another income tax reduction can be made without jeopardizing the state revenue base.

Your Committee's review of income tax law changes indicates that at the median income level of \$45,000, the effective income tax rate for a family of four has dropped from 7.2% in 1986 to 5.5% in 1989. The effective rate would be further lowered by this bill to 4.8%. Moreover, it is estimated that 8,000 more individuals will not have to pay taxes under this rate scheme.

This Administration proposal was compared by your Committee with the proposal made by the Tax Review Commission. Your Committee compared both proposals when they would be fully phased in--in fiscal year 1991-92--with some adjustments for inflation. The result is summarized as follows:

| | In Million Dollars | |
|---|------------------------------|-----------------------|
| | <u>Tax Review Commission</u> | <u>Administration</u> |
| Rates, Brackets, Standard Deduction and Capital Gains | \$ 79.0 | \$ 46.5 |
| Medical Tax Credit | 5.0 | 15.0 |
| Excise Tax Credit | 42.0 | 17.0 |
| Food Credit | 0 | 40.0 |
| Total | \$126.0 | \$118.5 |

Comparisons of the net tax to be paid by the taxpayer under the Administration proposal and the Tax Review Commission proposal were also reviewed. The Administration continues the use of the flat food tax credit and the medical services tax credit. On the other hand, the Tax Review Commission would convert these credits into disappearing tax credits. Although the Tax Review Commission proposal would increase the excise tax credit by adding some part of the food tax credit and the medical service tax credit, no taxpayer with an adjusted gross income of more than \$30,000 would be able to claim any of the credits. Some of the savings made by not giving the credits to individuals making more than \$30,000 are placed in the standard deduction and the brackets and rates. The result is that taxpayers do not do better under the Tax Review Commission proposal.

Your Committee further reviewed the rate and bracket structure of the two proposals. The Tax Review Commission proposal starts its rate with a 5.5% tax rate while the Administration's proposal starts its rates at 2% going next to a 6% tax rate. The middle rate used by the Tax Review Commission is 7.25%, while the Administration used 8%. Both proposals have a top rate of 9%.

A review of the two proposals indicates that the Tax Review Commission brackets, rates, standard deduction, and credits appear to be focused toward the lower income areas. The Administration proposal appears to be directed toward middle-income levels where more relief is necessary, since low-income individuals have received the greatest tax relief in the past three years. It also appears that the Administration proposal will allow smoother passage through the brackets and rates than the Tax Review Commission proposal which appears to result in a very large imposition of taxes at the first step.

Technical, nonsubstantive revisions have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2944, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2944, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 695-90 Finance on H.B. No. 1576

The purpose of this bill is to provide for an income tax credit or refund that is mandated by the State Constitution.

Testimony regarding the implementation and effect of this measure was submitted by the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee has amended this bill by:

- (1) Applying the general income tax credit for the taxable year 1990; and
- (2) Reducing the general income tax credit from \$100 to \$1.

Technical, nonsubstantive revisions have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1576, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1576, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 696-90 Agriculture on H.B. No. 2494

The purpose of this bill is to modify the restrictions placed on assignments of leases issued under Chapter 171 (Public Lands) and Chapter 166 (Agricultural Parks), Hawaii Revised Statutes (HRS).

Currently, under Section 171-36, HRS, no lease is transferable or assignable, except by devise, bequest, or intestate succession. However, with certain exceptions, the Board of Land and Natural Resources may approve the assignment and transfer of a lease to the corporate successor of the lessee subject to:

- (1) Review and approval of the considerations to be paid by the assignee; and
- (2) Payment of a premium by the lessee to the Board based on the amount of consideration for the assignment by cash, credit, or otherwise, less the depreciated costs of improvements and trade fixtures transferred to the assignee.

Under this bill, Section 171-36, HRS, would be amended to exempt the agricultural or aquacultural lease holder (under chapter 171) and the agricultural park lease holder (under Chapter 166) from paying the premium when the lease is transferred or assigned to the successor of interest. This exception is proposed because the financial institutions have denied loans to farmers leasing State lands. The institutions contend that the premium payment requirement jeopardizes their security and equity position on the mortgages for loans secured by leasehold interest in State lands.

Testimony from the Department of Land and Natural Resources (DLNR) indicated that the proposed exemption is:

- (1) Discriminatory because it singles out only certain type of leases; and
- (2) Questionable as to its legality.

The DLNR also indicated that their opposition to this bill is also supported by the Department of Transportation (DOT), who was not represented at the hearing.

Testimony from the Department of Agriculture (DOA), the Federal Land Bank of Hawaii (FLBH), and the Hawaii Farm Bureau Federation (HFBF) indicated they supported the intent of the bill, but recommended replacement of the

proposed language in Section 171-36 (a) (5) (E) with language developed by DOA in consultation with the DLNR, the DOT, the FLBH and the HFBB.

Upon review of the proposed amendment, your Committee has amended this bill by replacing the language on page 3, lines 5-9 with the following:

"provided that, with respect to State agricultural leases, in the event of foreclosure or sale, the premium, if any, shall be assessed only after the encumbrances of record and other advances which were made by the holder of such encumbrances are paid;"

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2494, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2494, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 697-90 Finance on H.B. No. 2481

The purpose of this bill is to allow the Hawaii Public Broadcasting Authority (HPBA) to use moneys from the Hawaii Public Broadcasting revolving fund to hire temporary staff, who would be exempt from civil service and compensation law.

Your Committee received testimony in support of this bill from the Department of Commerce and Consumer Affairs. The Department stressed the fact that the work load associated with producing HPBA programs often exceeded the capabilities of the limited permanent staff and additional temporary staff was needed to continue the production of these public television programs.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2481, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2481, H.D. 1.

Signed by all members of the Committee.

SCRep. 698-90 Consumer Protection and Commerce and Intergovernmental Relations and International Affairs on H.B. No. 2531

The purpose of this bill is to amend Section 281-31, Hawaii Revised Statutes, to provide that a hotel liquor license also authorizes the licensee to provide professional entertainment on the hotel premises, and with the approval of the liquor commission, to provide off-premises catering directly related to the licensee's operation as a hotel.

Your Committees heard testimony in favor of this bill from the Hawaii Hotel Association (HHA) and several hotel representatives. The HHA testified that the bill would clarify present hotel operations, to provide for a uniformity of operations in the hotel industry, and to allow hotel licensees the ability to provide normal hotel operations without having to get separate approvals from the Liquor Commission for entertainment, catering, etc., as is presently the case. The hotel representatives testified that this bill would clarify the appropriate services hotels may provide on a statewide basis.

Your Committees noted that this bill simply clarifies the types of services hotels may provide under their current hotel liquor license. Your Committees have also made a technical, nonsubstantive change for purposes of style and clarity.

Your Committees on Consumer Protection and Commerce and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 2531, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2531, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 699-90 Consumer Protection and Commerce and Intergovernmental Relations and International Affairs on H.B. No. 2733

The purpose of this bill is to amend Section 281-17, Hawaii Revised Statutes, to allow the liquor commissions to issue licenses to specific establishments contingent upon their closing earlier than the times specified by statute for their class of license, with the consent of the licensee.

Your Committees heard testimony in favor of this bill from the Honolulu Liquor Commission (HLC), the Kauai Liquor Control Commission (KLCC), and the Hawaii Hotel Association (HHA). The HLC testified that this bill would give Liquor commissions more discretionary power. The HLC also requested broadening of their discretionary power by deleting that part of the bill requiring concurrence of the licensee.

The KLCC testified that this bill would help them in situations when the establishment requests a license adjacent to residential areas of units and the residents in the area object to the issuance of the license primarily because of their concern for the potential problems associated with late hours of operation. Further, KLCC testified that this bill would

allow the commission to issue the license, with the establishment's agreement, contingent on an earlier closing time. The KLCC informed your Committees that the Maui and Molokai Liquor Commissions also supported this bill.

The HHA testified that they presumed this change is needed only when a compromise is necessary for approval, since a licensee may already choose to close early.

The Hawaii Food and Beverage Association (HFBA) and the Hawaii Restaurant Association (HRA) opposed this bill. The HFBA testified that a licensee may already curtail its hours without the concurrence of the liquor commission. The HFBA suggested that the liquor commissions be allowed to "extend" rather than "curtail" the hours with the concurrence of the licensee to allow the commissions the ability to extend the hours of certain licensees in locations where it is logical to do so because of the tourist industry.

The HRA testified that this bill would provide the liquor commissions with the power to coerce a cabaret liquor licensee to comply with modifications of requirements already established by state statute for this category of license. The HRA testified that it was their understanding that the liquor commissions already set the hours for all other classes of licensees.

Your Committees felt that the amendment would provide the liquor commissions with desirable flexibility to issue licenses contingent to earlier closing hours to establishments such as restaurants in residential areas which may not be able to obtain a license because of opposition from the residents. Your Committees also note that this bill is not intended to be used for coercive purposes.

Your Committees on Consumer Protection and Commerce and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 2733 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 700-90 Consumer Protection and Commerce and Judiciary on H.B. No. 3123

The purpose of this bill is to amend Sections 489-2 and 489-3, Hawaii Revised Statutes, by providing more clarity in the scope of coverage in places of public accommodation.

Your Committees heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs (DCCA), the Department of Health (DOH), the Commission on Persons with Disabilities (Commission), the Governor's Committee on AIDS (GCA), the Hawaii Centers for Independent Living (HCIL), Paralyzed Veterans of America (Veterans), the Life Foundation (Foundation), the Hawaii Public Health Association (HPHA), the Protection and Advocacy of Hawaii (PAA), the American Civil Liberties Union of Hawaii (ACLU), and concerned citizens. These groups testified that this bill would further strengthen the laws that allow for people with physical and mental disabilities to become more fully integrated into society.

The DCCA and DOH testified that they believed the current statute is specific, but that controversies have arisen. They believe that more health care providers adhere to the tenet of fair service and treatment; however, certain types of businesses or organizations have excluded members of the protected classes arguing that the statute did not apply to them. The DOH stated that the health care providers in Hawaii have a duty to live up to their share of the responsibility for the health of the community and to the expectations of our people for caring and compassionate service.

The GCA, the ACLU, and the Foundation testified that there was a particular problem of dental services for persons with HIV infection and that a clarification that medical and dental offices are covered under existing anti-discrimination laws is needed because of an opinion received from the Attorney General's Office. The Attorney General indicated that while such offices may be covered, that this was not conclusive.

Further, the DOH and the Commission noted that the Americans with Disabilities Act, which is expected to be passed by the U.S. Congress, will require that existing places of public accommodation remove architectural barriers when such alterations are readily achievable for the business entity.

This bill, as amended, will conform with existing federal legislation. Your Committees emphasize that this bill will serve merely to clarify the existing statute.

Your Committees have amended this bill as suggested by the Commission, HCIL, and Veterans to delete lines 13-15, page 3 because this section of the statute contradicts two other sections of the statutes, section 347-13 and 103-50.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 3123, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3123, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 701-90 Consumer Protection and Commerce and Judiciary on H.B. No. 3381

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes that will provide consumers with protection when they purchase used vehicles.

The Department of Commerce and Consumer Affairs (DCCA) testified that this bill was created from the study prepared by DCCA which reported on the problems experienced by consumers when purchasing used motor vehicles. DCCA

testified that this bill appears to attempt to protect used vehicle buyers from everything, including private as well as dealer sales, but that the coverage in the bill is so broad that enforcement would be difficult. DCCA suggested that the study's other recommendations be given due consideration:

- (1) Amend HRS 437-28 to provide for a specific violation in the event that FTC law is violated;
- (2) Amend HRS 437-6 to provide the Board with authority to create and implement a Hawaii Used Vehicle Buyer's Guide to supplement or replace the FTC's Buyers Guide;
- (3) Amend Chapter 437 to provide for a 72 hour return rule if a mechanical defect is found;
- (4) For DCCA, with the cooperation from the motor vehicle industry, to work on an education program for consumers;
- (5) Commence with affirmative enforcement of certain laws regulating sales practices;
- (6) Amend Chapter 437 to provide for a buyer's unqualified right to rescind the sales contract within 72 hours of the sale if the vehicle is left with the dealer; and
- (7) Amend Chapter 437 to provide for a licensing examination of all salespersons on federal and state laws regulating motor vehicle sales.

The Motor Vehicle Industry Licensing Board (Board) testified in agreement with the purpose and intent of the bill. The Board also testified that it was concerned about the ability to enforce all the provisions of the bill.

The Hawaii Automobile Dealers' Association (HADA) opposed this bill because they believed that private sellers should be called on to meet the same requirements as a dealer and was also concerned about enforcement of the bill provisions. The HADA representative further testified that for the past seven years it has maintained a consumer complaint program and thus far had very few complaints regarding used cars. Consequently, HADA believed that no problem exists.

Your Committees have amended the bill to reflect the changes formulated by the DCCA, the Board, and the HADA as follows:

- (1) To provide for a 72 hour return rule if a mechanical defect is found in the vehicle;
- (2) Dealers are prohibited from reselling the trade-in vehicle for the 72 hour period in case the buyer returns the vehicle; and
- (3) Dealers must refund the full purchase price including general excise tax, less a reasonable allowance for wear and tear, if the consumer did not have a trade-in vehicle.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 3381, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3381, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 702-90 Consumer Protection and Commerce and Judiciary on H.B. No. 2532

The purpose of this bill is to amend Section 554A-8, Hawaii Revised Statutes, to make the Uniform Trustees' Powers Act applicable to trusts established prior to 1985.

The Corporate Trustees' Association (Association) testified in favor of this bill stating that the Uniform Trustees' Powers Act enumerates the standard powers needed by a modern trustee to administer a trust properly. However, many older trust documents do not contain the trust powers routinely set forth in modern trust agreements. Further, the Association stated that the powers granted by this bill will not override specific provisions to the contrary in a particular trust document, it will only add powers to a trustee where the trust agreement is silent on a particular issue. The Association indicated that this issue has been discussed with the Hawaii Bar Association, the Attorney General's Office, and a Probate Judge of the First Circuit Court, all of whom did not object to the bill.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2532 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 703-90 Consumer Protection and Commerce on H.B. No. 2412

The purpose of this bill is to amend Chapter 466K, Hawaii Revised Statutes, by conforming this chapter to the federal law in this area.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs (Department), the Society of Real Estate Appraisers (Society), and the Hawaii League of Savings Institutions (HLSI).

The Department testified that this bill was created in response to the enactment of federal law which required that by July 1, 1991, only state certified appraisers could be used for appraisals of federally related transactions. The Department pointed out that if the State did not create standards, there would be a severe impact on the processing of federally related transactions through financial institutions.

The minimal framework set forth in Chapter 466K, placed the regulation of real estate appraisers within the Department. This bill requires certification of real estate appraisers who perform appraisals in connection with federally related transactions, and would not impact persons who do appraisals on non-federally related transactions.

This bill does not contain specific criteria or standards for certification and regulation of real estate appraisers because the Department finds it necessary to pattern State regulation of real estate appraisers pursuant to federal regulations. The Department further testified that this bill includes a provision for the Director of the Department to have an advisory committee to lend assistance to the implementation and maintenance of this new regulatory program.

The Society testified that federally related transactions include many types of transactions. The Society also testified that they would prefer to have an independent real estate appraisal board, but that they understood that a board would require budgetary considerations by the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2412 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 704-90 Consumer Protection and Commerce on H.B. No. 2391

The purpose of this bill is to amend Sections 490:2-313.1 and 490:2-313.2, Hawaii Revised Statutes, by clarifying the definition of a "new motor vehicle" and also clarifying the conditions under which a trial de novo can be requested following an arbitration award.

The Department of Commerce and Consumer Affairs (DCCA) requested these amendments to address problems that have arisen during the first year of operation of the State Certified Arbitration Program (SCAP). These problems are related to:

- (1) The lack of clarity as to whether mopeds, motorcycles and motor scooters are included in the definition of "motor vehicle". (The amendment clarifies the definition of motor vehicle and specifies that these vehicles are not included).
- (2) The fact that Section 490:2-313.1 (d), Hawaii Revised Statutes, states that "...the submission of any dispute to arbitration shall not limit the right of any party to a trial de novo..." when Section 490:2-313.2 (c) provides that the consumer can elect binding arbitration. The result has been frustration and significant expense for customers who had elected arbitration believing that the result would be binding, then having the manufacturer file for a trial de novo when they did not like the results of arbitration. (The amendment to Section 490:2-313.2 (d) would specify that a demand for a trial de novo is restricted to cases where the consumer had elected non-binding arbitration. Binding arbitration would be subject only to court review of allegations of irregularities in the arbitration proceedings, and not of the parties' cases.)
- (3) The absence of instructions in the section as to whom a demand for trial de novo can be made. (The amendment specifies that the demand should be made to "the opposing party to the arbitration.")

The Motor Vehicle Industry Licensing Board concurred with the bill and recommended its approval.

The Hawaii Automobile Dealers' Association did not object to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2391, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 705-90 Consumer Protection and Commerce on H.B. No. 2524

The purpose of this bill is to amend Section 431:10C-103, Hawaii Revised Statutes, to specifically include expenses incurred for chiropractic services as one of the coverages under the personal injury protection benefits of the "no-fault" law.

The Department of Commerce and Consumer Affairs testified that no-fault insurers routinely pay for chiropractic services and that the proposed amendment may not be necessary.

The Department of Health did not oppose the intent of the bill but felt that this was a matter for the chiropractors to work out with the carriers.

The Hawaii State Chiropractic Association, Inc. (Association), testified that there were several cases where carriers had initially denied coverage for chiropractic services under the no-fault coverage law and covered these services only after adjudication by the courts or the Insurance Division. The Association also noted that since the statute did not specifically cover chiropractic services, it was conceivable that the Insurance Division could determine that chiropractic services were

no longer considered "medical care" and requested this bill to assure coverage for chiropractic services under the no-fault law and to avoid cases such as those described.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2524 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 706-90 Consumer Protection and Commerce on H.B. No. 2482

The purpose of this bill is to amend Section 455-8, Hawaii Revised Statutes, by eliminating the continuing education requirement for naturopathic physicians.

Your Committee heard testimony in favor of this bill from the Board of Examiners in Naturopathy (Board). The Board testified that it agreed with the 1987 Legislative Auditor's recommendation that the requirement for continuing education was unnecessary. The Board also studied this issue and concluded that no correlation could be found between continuing education and competency.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2482 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 707-90 Consumer Protection and Commerce on H.B. No. 2483

The purpose of this bill is to amend Chapter 461, Hawaii Revised Statutes, by clarifying the licensing requirements for pharmacists.

Your Committee heard testimony in favor of this bill from the Board of Pharmacy (Board). The Board testified that this bill would clarify licensing for pharmacists by:

- (1) Establishing 2,000 hours of supervised practical experience as the minimal work experience requirement. This change was made to allow candidates for licensure to qualify in less than one year because 2,000 hours is the average working hours in a calendar year;
- (2) Deleting Section 461-5(b), Hawaii Revised Statutes, which would no longer be applicable if the proposed amendments to Section 461-8.5 is adopted;
- (3) Establishing provisions for pharmacists licensed in another state, not eligible for reciprocity, to be eligible for a temporary license. The temporary license would allow a candidate for licensure to be employed while waiting for the next scheduled examination;
- (4) Allowing holders of expired licenses to reinstate their license by paying current license fees and penalty fees, if applicable, in order to encourage these persons to return to work;
- (5) Authorizing the Board to adopt rules, pursuant to Chapter 91, to establish licensure requirements for pharmacists with expired licenses and for pharmacists seeking reciprocity who have not engaged in the practice of pharmacy for more than five years preceding the date of application; and
- (6) Establishing an additional requirement for pharmacists seeking license by reciprocity to document proof of at least 2,000 hours of practice as a registered pharmacist within five years preceding the date of application.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2483 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 708-90 Consumer Protection and Commerce on H.B. No. 2516

The purpose of this bill is to amend Section 431:10D-205, Hawaii Revised Statutes, by expanding the definition of groups eligible for obtaining group life insurance in Hawaii.

The Hawaii Insurance Consultants, Ltd. (HICL), a general insurance agency, supported the deletion of this requirement to allow any bona fide association of small employers, regardless of industry, to qualify for the benefits of group insurance, that is, lowering rates and being able to obtain coverage on a "guaranteed issue basis". The HICL representative further testified that this bill would permit the issuance of group insurance to trust funds established by two or more employers in any industry, thereby allowing any bona fide association of small employers, regardless of the industry, to qualify. The representative pointed out that this bill would give them an opportunity to provide true group insurance at reasonable rates.

The General Agents and Managers Association of Hawaii (GAMAH) questioned the assumption that an association of employers from different industries could obtain favorable group insurance rates because of the higher risk of diverse groups. The GAMAH representative testified that the intended result of having a small diverse risk group may be counter

productive because premiums would necessarily be higher for the group to take into account the unpredictable nature of these risks.

The Insurance Commissioners's Office did not see a problem in this bill and did not see any reason to oppose it.

The National Federation of Independent Business requested the passage of this bill to enable small employers to provide group life insurance coverage to their employees, which they felt would help them in their efforts to attract and retain employees at a time of labor shortage in Hawaii.

Your Committee believes that this bill may provide some help to small employers while not creating any foreseeable problem for the public. Your Committee also believes that the practical effect of this bill will affect group insurance rates for small employers, and that its affect should be a business decision to be made by the employers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2516 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 709-90 Consumer Protection and Commerce on H.B. No. 2480

The purpose of this bill is to amend Section 443B, Hawaii Revised Statutes, to allow the Department of Commerce and Consumer Affairs (DCCA) to regulate collection agencies more effectively.

The DCCA testified in favor of this bill in order to have tighter control over the registration and disciplining of collection agencies in the event of violations (including the hearing and restoration processes for registrants). The amendments would also:

- (1) Establish the fiduciary responsibility of each collection agency to keep and disburse funds collected for its clients according to any agreement made with its clients and all applicable laws;
- (2) Require the availability of records;
- (3) Allow the Director of the DCCA to order an audit when there is a reasonable cause to believe that the agency may be committing or has committed fraud or theft;
- (4) Prohibit individuals from misleading debtors to believe that they are collection agencies;
- (5) Reference Section 16-53-26.3, Hawaii Administrative Rules, to be able to update fees rather than defining them in the statute;
- (6) Delete the requirement that clients' funds be kept in Hawaii;
- (7) Allow collection agencies to offset any money due them against any moneys due to their clients; and
- (8) Prohibit the collection of other forms of indebtedness by means of any threat or coercion.

The DCCA believes that collection agencies support the proposed amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2480 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 710-90 Consumer Protection and Commerce on H.B. No. 2310

The purpose of this bill is to amend Section 102, Hawaii Revised Statutes, to broaden the bid deposit requirements for concessions on public property to include all credit union instruments.

The Hawaii Credit Union League requested the addition of credit union instruments (share certificates, cashiers' checks, certified checks and teller's checks issued by a credit union) as acceptable under Section 102, Hawaii Revised Statutes, to support bids for concessions on public property. (In 1988, the Legislature had approved share certificates with credit unions as acceptable for the support of bids for public contracts.)

The Department of Commerce and Consumer Affairs does not perceive that this change would be a threat to the safety and soundness of credit unions and does not object to the passage of this bill.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2310, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 711-90**Consumer Protection and Commerce on H.B. No. 2295**

The purpose of this bill is to require charitable organizations, professional fund-raising counsel, and professional solicitors to file an annual report with the State and to require the Director of Commerce and Consumer Affairs to publish an annual listing of information relating to charitable organizations, professional fund-raising counsel, and professional solicitors.

Your Committee received testimony in favor of this bill from the Department of Commerce and Consumer Affairs (DCCA). The DCCA testified that, recently, concern has arisen over the fund-raising activities of professional fund-raising counsel and professional solicitors who assist charitable organizations with their fund-raising campaigns which reach thousands of people and have the potential of raising large amounts of money for charitable organizations.

Your Committee also heard testimony on a related bill, H.B. No. 2484. The Honolulu Police Department favored this bill because the potential for abuse by professional solicitor of raised funds is tremendous.

Your Committee believes that the enforcement remedies regarding the fund-raising activities of professional fund-raising counsels and professional solicitors who assist charitable organizations with their fund-raising need to be strengthened. The amendments proposed in this bill are designed to provide greater information to the public as to the activities of professional fund-raising counsel and professional solicitors in order to allow consumers to make informed choices regarding their decision to donate money to worthy causes as well as to prevent fraud.

Your Committee has combined some of the substantive provisions of H.B. No. 2484, also heard by your Committee, into this bill, and has amended the bill as follows:

- (1) Amended the provisions requiring professional fund-raising counsels and professional solicitors to file agreements with the DCCA to exclude those who are compensated by a flat fixed fee. The abuses in the charitable solicitation arena come from those who impose exorbitant fees based on a percentage of gross receipts or pledges or similar practices. The donor usually has no knowledge that the bulk of their donation is going to the professional fund-raising counsel or professional solicitor and erroneously believes that the donation is going to the charitable organization. By requiring the disclosure of percentage fee or compensation agreements, the public will have access to the information and can make an informed choice when donating money;
- (2) Added a definition of "flat fixed fee" which provides that the fee is to be based on a flat rate or a specified rate times a time period which can be hourly, daily, or annually, but not otherwise;
- (3) Amended the provision requiring the production of an audited financial statement upon the request of the director to exclude professional fund-raising counsel and professional solicitors who are compensated by a flat fixed fee. The amendment follows the prior amendment to exempt those compensated by a flat fixed fee from filing agreements with the DCCA. An unchanged provision extends the director's authority to examine the books and records of a charitable organization to those of the professional fund-raising counsel and professional solicitor. The director, under H.B. No. 2295, H.D. 1, will have the authority to examine the books and records of all professional fund-raising counsel and professional solicitors, to ascertain compliance with the statutes and rules;
- (4) Amended the publication requirement to delete publication of financial information as that information is not readily available and does not yield itself to the type of notice specified, i.e. a listing. The publication requirement remains for the names of the charitable organizations, professional fund-raising counsels and professional solicitors registered with the DCCA and the public can view the filings of those registered before making donations;
- (5) Deleted provisions amending the registration process. The registration process needs to be reviewed by the DCCA in its entirety to determine the most efficient methods to meet the competing interests of rapid registration, thorough review and continuous registration. The DCCA is expected to bring to the 1991 Session of the Legislature any changes which should be made to improve the registration process;
- (6) Added a provision to clarify that the director may ask any entity registered under Chapter 467B, Hawaii Revised Statutes, to provide information to the DCCA regarding its activities; and
- (7) Added a provision to clarify that the failure to comply with Chapter 467B, Hawaii Revised Statutes, is a violation of stated public policy and therefore a violator would commit an unfair and deceptive act or practice in violation of Section 480-2.

Your Committee believes that, as amended, this bill strengthens the laws relating to solicitation of funds and empowers the DCCA to effectively enforce against fraudulent practices in the area.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2295, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 712-90**Consumer Protection and Commerce on H.B. No. 2311**

The purpose of this bill is to broaden the bid deposit requirements for public contracts to include cashiers' checks, certified checks, and tellers' checks issued by a credit union.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs, Division of Financial Institutions; the Department of Accounting and General Services; the Hawaii Credit Union League; and the Construction Industry Legislative Organization. The Department of Commerce and Consumer Affairs does not perceive that this change would be a threat to the safety and soundness of credit unions. A representative from the Hawaii Credit Union League testified that both the public and the government would benefit by the passage of this bill because the bidding process would be opened up to more people who may want to use credit union instruments as bid deposits.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2311, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2311, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 713-90**Consumer Protection and Commerce and Judiciary on H.B. No. 3128**

The purpose of this bill is to amend Chapter 286, Hawaii Revised Statutes, by allowing fleet operators of U-Drive vehicles to substitute vehicle registration certificates and no-fault identification cards with forms approved by the Director of Finance.

Your Committees heard testimony in favor of this bill from the Car and Truck Renting and Leasing Association (CATRALA). The CATRALA representative testified that the concept of fleet plates was established a number of years ago to eliminate the problem that occurred during annual registration which required locating the right vehicle to affix the new decal, license plate, or place the registration card therein. Fleet plates were created as a permanent plate for that vehicle and are limited in use by the owner or lessee of 25 or more vehicles and require the trademark or company logo to be displayed on either side of the vehicle. For the U-Drive industry, which recycles its vehicles out of the State at least two times per year, turning in the plate for credit on the unused portion of the registration fee and the issuance of new plates for the new U-Drive vehicle creates many transactions. (They estimate that this recycling will generate 80,000 transactions per year, 40,000 new cars to be registered and 40,000 cars shipped out of the State.) The representative further testified that CATRALA believes that the use of fleet plates will save the county and the fleet U-Drive companies considerable amount of time and effort in the registration process of U-Drive vehicles.

The Department of Commerce and Consumer Affairs, Insurance Division (DCCA), and the City and County of Honolulu, Department of Finance (City and County), were opposed to this measure. DCCA's testimony was limited to the no-fault cards. DCCA testified that the bill did not amend the requirement that insurance companies issue identification cards for each vehicle insured; that the substituted form, among other things, required the name of the insurer and telephone number only; that no-fault insureds are required to return no-fault cards when policies are cancelled; and that the purpose of the bill can be achieved by deleting all reference to no-fault cards.

The City and County representative testified that license plates are used to identify a specific vehicle under actual traffic conditions. Further, if the U-Drive companies can arbitrarily assign a license plate to any vehicle, the county licensing offices and law enforcement personnel will not be able to identify a vehicle until after seven days when the U-Drive is required to report the transfer of such plates. The amendments in Sections 2 and 3 of the bill were opposed because it did not identify the vehicle or its registration and no-fault insurance status. This is a concern because tourists take the certificates of registration and no-fault insurance identification cards from U-Drive vehicles as souvenirs.

The City and County suggested that this bill be amended to allow the issuance of temporary motor vehicle plates by U-Drive companies for any new unlicensed vehicles which they may put into service similar to the provisions contained in Section 286-53, Hawaii Revised Statutes, relating to new motor vehicle dealers; and to amend Sections 2 and 3 by authorizing U-Drive vehicles to carry facsimile copies of the current certificate of registration and current no-fault insurance identification card in their vehicles rather than the original documents.

Your Committees have amended this bill by:

- (1) Allowing rentals and U-drives to use temporary "paper plates" as are used on new motor vehicles purchased from manufacturers or dealers and
- (2) Allowing rentals and U-drives to use facsimiles of the original certificate of registration and original no-fault insurance certificate, as suggested by the above stated parties.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 3128, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3128, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 714-90**Consumer Protection and Commerce on H.B. No. 2026**

The purpose of this bill is to repeal subsections (b)-(d) of 431:16-218, Hawaii Revised Statutes, which require life insurers to provide a disclosure notice to policyholders that their policy may be only partially covered or may not be protected at all by the Hawaii Life and Disability Insurance Guaranty Association (HLDIGA).

The Department of Commerce and Consumer Affairs (DCCA), through the Insurance Commissioner, testified that there is currently an inherent conflict between the sections to be repealed and subsection (a), which prohibits advertising of the HLDIGA in an insurance sales situation. The DCCA recommended deletion of the title section "notice to policyholders" and supported passage of the bill.

Testimony in favor of the bill was also submitted by a general agent for Beneficial Life Insurance Company, the Hawaii State Association of Life Underwriters, an independent life insurance agent, and the Hawaii Association of Domestic Life Insurers. All cited current statutory language, which could allow an agent to deliver the required summary to a potential policyholder prior to the delivery of a policy and thus be used in the sales process.

Testifying for repeal of the entire section, including subsection (a), was the president of Grand Pacific Life Insurance Company. He felt that the consumer has a right to know that the HLDIGA exists and that an agent should not be prohibited from appropriately disclosing that information.

Your Committee agrees with the testimony that subsections (b)-(d) are in conflict with subsection (a). While also agreeing that the HLDIGA should not be used as a sales "tool", we do realize that there are appropriate situations where the consumer may raise legitimate questions that require an explanation of the purpose of the HLDIGA. The Insurance Commissioner stated that the statute would not be violated if an insurance agent was to explain the purpose and limitations of the HLDIGA at the request of a consumer and not for the purpose of sales, solicitation, or inducement to purchase insurance. Your Committee concurs with this opinion.

The bill is amended by deleting the phrase, "notice to policyholders" from the title of Section 431:16-218.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2026, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2026, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 715-90

Consumer Protection and Commerce on H.B. No. 3121

The purpose of this bill is to amend Section 454-3, Hawaii Revised Statutes, (HRS) to return the bonding requirement to \$15,000 from \$50,000 for companies who function solely as mortgage brokers.

During the Fifteenth Legislature, Regular Session of 1989, mortgage bankers were deleted from coverage under Section 454D, HRS, ("Mortgage and Collection Servicing Agents") and left solely under Section 454, HRS, ("Mortgage Brokers and Solicitors"). At that time, the bonding requirements under Section 454 were increased from \$15,000 to \$50,000 resulting in consistent bonding requirements for mortgage brokers and solicitors, as well as mortgage bankers.

Mortgage broker companies explained the problems that they have been having in obtaining the bond and expressed their feeling that the increased bonding requirement was inappropriate given the limited funds that they handle.

The Mortgage Bankers Association of Hawaii opposed the bill because they believed that a \$15,000 bond did not afford protection to consumers; a result of the high mortgage loan amounts required in Hawaii today.

The Department of Commerce and Consumer Affairs ("DCCA") opposed the reduction of the bonding requirement for mortgage brokers to \$15,000 because of reservations regarding the bill. These include:

- (1) Concerns about the lack of clarity regarding the definition of "mortgage broker" in Section 454;
- (2) The need for higher bond limits to protect consumers in the event of such occurrences as misrepresentation which may cause a prospective homeowner from losing his/her earnest money which may be a significant amount because of today's high mortgages;
- (3) The fact that the former \$15,000 bond was outdated as it was set in 1967; and
- (4) The feeling that consumer complaints may be increasing in this area.

Your Committee believes that given the fact that mortgage brokers handle far smaller sums than the other groups covered under Sections 454 and 454D, it would be appropriate to return the bonding requirement to \$15,000 for mortgage brokers who do not function in the other areas (eg. mortgage collections and servicing). Your Committee awaits the results of a study being conducted by the DCCA analyzing all of the bonding requirements falling under the Department. It is anticipated that this study will help your Committee and the Legislature as a whole to approach bonding matters on a more consistent and systematic basis in the future.

The language of the amendment has been modified for greater clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3121, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3121, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 716-90 Consumer Protection and Commerce on H.B. No. 2527

The purpose of this bill to amend Section 480-1, Hawaii Revised Statutes, by changing the definition of "consumer".

Your Committee heard testimony in favor of this bill from an attorney in private practice. He testified that the reference to "investors" in the definition of "consumer" has been subject to two Ninth Circuit Court of Appeals cases, both of which held that the Legislature did not intend that investment matters were covered in antitrust cases. He further stated his view that the inclusion of investors in either a consumer protection or antitrust act created a paradox, since investment matters are subject to Chapter 485 and, therefore, investment matters should not be intermingled in an antitrust or consumer protection law.

The Department of Commerce and Consumer Affairs (DCCA), the Honolulu Police Department (HPD), and another attorney in private practice opposed this bill.

The DCCA testified that the definition of "consumer" in Chapter 480 was part of a distinct approach to consumer protection and that the word "investment" was not restricted to securities, but includes other types of ventures.

The HPD testified that this bill would reduce the civil liability of a suspect, would reduce the consumers ability to recover treble damages, and would limit lawsuits against suspect businesses.

Background information was given for the definition by an attorney who stated that when the definition of "consumer" was formulated, the Office of Consumer Protection (Division of DCCA) wanted to insure that people who had invested in bogus financial schemes would be covered by Section 480-2. An example is the Ronald Rewald investment case. He further stated that although he believed that businesses fighting other businesses should not be able to use consumer fraud statutes against one another, unsophisticated and potentially gullible consumers should be protected from investment fraud situations by recourse to the remedies in Section 480-2.

Your Committee believes that one of the purposes for the definition of "consumer", as formulated in Section 480-2, was to address the consumer investment fraud situation, such as the Rewald situation. However, the language of the definition may be overbroad and not limited to situations of investment fraud schemes to consumers. Therefore, your Committee has amended the bill by inserting the word "personal" before the word "investment" to clarify that the provision is to protect individual consumers, rather than businesses. Technical, nonsubstantive changes have also been made for purposes of clarity and style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2527, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2527, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 717-90 Consumer Protection and Commerce on H.B. No. 3125

The purpose of this bill is to amend Section 437D-13, Hawaii Revised Statutes, by amending one of the disclosure requirements of the Motor Vehicle Rental Industry Act enacted in 1988.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs (DCCA), the Department of Transportation (DOT), the Department of Health (DOH), and a representative from Car and Truck Renting and Leasing Association (CATRALA).

The DCCA testified that under current law, a notice must be placed in every rental motor vehicle which informs the lessee of the requirements and penalties of Hawaii's seat belt and child passenger restraint laws, and the prohibition against and the penalties for drunk driving.

The DOT testified that it had received many complaints from tourists that they were not aware of Hawaii's seat belt law. DOT further testified that it has supplied rental car agencies with decals, which are easily placed on car dashboards, stating the state law for seat belt and child restraints, but the decals do not state penalties.

The DOH testified that the use of seat belts and child restraints have been effective in reducing the number and severity of motor vehicle injuries and fatalities, but that Hawaii's visitors are not aware of our laws. The DOH was concerned about the type size of the decals, stating that if very small print was used on the labels, it would defeat the educational purpose of the decal.

The CATRALA representative stated that the implementation of the "permanently affixed" notice on rental vehicles created a number of problems. CATRALA believed that a decal affixed to the interior of a vehicle and the insertion of a card outlining the details of the seat belt and drunk driving law in the glove compartment could satisfy this requirement. CATRALA believed that "permanently affixing" a notice would necessitate reprinting the entire statute and would create further problems.

Your Committee has thereby amended the bill by incorporating the suggestions from DCCA and DOH that the minimum type size of the decal be retained and to delete both references requiring notice of the penalties on the decal itself. Your Committee also believes that these amendments would serve as a reminder to Hawaii's visitors of our laws.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3125, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3125, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 718-90 Consumer Protection and Commerce on H.B. No. 2538

The purpose of this bill is to amend Article 14 of Chapter 431, Hawaii Revised Statutes, regulating insurance rating organizations and advisory organizations, and rate filings.

The Department of Commerce and Consumer Affairs, Insurance Division (Insurance Division), testified that the proposed amendments would lay the regulatory groundwork for rating organizations to make loss cost filings and would give the Insurance Commissioner authority to determine which lines of insurance must be filed on a loss cost basis. The Insurance Division further testified that while the various amendments define rating organizations and insurer responsibilities under a loss cost filing scheme, rating organizations are still permitted to file final rates.

As background, the Insurance Division stated that the proposed amendments are based on the Consolidated Casualty, Surety, Fire, Marine and Inland Marine Insurance Rate Regulatory Bill (Rate Regulatory Bill) prepared by the National Association of Insurance Commissioners (NAIC). Prompted by the perception that rate filings made by rating organizations constituted price-fixing, the NAIC spent the past year reviewing rating organizations to determine how their services affected competition and to develop a uniform position on their role in the industry. The result of the NAIC's review, formulated in the Rate Regulatory Bill, is a filing system whereby rating organizations continue to collect loss claims experience and loss expenses data and to make loss cost filings for insurers based on that data. However, insurers are required to file their own final rates by taking into account their own administrative expenses and profit loading.

Section 2 of the bill proposes to add a new section 431:14-104.5, providing in part that insurers shall make new rate filings whenever the rating organization makes a loss cost filing reducing the loss cost data then on file. The Insurance Division testified that under the loss cost system, insurers will file modifiers to the rating organization's loss cost filing. The modifiers, which will take into account the insurers' administrative expenses and profit loading, will be a factor by which the loss cost data will be multiplied. The Insurance Division suggested that subsection (c) is unnecessary because the rates of those insurers using an organization's loss cost data would automatically be adjusted when a new loss cost filing is made.

Section 14 of the bill proposes to delete Section 431:14-111, HRS relating to advisory organizations from the rating law. However, the Insurance Division submitted that advisory organizations do provide a service distinct from rating organizations, especially in the area of motor vehicle rate filings, and, therefore, Section 431:14-111 should be retained in the law. The Insurance Division noted that keeping advisory organizations in Article 14 will entail technical revisions in other parts of the bill to include references to advisory organizations where appropriate.

The Insurance Division, in accord with members of the domestic insurance industry, the Hawaii Insurance Rating Bureau, and the Insurance Services Office submitted the following amendments to the Bill:

1. The definition of "developed losses" found in Section 1 of the bill be amended to conform to the language in the NAIC Rate Regulatory Bill and to read:

"Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss (including loss adjustment expense) payments."
2. The definition of "prospective loss costs" found in Section 1 of the bill be amended to make the definition more technically accurate, and to read as follows:

"Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profits, and are based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time."
3. Section 2 of the bill proposes a new section 431:14-104.5 which in part would mandate insurer adherence to an organization's loss cost filings. It is proposed that the new provisions relating to insurer adherence to a loss cost filing, found in subsection (b), be deleted from the bill. Requiring insurers to adhere to its organization's loss cost filings would prohibit the insurer from filing rates based on its own loss cost data. In those instances that an insurer's data is better than that filed by a rating or advisory organization, the insurer should be permitted to use its own information.
4. Section 5 of the bill proposes to add a section 431:14-107.3 to the rating law prohibiting organizations from compiling or distributing advisory rates that include expenses or profit. However, Section 3 of the bill permits organizations to compile data regarding prospective loss costs, including "loss adjustment expenses", and that exception should be specifically noted in Section 5.
5. Section 12 of the bill proposes in part to amend Section 431:14-113, to provide that the organization examined and its officers shall be subject to criminal penalties for giving the Insurance Commissioner or the Insurance Division's examiners flawed information in the course of a financial examination. The insurance

law codification completed in 1987 attempted to eliminate all criminal penalties from the Insurance Code, and it would be inappropriate to include such a provision now.

6. Sections 3, 4, and 5 of the bill propose new sections to Article 14 which relate to rating organizations' permitted and prohibited activities. It is recommended that the new sections proposed, designated Sections 431:14-107.5, 431:14-111.1, and 431:14-111.2, most appropriately follow the general rating organizations provisions found in Section 431:14-107, and should accordingly be renumbered to Section 431:14-107.1, 431:14-107.2, and 431:14-107.3, respectively.

The Hawaii Independent Insurance Agents Association (HIIAA) also presented testimony in favor of the bill. The HIIAA requested that in keeping with the developments on the national level, that the Hawaii Insurance Rating Bureau be required to include insurance agents on its Board of Directors. In response to that recommendation, the Hawaii Insurance Rating Bureau indicated that the actions of the Insurance Services Office in permitting insurance agents and non-industry members to sit on its Board of Directors were purely voluntary. The Bureau further stated that its organization will continue to function as a rating bureau for the purpose of filing final rates and having an agent on the board would present a conflict of interest for the agent.

Your Committee believes that Article 14 of Chapter 431, should be amended to permit insurance rating organizations to make loss cost filings and to give the Insurance Commissioner the authority to phase the loss cost filing system gradually by determining, as appropriate, which lines of insurance shall be filed on a loss cost basis. Your Committee also finds that the rating law should govern advisory organizations, and has deleted Section 14 of the bill in accordance with the recommendation of the Insurance Division. Subsequent sections of the bill have been renumbered, and references to advisory organizations have been included throughout the bill where appropriate.

Your Committee further finds that Section 2 of the bill should be restricted to governing loss cost filing procedures, and has amended that section of the bill to delete both subsections (b) and (c) in accordance with the recommendations of the Insurance Division and the insurance industry groups. Your Committee believes the amendments proposed by this bill should conform to the NAIC's Rate Regulatory Bill where relevant and should also be technically correct. Accordingly, your Committee has amended the definitions of "developed losses" and "prospective loss costs" and the definition of "expenses" for the purposes of Section 5 of the bill pursuant to the suggestions of the Insurance Division and the industry group.

Your Committee finds that subjecting rating and advisory organizations to criminal penalties for submission of "flawed" information is contrary to the intent of the codification, and has deleted subsection (d) according to the proposal submitted by the Insurance Division and the insurance industry. The sections to be added to the Insurance Code by Sections 3, 4, and 5 of this bill have also been renumbered to reflect the recommendations of the Insurance Division and the industry group. Other technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

Finally, your Committee believes that requiring the Hawaii Insurance Rating Bureau to include insurance agent members on its Board of Directors at this time would place the insurance agent in a conflict of interest situation, and declines to adopt the proposal of the HIIAA.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2538, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 719-90 Consumer Protection and Commerce on H.B. No. 2518

The purpose of this bill is to amend Section 442-2, Hawaii Revised Statutes, to increase the liberal arts or science requirement for licensure from two years to four years after January 1, 1995.

Your Committee heard testimony in favor of this bill from the Hawaii State Chiropractic Association (Association). The Association testified that this bill would strengthen the professional qualifications for chiropractic physicians who desire to practice in Hawaii. The Association stated that this bill would grandfather all chiropractic physicians already practicing in Hawaii and would not affect any applicant until 1995.

The Board of Chiropractic Examiners (Board) opposed this measure. The Board testified that chiropractic licensing boards in other states do not require completion of four years of liberal arts or science coursework for licensing. In addition, chiropractic colleges do not require applicants to complete four years of liberal arts or sciences for admission. Thus, the Board believed that the effect of this bill would place a restraint on trade and will prohibit new licensees from coming to Hawaii from other states.

The Department of Health (DOH) testified that as drafted, the bill would lower the qualifications necessary for licensing in this State. The bill eliminates the present two year requirement for liberal arts or science coursework until January 1, 1995.

Upon further review, your Committee has amended the bill to clarify that the new requirements would take effect after January 1, 1995, so as not to affect persons currently studying chiropractic care, and that until that time, the current requirements would be in effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2518, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2518, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 720-90 Consumer Protection and Commerce on H.B. No. 2369

The purpose of this bill is amend Chapter 446E, Hawaii Revised Statutes, (HRS) to create a registration and disclosure requirement for unaccredited degree-granting institutions.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs (DCCA) and the University of Hawaii (UH). DCCA testified that the registration procedure may require the delivery of documents which could include copies of contracts, brochures, catalogues, or similar materials which are distributed to prospective students. The registration requirements do not include any further substantive requirements.

The bill further requires unaccredited degree-granting institutions to disclose to DCCA, upon demand, information concerning that institution's student enrollment, courses, fees, matriculation rates, and other information. DCCA noted that this registration process was the only way to find out how many and who oversees the unaccredited degree institutions without first waiting for a consumer complaint.

The UH's Director of Planning and Policy (Director) testified that it recognized that state regulation of degree-granting institutions falls outside the University's scope of responsibility. The Director pointed out that the State Higher Education Executive Officers ("SHEEO") is currently undertaking an 18-month study of state licensing practices (to be completed by late fall 1990). The study is intended to examine the effectiveness of current licensing practices and to consider what criteria might be built into federal student aid eligibility to protect consumers and taxpayers.

The Director also suggested that it may also be appropriate for the Legislature to request a thorough study of this matter by the Legislative Reference Bureau. The Director noted that as other states, such as California, tighten their regulation over non-accredited degree-granting institutions, such institutions may locate to other jurisdictions, such as Hawaii, where there is minimal oversight. Therefore, your Committee views this bill as a necessary step toward appropriate regulation.

DCCA suggested that the word "fully" which appears on page 1, line 5, be deleted because the State does not engage in any accreditation activities and, therefore, it becomes difficult to determine what "full accreditation" means. Moreover, the definition of "unaccredited institution" in Section 446E-1, HRS, is "a degree granting institution which has not been accredited or provisionally accredited by at least one nationally recognized accrediting agency or association." By that definition, an institution which is only provisionally accredited by only one such nationally recognized accrediting agency would not fall within the definition of "unaccredited institution."

DCCA suggested a change be made in the disclosure section to allow DCCA to keep and compile the disclosure data. DCCA also made some suggestions in terms of form:

- (1) The words "department" and "director" be added to the definition section;
- (2) The rulemaking authority should be created in a separate section; and
- (3) Section 446E-3, HRS, be amended to make it a violation of section 480-2 if there is any violation of this chapter.

Your Committee has amended this bill by incorporating the suggestions from DCCA and has also made technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2369, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2369, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 721-90 Consumer Protection and Commerce on H.B. No. 2413

The purpose of this bill is to amend section 465-7, Hawaii Revised Statutes, to provide a uniform standard of minimum requirements for all candidates for licensure as a psychologist and to clarify the experiential requirements by specifically stating the requirements.

Your Committee heard testimony in favor of this bill from the Board of Psychology ("Board") and the Hawaii Psychological Association ("HPA"). The Board testified that current statutory language requires graduates of a regionally accredited institution to have one year of post doctoral experience whereas graduates of a training program approved by the APA are not required to meet post doctoral experience requirements. The Board believes that one year (or 1900 hours) of predoctoral internship in an organized health service training program and one year (or 1900 hours) of post doctoral experience is an essential minimum experiential standard for the independent practice of psychology. Further, the Board and HPA believed that such a requirement assures the public that persons granted a license to practice psychology are duly trained and experienced in psychological services.

Your Committee has amended this bill by incorporating the suggestions made by the Board as follows:

1. page 1, line 6, "[paragraph] paragraph (1) and paragraph (2) [,] or (3), and paragraph 4"; to clarify that candidates need to meet the requirements in paragraphs 1, 2 and 4 or paragraphs 1, 3, and 4.
2. page 2, line 3, add a sentence which would adequately allow students who have already enrolled in an American Psychological Association approved school to apply for licensure under current statutory standards until June 30, 1994.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2413, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2413, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 722-90

Consumer Protection and Commerce on H.B. No. 2955

The purpose of this bill is to amend Section 271-5, Hawaii Revised Statutes, to allow all vehicles that operate exclusively within the airport premises to be exempt from the licensing requirements of the Public Utilities Commission.

The Department of Transportation (DOT) and the Public Utilities Commission (PUC) supported this bill which would provide an additional exemption by prohibiting a person from engaging in the transportation of persons or property, for compensation or hire, over any public highway unless authorized to do so by certificate or permit issued by the PUC. The PUC recommended a clarification of the circumstances under which travel over public highways would be permissible. The PUC explained that this clarification is needed to allow necessary or incidental travel over public highways that intersect or adjoin airport boundaries or in the event of emergencies that reroute traffic.

Your Committee has amended this bill by including the PUC's recommended language to clarify the circumstances under which necessary or incidental travel over public highways would be permitted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2955, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2955, H.D. 1.

Signed by all members of the Committee.

SCRep. 723-90

Consumer Protection and Commerce and Judiciary on H.B. No. 2786

The purpose of this bill is to amend Section 431:10C-117(a)(2), Hawaii Revised Statutes, to allow judges the discretion to impose community service work in lieu of the current statutory fines for conviction for not having a no-fault motor vehicle policy.

Under the current law a mandatory fine of \$1000 must be imposed for the first offense and a minimum of \$3000 for each subsequent offense. The courts have found that the mandatory imposition of a stiff fine causes inequities in some cases which concerned judges.

Your Committees received testimony in favor of this bill from the Administrative Judge of the District Court, the Office of the Public Defender (OPD), and the Hawaii Independent Insurance Agents Association (HIIAA).

The Administrative Judge and OPD testified that more specific wording to create statutory limits for the community service work was needed. They recommended that the minimum and maximum hours of service be stated.

The OPD also pointed out that the current statute allows for the suspension of the driver's license of the driver and/or owner of the auto for a period of six months, unless that person is able to maintain proof of financial responsibility. The Driving Under the Influence (DUI) law imposes only a three-month suspension. It was recommended that this statute be amended to three months.

The OPD also explained that the recent Hawaii Supreme Court decision in State vs. Palpallatoc has subverted the Legislature's intent to allow a "good faith defense" to a charge of driving without no-fault insurance. Palpallatoc requires an affirmative duty on the part of an auto borrower to ask whether or not the vehicle is insured before borrowing it. This is an absolute duty and must be followed in all cases. The OPD offered wording to clarify the current statute to specifically address the intent of the Legislature to allow for the defense of lack of knowledge of insurance and not require the duty imposed in the Palpallatoc case.

Your Committees believe that community service should be allowed for the first two offenses, but that subsequent offenses should be left to the discretion of the judges. Your Committees have amended this bill by incorporating the Administrative Judge's recommendations to clarify minimum and maximum hours which can be imposed. Your Committees have also amended this bill by adding the recommended language from the OPD to allow for a three month suspension of a driver's license and to clarify the defense of lack of knowledge of insurance.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2786, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2786, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 724-90**Consumer Protection and Commerce and Judiciary on H.B. No. 2419**

The purpose of this bill is to amend Section 378-3, Hawaii Revised Statutes, to allow financial institutions in which deposits are insured by federal agencies, to deny employment to or discharge from employment persons convicted of a criminal offense involving dishonesty or a breach of trust, unless it has the prior written consent of the financial agency having jurisdiction over the financial institution to hire or retain the person.

The Department of Labor and Industrial Relations (DLIR) testified that this amendment is not needed because Sections 378-3(2) and 378-3(6) already provide that exceptions to the statutes can be made. Further, a financial institution can already discharge or refuse to hire any person who has been convicted of a criminal offense involving dishonesty or a breach of trust.

The Hawaii League of Savings Institutions (HLSI), the Hawaii Bankers Association (HBA), and the Hawaii Credit Union League (HCUL) testified in favor of the bill. These organizations stated that federally insured financial institutions are not permitted to hire anyone convicted of a crime of dishonesty or breach of trust without approval of the FDIC. They pointed out that state law makes it unlawful to refuse to hire a person on the basis of an arrest or court record. They stated that recently enacted federal law establishes a maximum fine of \$1,000,000 a day and five years imprisonment for any financial institution that violates the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Consequently, this bill is necessary to be consistent with the standards of the federal regulations, expressly protecting financial institutions' inquiries about the arrest and court records of an applicant.

Your Committees note that although current statutes, Sections 378-3(2) and 378-3(6), apparently already provide for this exception, your Committees recognize the concern of financial institutions for specific statutory language in order to comply with the federal statute and avoid severe penalties.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2419 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 725-90**Consumer Protection and Commerce on H.B. No. 2294**

The purpose of this bill is to add a new section to chapter 431:10C, Hawaii Revised Statutes, to require prior approval of all surcharges and credit plans used by insurance companies and to provide explanatory material to help consumers become better informed of their insurance purchases.

Under the current law, the surcharge and credit plans are filed as part of the general rates form and manual filing and then can be used without the Insurance Commissioner's prior approval. Your Committee finds that these plans vary widely among insurance companies. It is difficult, at best for consumers who wish to shop for the best rates for motor vehicle insurance, to find out what these surcharges and credits are. Many consumers are not even aware of their company's surcharges until the issue arises because of an increase in their policy cost as a result of an accident or a traffic ticket. Moreover, there is no assurance that surcharge and credit plans are based on sound justifications.

Your Committee received testimony in favor of this bill from the Department of Commerce and Consumer Affairs, Insurance Division (Insurance Division) and the Hawaii Independent Insurance Agents Association (HIIA). The Insurance Division testified that although the surcharges and credit plans are submitted, these plans do not get the actual scrutiny that rates receive. This bill will require the insurance companies to provide more detailed justification for the surcharges and credits and to require the approval of the Insurance Commissioner before they can be used. This process will provide assurance to consumers that these plans are based on objective criteria.

A representative of First Insurance Company of Hawaii testified against the bill on the basis that it was not needed, as the Insurance Division can review and question the surcharges and credit plans under the current law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2294 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 726-90**Consumer Protection and Commerce on H.B. No. 2356**

The purpose of this Act is to amend Part IV of Section 514A, Hawaii Revised Statutes, by increasing the owner-occupied required residency from one to five years, by establishing a public lottery system as the method for reserving owner-occupied units, and by limiting the use of a power of attorney for reserving condominium units.

Your Committee received testimony in support of this bill from the Real Estate Commission (Commission). The Commission testified that it has been examining this issue of providing owner-occupants an equal opportunity to condominium residential units and preventing abuses in the intent of the law. The Commission further stated that it has made preliminary conclusions on this issue. The Commission, however, requested more time to study this issue and due to its current and anticipated workload and responsibilities, the Commission would prefer to monitor and react to problems rather than conducting and enforcing each lottery.

Your Committee finds that there is presently a great demand for housing by residents of Hawaii. Therefore, it is necessary to ensure that condominium units are reserved and distributed in a fair and equitable manner.

Your Committee finds that the one-year requirement which a person must live in a unit to qualify as an owner-occupant is insufficient to discourage speculation and that the length of time should be increased.

Your Committee further finds that a public lottery system to reserve owner-occupant units would prevent an unfair advantage by individuals who might receive advance information about pending sales to be conducted on a first-come first-served basis.

Your Committee has therefore amended the bill as follows:

- (1) To define an owner-occupant as an individual for which the residential unit will serve as principal residence and that the individual will physically reside in the unit;
- (2) To require the developer to publicize the intent to sell a project in both a daily newspaper which has state-wide circulation and a newspaper which is printed in the county affected by the proposed project thirty days prior to the date that the developer notifies the commission of the developer's intent to sell a project;
- (3) To inform prospective owner-occupants that fifty per cent of the residential units shall be initially offered for a ten-day period to those who will use the unit as principal residence for five years;
- (4) To withhold the commission's announcement of a public report unless the developer files a copy of the announcement with the commission at least thirty days prior to its initial publication;
- (5) To set procedures for preparing for and conducting the public lottery;
- (6) To designate escrow companies in addition to financial institutions for the purpose of lending money, indicating the obligations of both for reporting to the commission; and
- (7) To stipulate considerations to be taken by the commission before bringing court action against a person for violating conditions of an affidavit to occupy a unit.

Your Committee has further amended the bill by adding four new sections to Chapter 514A, Hawaii Revised Statutes, as follows:

- (1) The affidavit of intent to become an owner-occupant shall be re-affirmed after escrow closing on a commission-approved affidavit. The affidavit shall be acknowledged and duly executed by all the prospective owner-occupants, with power of attorney prohibited;
- (2) No prospective owner-occupant who has signed a contract to purchase or purchased a residential unit designated for owner-occupants shall sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, or otherwise transfer any right in the contract until one thousand eight hundred and twenty-five days have elapsed since the purchase was recorded.
- (3) Any person who violates provisions of the affidavit shall be subject to a fine of not less than \$2,500 or fifty per cent of the net proceeds received or should receive from the sale, lease, rental, assignment, or otherwise transfer of interest in a residential unit designated for owner-occupants or fifty per cent of the earnest money deposited, whichever is larger. Any developer or real estate licensee who violates or fails to comply with the provisions set forth in this part or any rule adopted by the commission shall be subject to civil penalty not exceeding \$2,500 for any violation; and
- (4) Any false statement in the affidavit or in any other required notice, statement, or other document shall constitute a misdemeanor.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2356, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2356, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 727-90

Consumer Protection and Commerce on H.B. No. 2417

The purpose of this bill is to implement the recommendations of the Legislative Auditor in the report entitled, Sunset Evaluation Report, Regulation of Tattoo Artists, Electrologists and Sanitarians.

Your Committee heard testimony in favor of this bill from the Department of Health (DOH). The DOH agreed that rules needed to be promulgated and adopted to regulate electrologists and that the administrative rules on tattoo artists needed to be strengthened. The DOH also stated that it may be premature to eliminate the licensure requirement for sanitarians. The DOH stated that it would be prudent to continue licensure for sanitarians until a more thorough review of the situation is conducted (about one year). The DOH's concern is that there exists an identifiable potential danger to public health, safety, or welfare if improper decisions are made by the DOH's personnel. The DOH noted that it will be revising the rules to require that all sanitarians pass a standard examination with a 70 percent passing score.

The DOH testified that they are unable to implement the Auditor's recommendation to utilize a professional examination service to develop a certification examination for tattoo artists without an appropriation from the Legislature, since a written examination is not available on the national level.

An electrologist testified in favor of this bill, but recommended that rules and regulations be promulgated by the Department of Commerce and Consumer Affairs (DCCA), rather than the DOH, because the DOH did not have the expertise in creating these rules. She also felt that electrolysis should be removed from the art of tattoo since an electrologist permanently removes unwanted hair and a tattoo artist introduces dyes into the skin.

Upon further consideration, your Committee has amended this bill as follows:

- (1) Put sanitarians back in the six year sunset cycle with the understanding that the DOH will complete their review on whether or not to continue to license sanitarians or not in one year;
- (2) Included the provisions of H.B. No. 3377, Relating to the Regulation of Electrologists, also in your Committee, in order to place the regulation of electrologists with the DCCA. The DOH and DCCA are in agreement on this amendment;
- (3) Limited facial tattooing to licensed physicians or surgeons; and
- (4) Made technical, nonsubstantive changes to the bill for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2417, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2417, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 728-90 Judiciary on H.B. No. 2036

The purpose of this bill is to establish criteria for the offense of operating a vessel in the waters of the State while under the influence of alcohol, a controlled substance, or any combination of the two. The bill also declares "implied consent" to submit to a chemical test as a condition of operating a vessel in the State's waters.

Your Committee finds that it is a matter of compelling public interest to keep intoxicated boaters from operating in our State's waterways. Although the number of tragedies due to drunk drivers on Hawaii's streets and highways constitute a great public concern, the same intensity of effort to dissuade drunk driving must be applied to the boating sector. This bill tracks to some degree, the existing laws pertaining to drunk driving and proposes similar, stringent laws for the penalty of "Boating While Intoxicated" (BWI).

Your Committee received testimony from the Department of Transportation, the Department of Health, and the National Marine Manufacturers Association in support of this bill.

Your Committee has amended this bill as follows:

- (1) By adding the phrase "or a metabolic product of a controlled substance" to the definition of "Chemical test";
- (2) By deleting the phrase "concerning the certification and use of chemical breath tests" from subsection (f) of the section entitled "Chemical tests for intoxication";
- (3) By specifying the Director of Transportation as the director in the section entitled "Records of convictions and suspensions of operating privileges to be maintained." Even though "Director" is defined in the first part of Chapter 267 as the Director of Transportation, this bill also refers to the Director of Health and this amendment will avoid confusion as to which director is meant in this instance; and
- (4) By specifying the department and the director referred to in the section entitled "Testing blood of persons killed in vessel accidents" as the Department and the Director of Health.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2036, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2036, H.D. 2.

Signed by all members of the Committee except Representatives Okamura and Yoshimura.

SCRep. 729-90 Judiciary on H.B. No. 2740

The purpose of this bill is to allow an individual to maintain a separate cause of action for intentional infliction of emotional distress or intentional invasion of privacy, in addition to the remedies available under Hawaii's discriminatory practices law.

Testimony was received from the Department of Labor and Industrial Relations, the Chamber of Commerce of Hawaii, and a private citizen.

Your Committee deplores discriminatory practices in the state and finds that it is necessary to restore the right to pursue legal remedies to victims of discrimination. Sometimes the threat of punitive or compensatory damages is necessary to make employers take notice of discriminatory practices in the workplace.

Your Committee has amended this bill to clarify the worker's compensation law and not preclude victims of discrimination from maintaining causes of action arising out of the intentional infliction of emotional distress, or the intentional invasion of privacy. The bill, therefore, also amends Section 386-5, Hawaii Revised Statutes, to reflect these changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2740, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2740, H.D. 2.

Signed by all members of the Committee except Representatives Okamura and Yoshimura.

SCRep. 730-90 Judiciary on H.B. No. 2877

The purpose of this bill is to strengthen the current plant and nondomestic animal quarantine law.

More specifically, this bill will:

- (1) Amend the penalties for consistency and ease in application by establishing new penalties, increasing certain penalties, and providing for progressively incremental penalties for repeat offenders;
- (2) Compel airlines and other carriers to be more consistent in their duties to conform to the control law, particularly regarding the distribution and collection of the declaration forms by making noncompliance a violation subject to certain penalties;
- (3) Require the Board of Agriculture (Board) to maintain three types of lists of animals and microorganisms:
 - (A) A conditionally approved list which requires a permit for import;
 - (B) A restricted list which requires a permit for import and possession; and
 - (C) A prohibited list;
- (4) Automatically prohibit animals and microorganisms that are not on any of the lists to be imported until the Board reviews and makes a determination for placement on one of the lists;
- (5) Require the Board to maintain a list of restricted plants, and authorize the Board to maintain a list of prohibited plants;
- (6) Allow the Board to permit possession of plants, animals, and microorganisms under certain conditions;
- (7) Allow the Board to focus its confiscation and capturing efforts on highly restricted organisms that have escaped;
- (8) Exempt the Advisory Committee on Plants and Animals and ad hoc or permanent subcommittees from the requirements of public notices for meetings; and
- (9) Exempts the Advisory Committee on plants and animals from Chapter 92, except for its role in establishing interim rules governing the transporting of flora and fauna into and within the State pursuant to Section 150A-9.5, Hawaii Revised Statutes.

Your Committee received testimony from the Chairperson of the Board of Agriculture, the Hawaii Farm Bureau Federation, the Hawaiian Sugar Planters' Association, and the League of Women Voters of Hawaii in support of this bill.

Upon consideration, your Committee has amended this bill pursuant to the suggestion of the Hawaii Farm Bureau Federation by adding the phrase "and on the restricted list maintained by the board if without a permit" to subsection (b) of Section 150A-14.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2877, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2877, H.D. 2.

Signed by all members of the Committee except Representatives Okamura and Yoshimura.

SCRep. 731-90 Judiciary on H.B. No. 2799

The purpose of this bill is to create a new offense entitled theft of livestock.

Your Committee received testimony from the Office of the Public Defender, the Hawaii Cattlemen's Council, and the Honolulu Police Department.

Your Committee finds that the new theft statute would have a minimum mandatory fine provision of \$1,000 for the first offense and that upon a subsequent offense, the offender will be sentenced in accordance with Chapter 706, Hawaii

Revised Statutes. For consistency purposes your Committee has amended subsection (1) of Section 706-606.5, Hawaii Revised Statutes, and deleted subsection (e) of Section 708-831, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2799, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2799, H.D. 1.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 732-90 Judiciary on H.B. No. 2585

The purpose of this bill is to clarify the definition of "food product" under Chapter 145D, Hawaii Revised Statutes, by including prepared, canned, and farm products within the definition.

Your Committee received testimony from the Hawaii Food Industry Association and the Hawaii Foodbank, Inc., in support of this bill.

Based upon the testimony of the Hawaii Foodbank, Inc., your Committee has amended this bill to include milk and dairy products, and has further amended this bill by including in the definition of "food product", all food products even after the expiration date stamped on the products, if any. Your Committee intends to allow these products to be distributed so long as they appear to be fit for human consumption and are donated, not sold. Your Committee has also made technical, non-substantive changes for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2585, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2585, H.D. 1.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.

SCRep. 733-90 Judiciary on H.B. No. 2457

The purpose of this bill is to require that, where feasible, not less than ten percent of the total number of units in single family projects sponsored by the Housing Finance and Development Corporation shall be developed by owner-builders each year.

Your Committee received testimony on this bill from the Housing Finance and Development Corporation, the Affordable Housing Alliance, the Self-Help Housing Corporation of Hawaii, the Building Industry Association of Hawaii, and members of the public.

Based upon the recommendation of the Housing and Finance Development Corporation, your Committee has amended this bill by

- (1) Deleting the findings and purpose section, SECTION 1, of this bill; and
- (2) Requiring the Housing and Finance Development Corporation to "first offer" ten percent of the total number of improved lots in single family projects to owner-builders or to non-profit organizations assisting owner-builders.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2457, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2457, H.D. 2.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.

SCRep. 734-90 Judiciary on H.B. No. 3183

Your Committee finds that the flag of the State of Hawaii is a living symbol adopted by Kamehameha the First and used as his emblem representing the Kingdom of Hawaii and four subsequent governments.

Testimony in favor of this bill was received from the office of Hawaiian Affairs and the Huna Hanauna Society.

Your Committee also finds that the Hawaiian flag is a flag rich in history and international significance and proudly represents the culture and people of Hawaii.

Your Committee has amended this bill by deleting sections mandating certain behavior in regards to the state flag. Your Committee would emphasize that these deletions were not done out of disrespect for the flag.

Your Committee has also amended this bill by deleting the Hawaiian and English versions of Hawai'i Pono'i. Again, your Committee stresses that this was not done out of disrespect for our state anthem, but, after consultation with another Hawaiian expert, believes that the English version may be open to debate as to its interpretation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3183, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3183, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura and Yoshimura.

SCRep. 735-90**Judiciary on H.B. No. 3219**

The purpose of this bill is to expedite the process for providing a safe, permanent home for children whose natural mothers have been unable or unwilling to refrain from consuming illegal drugs during the course of two or more pregnancies. This bill creates a presumption that any parent who gives birth to two or more children found to have received a dangerous, harmful, or detrimental drug as defined by section 712-1240 while in utero is unable to provide a safe home presently and in the future. This bill does not apply to drugs provided in utero pursuant to the direction or prescription of a practitioner.

Your Committee received testimony from the Director of Health, the University of Hawaii School of Public Health, the Hawai'i Women's Political Caucus, the Hawaii State Commission on the Status of Women, the American Civil Liberties Union of Hawai'i, the American Association of University Women, and a practicing attorney.

Upon consideration of the testimony, your Committee is concerned that the presumption created by this bill may place an unfair burden on the parent, and may lead to parents refusing to seek proper medical attention, thus further exacerbating the problem. Your Committee has, therefore, amended this bill as follows:

- (1) By deleting the presumption provision;
- (2) By changing the findings and purpose section to state that "immediate intervention, including an expedited process for proceeding to a permanent plan hearing, is necessary to protect the victims of chronic parental drug abuse." This amendment was made because your Committee believes it appropriate to amend Chapter 587, the Child Protective Act, in order to provide for the expedited procedure;
- (3) By changing the findings and purpose section to state that "The purpose of this Act is to expedite the process for providing safe, secure, and permanent homes for children whose families are unwilling or unable to provide them with a safe family home." This amendment was made to conform the language of the bill with terminology in the Child Protective Act, and to make it clear that the authority of the court would not be limited to drug abuse cases;
- (4) By amending Section 571-61(b)(1)(E) and (F), Hawaii Revised Statutes, to include the phrase "or a safe family home, as defined in section 587-25, even with the assistance of a service plan, as provided in Section 587-26". This amendment is intended to clarify section 571-61 by making its language consistent with the Child Protective Act;
- (5) By amending Section 587-25(a), Hawaii Revised Statutes, by adding another guideline for determining whether a child's family is willing and able to provide the child with a safe family home. The reason for this new guideline, even though a similar guideline is provided in Section 587-25(a)(9), is that a parent who abuses drugs while the child is in utero presents a more serious problem in substance and degree than persons who have only a history of substance abuse.
- (6) By amending Section 587-73(e), Hawaii Revised Statutes, by providing authority to request an expedited permanent plan hearing where it can be shown that the child's family is unable presently and is unlikely to become in the foreseeable future able to provide a safe family home and the child's family has been unable or unwilling to comply with an existing service plan. This amendment allows the expedited proceeding only in cases where the court already has jurisdiction over the family and a court ordered service plan remains in effect. This limitation is intended to reduce the number of parents who will avoid medical care because of the possibility that their child may be taken away. All requirements under the permanent plan hearing must still be met.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3219, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3219, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.

SCRep. 736-90**Judiciary on H.B. No. 2830**

The purpose of this bill is to establish standard requirements and procedures for "substance abuse" testing to be used throughout the state, to protect the privacy rights of persons tested, and to achieve reliable and accurate results.

Your Committee received testimony from the Department of Civil Service of the City and County of Honolulu, the Honolulu Police Department, the American Civil Liberties Union, the Kapiolani Medical Center, and the Department of Health.

Your Committee believes that there exists a need for high and uniform quality in substance abuse testing. With proper safeguards, your Committee is of the opinion that drug tests may be an excellent tool in excluding drug-using applicants and in ascertaining drug use in special public safety positions.

Your Committee has amended this bill after considering the testimony presented:

- (1) The definition of substance abuse test has been amended to exclude toxicology tests used in direct the clinical management of patients. The spokesperson for the Kapiolani Medical Center felt that without this

amendment the ability of physicians and other health care providers to render timely and appropriate medical treatment would be compromised. Your Committee understands that there exist circumstances when time is of the essence in rendering aid and medical treatment, and your Committee believes that the intent of this bill is not to create unnecessary delays in the release of pertinent clinical information that is vital to the appropriate treatment of the patient;

- (2) The laboratory requirement of using a gas chromatograph or mass spectrometer is deleted. The spokesperson for the Department of Health testified that rules regarding the use of equipment to comply with federal and state standards are best dealt with administratively;
- (3) The subsection stating the requirements which a director of a laboratory must possess has been deleted. The spokesperson for the Department of Health believes that current administrative rules are current and sufficient;
- (4) The subsections detailing possible scenarios of specimen alteration have been deleted. Your Committee feels that administrative guidelines would be more appropriate for the illustrations of possible abuse of the process; and
- (5) The subsection requiring the naming of the person tested to be reported on each test result has been deleted. Confidentiality is an important element of substance abuse testing. Your Committee believes that alternate means are available for identifying test results and that codes are more appropriate.

Your Committee also made technical, nonsubstantive changes for the purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2830, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2830, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.

SCRep. 737-90 Judiciary on H.B. No. 2024

The purpose of this bill is to amend the offense of disorderly conduct to prohibit persons from permitting their pets to make excessive or unreasonable noise.

Your Committee received testimony from the Office of the Public Defender, the Director of the Department of Health, the Honolulu Police Department, the Hawaiian Humane Society and interested members of the public.

Your Committee concurs with the testimony received that this bill, as written, presents problems with enforcement. Your Committee believes, however, that the problem of excessive noise from pets presents a significant problem which can cause unnecessary stress and stress-related illnesses to neighbors. Your Committee believes that a law is needed to make it an offense to own or possess an animal which makes an excessive noise.

Accordingly, Your Committee has amended this bill as follows:

1. Creating a new section under Chapter 711 for the offense of owning or possessing a pet making an excessive noise;
2. Making it an offense to own or possess an animal which makes an excessive noise;
3. Providing a definition for excessive noise; and
4. Providing a sentencing scheme.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2024, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2024, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Okamura, Peters and Yoshimura.

SCRep. 738-90 Judiciary on H.B. No. 2876

The purposes of this bill are to make additions to the controlled substances schedules which reflect additions made to the federal law as published in the Federal Register, state chemical formulas for already scheduled drugs which are presently incorrectly stated, and place already scheduled drugs in the sections which are most appropriate to their chemical properties.

Your Committee received testimony in favor of this bill from the Department of the Attorney General. The Office of the Public Defender testified in opposition to the adaptation of certain language contained within the bill.

This bill, as written, proposes to amend the Uniform Controlled Substance Act to make it unlawful for any person to knowingly or intentionally acquire or obtain possession of a controlled substance by theft. Your Committee finds that current statutes regarding the possession of a controlled substance without a prescription is already an offense under the Penal Code thereby making the proposed language unnecessary. Consequently, the proposed amendment making theft of a controlled substance an illegal act is deleted.

Your Committee also finds that current statutes make it unlawful for any person to knowingly or intentionally acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge. This bill proposes to make an illegal act the obtaining of a legal prescription for a controlled substance from one or more practitioners by intentional misrepresentation or by withholding information regarding recent use or acquisition of controlled substances. Your Committee is of the opinion that the current statutes are sufficient thus making the proposed amendment unnecessary. Your Committee has, therefore, deleted this proposal.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2876, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2876, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.

SCRep. 739-90 Judiciary on H.B. No. 3274

The purpose of this bill is to allow the use of express mail as a means to serve process in civil actions where the defendant is out of state.

Favorable testimony was received from the Hawaii State Bar Association.

Your Committee understands that current law permits service by registered or certified mail. Your Committee also understands that because service by mail is used almost exclusively with mainland parties, getting notice of the suit by them through the use of express mail can only benefit their ability to respond to the claim.

Your Committee also believes that service of process through the use of express mail would have a two-fold effect on Hawaii claimants. The waiting period for the service of process would in most cases be reduced thereby reducing the frustration level and possibly reducing the tremendous costs incurred through the hiring of a private process server.

Finally, your Committee believes that the return receipt service employed by the United States Postal Service would assure the Hawaii claimant that the mainland defendant personally received and signed for the documents.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3274 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura and Yoshimura.

SCRep. 740-90 Judiciary on H.B. No. 2255

The purpose of this bill is to amend the State Constitution to restore the closed primary and require each primary election voter to be a member of the party organization or declare nonpartisanship as a condition of voting in any primary or special primary election.

Testimony was received by the Office of the Lieutenant Governor stating its support for the bill and commenting that a voter's choice of party should be a matter of public record.

Article II, section 4, of the Constitution of the State of Hawaii currently states that a voter does not have to declare a party preference as a requirement to vote in a primary or special primary election. This is commonly known as an "open" election. This bill would amend the state constitution and make it "closed", requiring proof of party membership or a declaration of nonpartisanship by the voter as a condition of voting in these elections.

Your Committee agrees that the form of the question as it appears in the bill is appropriate to be printed on the ballot.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2255 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.

SCRep. 741-90 Judiciary on H.B. No. 2256 (Majority)

The purpose of this bill is to require proof of party membership or a declaration of nonpartisanship by a person desiring to vote in a primary or special primary election and that beginning in 1992, a person will be required to select a primary or special primary ballot of the same type that person had selected at the next preceding primary or special election in which the person had voted unless that person registers to change the affiliation with the county clerk.

Testimony was given by the Office of the Lieutenant Governor and a private citizen.

Section 12-31, Hawaii Revised Statutes, currently states that no person may be required to state a party preference or nonpartisanship as a qualification for voting in a primary or special primary election. This bill would delete section and add a new section to Chapter 12. This new section requires proof of party registration or nonpartisanship to qualify to vote in a primary or special primary election. Upon receipt of that proof the precinct official would give to that person the appropriate ballot.

Section 12-31, Hawaii Revised Statutes, also states that a person would be allowed to select the ballot of any party or nonpartisan in a primary or special primary election regardless of the way that person had voted in any preceding primary or special primary election. This bill would delete Section 12-31 and require that beginning in 1992, a person would be required to select a primary or special primary ballot of the same type which that person had selected at the next preceding primary or special election in which that person had voted. For voters not to be held to this requirement, they must register with the county clerk not less than 90 days preceding the scheduled primary or special primary to change their party affiliation or nonpartisanship designation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2256 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.
(Representatives Bellinger and Anderson did not concur.)

SCRep. 742-90 Economic Development and Hawaiian Affairs on H.B. No. 2485

The purpose of this bill is to amend Section 208, Hawaiian Homes Commission Act, 1920, as amended (HHCA), as follows:

- (1) To provide the Department of Hawaiian Home Lands discretionary power to extend the term of a lease for not more than one hundred ninety-nine years to enable a lessee to qualify for a loan. The extension of the lease shall be subject to the same conditions as the initial ninety-nine term lease;
- (2) To require a lessee to occupy, use, or cultivate the land as the lessee's home, farm, or for aquaculture purposes within one year after the commencement of the term of the lease;
- (3) To require the lessee to pay all taxes assessed upon the improvements but not upon the tract itself; and
- (4) To require the lessee to perform other conditions that are not in conflict with the Act and which are stipulated in the lease, provided that the lessee is exempt from taxes for the first seven years from the commencement of the term of the lease.

Your Committee received testimony from the Department of Hawaiian Home Lands and the State Council of Hawaiian Homestead Associations.

The bill has been amended to provide the Department of Hawaiian Home Lands discretionary power to extend a lease when necessary and justified. Your Committee finds that this amendment provides the Department with greater flexibility in determining when a lease should be extended and for what length of time, provided the original lease period plus the extension does not exceed one hundred ninety-nine years. It also allows the Department the right to deny a request for an extension.

It is your Committee's intention that the Department of Hawaiian Home Lands should make rules under the rule-making powers in Section 222, HHCA, governing when and for what reasons it will grant or refuse requests for extensions of leases.

Your Committee on Economic Development and Hawaiian Affairs 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, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 743-90 Water and Land Use on H.B. No. 2984

The purpose of this bill is to resolve a long-standing tenancy problem involving the State and various residents over the rights and future use of lands known as Kalawahine which are located between Papakolea and Makiki Heights on Oahu. This bill would authorize the Department of Land and Natural Resources to negotiate and enter into long term residential leases not to exceed 65 years with these residents for State lands identified as tax map key no. 2-4-34:8.

Last session, the Legislature adopted Senate Concurrent Resolution No. 180 that requested an assessment of the legal disposition and possible uses of Kalawahine. The directives contained in the H.D. 1 version of this bill are intended to implement the recommendations contained in the assessment.

Your Committee received supporting testimony from the Department of Land and Natural Resources and the Department of Hawaiian Home lands (DHHL). During the public hearing, attention focused on Section 6 of the bill regarding authorization to negotiate for the transfer of land in the lower section of Kalawahine to DHHL. Apparently, DHHL is interested in acquiring the Kalawahine lands, particularly for an elderly housing project. Because DHHL understands that DLNR holds title to all 31.6 acres, DHHL recommended that Section 6 be amended to authorize DLNR to negotiate directly with DHHL for the Kalawahine lands. DHHL further recommended the insertion of language that the transfer of lands be at no cost. It is DLNR's understanding that the parcel in question belongs to the State.

Your Committee finds that further clarification is needed on this matter; ie. whether the area being considered by DHHL for elderly housing is the land currently controlled by the Honolulu Board of Water Supply; the scope and appropriateness of DHHL's plans for the Kalawahine lands; the validity of Executive Order No. 1529; etc. Answers to these and other questions must be determined prior to final passage of this bill. However, in order to enable discussion to

continue on this important measure, your Committee reports this measure out in unamended form. Meanwhile, your Committee encourages all parties to meet with the Makiki community to clarify the issues relating to this proposed legislation.

Your Committee on Water and Land Use is in accord with the intent and purpose of H.B. No. 2984, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 744-90 Water and Land Use on H.B. No. 2274

The purpose of this bill is to preserve and protect the State's valuable coastal resources for recreational purposes by establishing a 1,000-foot shoreline setback along State-owned lands classified as conservation district. Under this bill, which amends Chapter 205A (Coastal Zone Management), Hawaii Revised Statutes (HRS), all public lands meeting these two criteria would be set aside for recreational uses.

Your Committee received testimony from the Office of State Planning (OSP), the Department of Land and Natural Resources (DLNR), and Hawaii's Thousand Friends in support of the intent of the bill. DLNR pointed out that such a policy could, at times, eliminate future options relevant to public policy for other than recreational uses. OSP testified that any increase in shoreline setbacks accomplished through an amendment of Chapter 205A would, in effect, allow the counties to administer a larger setback area and to grant variances within it.

Upon further consideration, your Committee has replaced the language that would have amended Chapter 205A with similar language to amend Section 171-10 (classes of public lands), HRS. Additionally, to provide flexibility in the use of these public lands, your Committee has included a provision requiring prior legislative approval by concurrent resolution before such lands can be used for other than recreational purposes.

Your Committee on Water and Land Use is in accord with the intent and purpose of H.B. No. 2274, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2274, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 745-90 Water and Land Use on H.B. No. 1261

The purpose of this bill is allow the Board of Land and Natural Resources (BLNR) to amend uses or restrictions within existing leases of State property that are presently used for hotel purposes. This bill also requires that the leases must have been in effect for twenty years or more.

Currently, Section 171-41.5, Hawaii Revised Statutes (HRS), allows such amendments for leases involving industrial and commercial uses. However, the law makes no provisions for hotel or resort type use.

Although this measure has statewide implications, testimony presented to your Committee focused on the expansion plans of the Aston Kauai Resort Hotel to construct 171 additional hotel rooms. Based on the testimony, your Committee finds that:

- (1) Kauai County's Interim Zoning Ordinance was in effect when the Kauai Resort Hotel lease agreement was executed in 1964. This Ordinance restricted the Kauai Resort Hotel to: 242 hotel rooms; building heights of two and three stories; and thirty-three percent coverage of the parcel;
- (2) In 1972, the Kauai Comprehensive Zoning Code was adopted which permits the Kauai Resort Hotel to: 413 hotel rooms; building heights of four stories; and fifty percent coverage of the parcel; and
- (3) In 1987, the Kauai Planning Commission approved an additional 171 rooms at the Kauai Resort Hotel, subject to BLNR approval of an amendment to the lease.

Testimony also noted that:

- (1) Statewide impact of this bill will be minimal since very few parcels of State land are in resort use;
- (2) The inclusion of resort lands to Section Section 171-41.5, HRS, will make this law more consistent and fair; and
- (3) The proposed requirements for a public hearing, public notification of the hearing, and two-third vote minimum by the BLNR provide adequate safeguards against possible abuse and also improve the existing law.

Upon further consideration, your Committee has amended this bill by: increasing the effective age of eligible leases from twenty years to forty years; and inserting the phrase, "not consistent with current county zoning" on line 7, page one of the original bill to further clarify the type of allowable restrictions. Your Committee has also made technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Water and Land Use is in accord with the intent and purpose of H.B. No. 1261, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1261, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hashimoto and O'Kieffe.

SCRep. 746-90 Water and Land Use on H.B. No. 3440

The purpose of this bill was to transfer title of the lands occupied by gravesites on State lands adjacent to Kahikolu church in South Kona on the island of Hawaii from the State to Kahikolu church.

H.B. No. 3440, as amended, establishes a procedure that makes the bill more generic; formerly the bill only applied to one church. In its amended state any person or organization who has maintained gravesites for over fifty years may apply to the Department of Natural Resources for fee title of State lands.

This amendment prevents any constitutional issues from arising regarding the separation of church and state. Furthermore, a reversionary clause provision has been included to require the land to revert to the State in the event that the lands shall no longer be used as gravesites.

Your Committee on Water and Land Use is in accord with the intent and purpose of H.B. No. 3440, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3440, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Apo, Hashimoto and O'Kieffe.

SCRep. 747-90 Consumer Protection and Commerce and Intergovernmental Relations and International Affairs on H.B. No. 3092

The purpose of this bill is to propose that no agricultural or conservation zoned land nor any "ohana" zoned land shall be converted to condominium property regime status unless the county government certifies to the Real Estate Commission that it does not contradict or violate any county ordinance or regulation.

The Real Estate Commission (Commission) testified in opposition of this bill stating that condominium property regime (CPR) status is a form of ownership of real property created by the recording in the bureau of conveyances and/or filing with the Land Court, but that a CPR can be created with no filings or public reports with the Commission if they are not offered for sale to the public.

The Commission also explained that presently, the Commission provides the county governments with a copy of the notice of intention questionnaire and a draft of the public report. County governments may then approve or disapprove the building plans and the issuance of building permits. The Commission will not issue a final public report without building plans approved by the county government and the issuance of building permits. (A final public report, in turn, obligates the purchaser to decide whether to purchase the apartment unit and proceed with escrow closing upon occupancy.) Further, the law requires that the Commission issue public reports within a "reasonable time after requested or required", because if it does not, the developer and the purchasers of the apartment units may suffer and incur losses. The Commission noted that during an "upmarket" cycle, the Commission has difficulty in issuing a public report in a "reasonable time" and if the county government certification is required after the filing of the notice of intention, the Commission may have an even harder time issuing public reports on a timely basis.

A representative from the island of Hawaii testified in support of the bill. He explained that while counties now have sufficient authority to control "double density/condivision" (i.e. the practice of obtaining a county issued ohana permit for the second home on a single lot then creating a condominium regime to split the property in two, selling the units separately without complying with the county subdivision laws) by being able to put restrictions on county issued ohana permits, that there is a problem with agricultural condominiums because they can be created without ohana permits and would come under the jurisdiction of the Commission as a CPR. He further stated that under current statutes, the counties do not have the authority to control or condition the issuance of a CPR.

Your Committees have amended this bill by mandating the developer to file with the county a notice of intention and floor plan or condominium map and a certification from the county stating that the proposed project does not violate any county land planning, zoning, or subdivision ordinance or regulation, simultaneously with the filing to the Real Estate Commission of the notice of intention required by Section 514A-31. Your Committees believe that the simultaneous filing will alleviate the Real Estate Commission's concern about meeting the "reasonable time" deadline in issuing public reports since this would give the county governments more time to issue building permits in a timely manner and the Commission will be able to proceed with the completion of the public report.

Your Committees also believe that the simultaneous filing to the county and state will give the county adequate time to investigate the use of land intended by the developer. Your Committees note that the ultimate control of issuing an approval or disapproval of building plans and building permits lies with the county and the Commission will not issue a final public report without building plans approved by the county government and the issuance of building permits.

Your Committees on Consumer Protection and Commerce and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 3092, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3092, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tajiri and Marumoto.

SCRep. 748-90 Planning, Energy and Environmental Protection on H.B. No. 2699

The purpose of this measure is to ensure and maintain the health, safety, and well-being of the community, and to establish specific goals and timetables to eliminate various threats to health. In order to accomplish this objective, the measure amends Chapter 321, Hawaii Revised Statutes, by adding a new section entitled "Policy Implementation Program".

The Department of Health submitted testimony suggesting that the provision in the measure prohibiting the incineration or burning of hazardous waste would jeopardize the Departments' efforts to develop a hazardous waste program fully equivalent with Environmental Protection Agency standards. Accordingly, your Committee has deleted this provision from the measure.

The Department of Health (DOH) also stated that the Department of Labor and Industrial Relations (DLIR) currently promulgates rules regarding the frequency of medical examinations for employees, and also deferred to DLIR regarding worker safety relating to video display terminals. Your Committee has subsequently amended this measure by deleting the provision on medical examinations for workers involved with incineration, and by substituting the DLIR for the DOH in adopting rules for workers exposed to video display terminals.

Testimony from Campbell Estate recommended that the provision on transmission towers be amended by stating that the towers be located one half mile from any urban or rural district. Your Committee amended the measure accordingly.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2699, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2699, H.D. 2.

Signed by all members of the Committee except Representatives Bunda, Hashimoto, Isbell and O'Kieffe.

SCRep. 749-90 Planning, Energy and Environmental Protection on H.B. No. 2447

The purpose of this bill is to prohibit the disposal of household hazardous wastes in Hawaii's landfills. This bill also requires all commercial establishments marketing items identified as household hazardous products by the Department of Health to accept all unused or unwanted portions of all such items purchased by customers at that location. This bill allows all commercial establishments to hire any facility authorized to handle, store, recycle, and transport hazardous wastes to function as its authorized collection center.

Your Committee finds that the unregulated disposal of household hazardous wastes in Hawaii's landfills presents a clear threat to the quality of the environment as well as the health of the public. Unused portions of household hazardous products also present a danger to the sanitation personnel that unknowingly handle them and the households that improperly store them. Currently there exists no feasible method for households to dispose of their household hazardous wastes in an environmentally responsible manner. This bill establishes a mechanism to assist households in the disposal of their unwanted wastes by requiring the commercial outlets marketing such items to accept the unused portions of the items sold at that location.

Your Committee has amended this bill to address several concerns brought forward during discussions on this measure. To simplify the process of distributing the hazardous product identification labels required under this bill, this bill has been amended to require the distributors of household hazardous merchandise to obtain the appropriate quantity of labels from the Department of Health for distribution to the commercial establishment along with the product. Commercial establishments will then be required to affix the label to the product before sale to the public. Because the number of distributors is far less than the number of retail outlets in Hawaii, your Committee finds that this will reduce the number of parties with the responsibility of obtaining the labels from the Department of Health.

Your Committee has further amended this bill by providing that upon the establishment of any permanent household hazardous waste collection center by any county, commercial establishments, subject to the terms and conditions of the county, may designate the county center as its authorized collection facility. Your Committee finds that this would allow for the simplification of the recycling and disposal process for households as well as the various commercial outlets marketing hazardous items to households.

Your Committee has also redesignated the effective date of this Act to a later date to provide the Department of Health with more time to develop rules and identify those products that require regulation under this program.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2447, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2447, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 750-90 Planning, Energy and Environmental Protection on H.B. No. 2754

The purpose of this measure is to re-direct the Office of State Planning Coastal Zone Management (CZM) Section from passive monitoring to problem solving and advocacy.

Your Committee finds that under existing law, the Office of State Planning (OSP) primarily provides financial support for administration of the network of laws and rules collectively referred to as the Hawaii CZM Program, proposes guidelines to clarify ambiguities in Chapter 205A, Hawaii Revised Statutes, and reports to the Legislature if other agencies are not complying with Chapter 205A.

Due to growing pressure on the coastal resources of the state, your Committee finds that the Office of State Planning should utilize CZM funds to rectify coastal issues that cannot be resolved through existing laws and rules. With a greater emphasis on advocacy, the OSP may propose legislation to mitigate coastal problems and issues and insure agency compliance with Chapter 205A. In addition, as a proactive agency, OSP may also provide testimony on critical coastal issues. An example is the as yet unresolved dilemma of commercial boat launching activities in the Hanalei Bay of the County of Kauai. With a new advocacy orientation, OSP would be able to participate in the analysis of the problem, and offer assistance in formulating solutions. It is the intent of the Legislature that upon enactment of this measure the first and foremost activity of OSP be the review of the Hanalei Bay issue, and that OSP submit their recommendations to the Legislature in the annual report ten days prior to the convening of the Legislature.

Your Committee received testimony from the Life of the Land indicating that the measure needs to be amended to quote and bracket the parts of Section 205A-3, Hawaii Revised Statutes, to be repealed. Also, the League of Women Voters submitted testimony that OSP advocate expanded public use of federally owned or controlled lands and waters only where it is environmentally appropriate. Your Committee has amended this measure accordingly.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2754, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2754, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 751-90**Planning, Energy and Environmental Protection on H.B. No. 2217**

The purpose of this bill is to establish a thirty-day period for the public to submit comments on the accuracy and completeness of an environmental assessment. Agencies preparing environmental assessments would be required to consider the comments received in developing their determinations of whether or not an environmental impact statement should or should not be required for the proposed action.

Your Committee finds that the absence of a nonjudicial mechanism in Hawaii's environmental impact statement law to facilitate public participation during the environmental assessment stage of the process has resulted in a long-running controversy over the adequacy of the State's law. The only means currently available to concerned individuals to express their opinions on determinations made by agencies preparing environmental assessments is through expensive and time consuming appeals to the courts. Earlier efforts to resolve this deficiency in the system focused on the environmental council's authority to issue declaratory orders to administratively resolve controversies involving agency determinations. Due to the fact that this approach failed to succeed, this bill proposes an alternate approach to render moot the issue of administrative enforcement during the environmental impact statement process.

Following its review of this bill during public hearing, your Committee has amended this measure to ensure fairness and equity in the environmental impact statement process. To avoid the possibility of unnecessary or duplicative review, your Committee has clarified this bill by permitting those assessments already recognizing the need to prepare an environmental impact statement to forego the thirty-day public review and comment process. Under this system, only proposed actions intending to waive the preparation of an environmental impact statement will be subject to public review.

Your Committee has further amended this bill to ensure that the time period currently allotted for public appeal under the law is not extended. To ensure that the period of public review does not extend beyond the sixty-day period currently provided for the filing of judicial appeals of agency determinations, your Committee has amended the law to require that appeals of this nature be filed with the courts within thirty days of the agency's final determination, following the thirty-day public comment period, to issue a negative declaration. This amendment will ensure that the entire public review and appeal process does not extend beyond sixty days.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2217, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2217, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, Hashimoto, Isbell and O'Kieffe.

SCRep. 752-90**Planning, Energy and Environmental Protection and Water and Land Use on H.B. No. 3286**

The purpose of this bill is to include a covenant as part of any new or renewal of water right leases on the part of the lessee that the lessee implement a watershed management plan developed by the Department of Land and Natural Resources. This plan will be made a part of the lease agreement by the Board of Land and Natural Resources.

Your Committees find that the actual implementation of the watershed management plan should not be restricted to just the lessee. Both the development and implementation of the plan are more properly responsibilities that should be shared between the State and the lessee. For example, in state water leases, the State typically reserves the right to allow other parties rights of ingress and egress to the leased area. The State also reserves the right to allow other uses of the area. Therefore, it would be unreasonable to hold the lessee solely responsible for successfully implementing the management plan.

This measure has been amended by allowing the Board of Land and Natural Resources to prescribe the minimum content of a watershed plan without adopting rules pursuant to Chapter 91, Hawaii Revised Statutes. Your Committees find that watershed management practices are site specific and rule establishment would not be productive.

Your Committees have further amended this bill by requiring the lessee to use "reasonable management practices" rather than "best management practices" so as not to impose excessive cost burdens on lessees.

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

Your Committees on Planning, Energy and Environmental Protection and Water and Land Use are in accord with the intent and purpose of H.B. No. 3286, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3286, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 753-90 Planning, Energy and Environmental Protection and Intergovernmental Relations and International Affairs on H.B. No. 2445

The purpose of this measure, as received by your Committees, is to require counties to adopt ordinances requiring all residential buildings over four stories to contain an alternate chute to accommodate recyclable materials.

The Legislature finds that it is essential to foster the attitude of resource recovery instead of waste disposal in order to insure that recycling becomes a viable option to landfilling solid waste. The Legislature further finds that encouraging recycling is imperative if the State is to overcome the pending environmental hazard of limited availability of land suitable for landfills.

Your Committees received testimony from the Department of Public Works of the City and County of Honolulu (Public Works) which suggested amendments that commercial office buildings be included in this measure to facilitate the recovery of paper, since 77 percent of an office building's total waste consists of high-grade recyclable paper. Public Works also commented on the potential problems of glass shattering if chutes were the only means by which source separation would occur, and suggested that the measure include storage areas for recyclable material. Your Committees also received testimony from the Recycling Association of Hawaii that recommended that the measure contain language stating that these areas be able to accommodate at least four distinct categories of recyclable materials. Accordingly, this measure has been amended by incorporating these suggestions.

This measure has also been amended for the purpose of style and clarity.

Your Committees on Planning, Energy and Environmental Protection and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 2445, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2445, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 754-90 Planning, Energy and Environmental Protection and Intergovernmental Relations and International Affairs on H.B. No. 3300

The purpose of this bill is to require the Director of Health to determine the adequacy of county sewer use fee rates to ensure the self-sufficiency of county sewerage systems and to maintain environmental quality.

Your Committees received testimony from the Department of Health, the City and County of Honolulu, and the County of Maui expressing concern that the measure gave the Director of Health too much discretionary power over the counties in the administration of local sewer user charge programs.

Existing federal regulations currently require municipalities receiving federal grants under the United States Environmental Protection Agency (EPA) Wastewater Construction Grants Program to adopt a user charge system that must be designed to produce adequate revenues required for operation and maintenance, including replacement wastewater facilities.

The county user charge system must be approved by the EPA. By delegation of this authority from the EPA, the Department of Health presently conducts annual reviews of the counties' user charge systems and financial management systems in conjunction with operation and maintenance inspections.

The present program for monitoring and evaluating the adequacy of county user charge systems to assure that wastewater facilities are operated and maintained effectively is sufficient. However, since the federal grant program is being phased out in favor of the state revolving fund program, state law is necessary to authorize the Department of Health to review and approve county user charge systems.

Your Committees have amended this bill, taking into account related federal regulations, limiting the discretionary power of the Director of Health while at the same time recognizing the role of the counties in the process and the need for some state administrative flexibility. The measure now provides that:

- (1) The counties will be allowed to establish, revise, and collect charges for the use of sanitary sewerage systems without being subject to review and amendment by the Director of Health;

- (2) The Director of Health is required to approve county user charge systems for wastewater treatment works receiving funds pursuant to Section 342D-54, Hawaii Revised Statutes;
- (3) The Director of Health is required to annually review the rates charged by each county and recommend, if necessary, adjustments to the county's rate of assessment to ensure environmental quality; and
- (4) The Director of Health is required to evaluate the adequacy of county sewerage maintenance and improvement programs. The results of the review shall then be submitted to the county councils.

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

Your Committees on Planning, Energy and Environmental Protection and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 3300, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3300, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 755-90 Planning, Energy and Environmental Protection and Consumer Protection and Commerce on H.B. No. 2917

The purpose of this bill is to require every public utility company engaged in furnishing consumers with power, light, or gas to implement a demand-side management program to encourage the efficient use of energy resources by the ratepayers. The program shall be designed to achieve measurable and significant changes in the manner by which energy resources are used by the ratepayers.

Your Committees received testimony from the Department of Business and Economic Development which recommended numerous technical and substantive amendments, including the removal of the appropriation sections. The Department's testimony indicated that there are already funds available to implement this measure. Your Committees also received testimony from the Natural Resource Defense Council which recommended the inclusion of public interest representatives during the process of developing a demand-side management program. Accordingly, these amendments have been included in the measure.

Your Committees on Planning, Energy and Environmental Protection and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2917, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2917, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Peters.

SCRep. 756-90 Planning, Energy and Environmental Protection and Ocean and Marine Resources on H.B. No. 3149

The purpose of this measure, as received by your Committees, is to amend the Coastal Zone Management Law in a manner that would allow commercial use of public boat launching ramps and beaches and would also prevent counties from using special management use permits to regulate structureless commercial uses of public parks.

Your Committees find that the coastline of Hawaii represents an invaluable natural resource that not only provides residents of the State an ample recreation area, but also represents a significant attraction for the tourist industry. In the past, the legislature has found that special controls on development within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided. The legislature has determined that it is the state policy to preserve, protect, and where possible, restore the natural resources of the coastal zone of Hawaii.

Your Committees received considerable amounts of testimony from both opponents and proponents of the measure, and is aware that the hearing represented a forum through which residents and commercial boat operators of the Hanalei area of Kauai could voice their views regarding the unresolved dispute regarding the still pending special management area permits for the commercial boaters.

Your Committees have determined that the legislative history of chapter 205A, HRS, indicated that the legislature has thoroughly discussed and debated the issue of primary authority in the special management area and concluded that the counties would be responsible for the implementation of chapter 205A, while the State lead agency (Office of State Planning) would ensure that the counties' rules were consistent with the overall policies and objectives of chapter 205A.

Your Committees also concur with the court decision of the Planning Commission of the County of Kauai v. Paradise Adventure Cruises, Inc. et al., Civil No. 880197, Hawaii 5th Circuit Court, 1989, which determined that nonstructural uses may constitute development. However, while reaffirming this definition, the legislature recognizes the need for flexibility in dealing with the complex issue of development. In providing this flexibility, the legislature notes a distinct difference between commercial and non-commercial structureless use. As a result, your Committees find that the integrity of the coastal zone management program must remain intact in order to protect Hawaii's invaluable environment and coastal resources.

Therefore, your Committees have deleted the amendment which stated that launching and retrieving of vessels and recreational marine activities requiring ingress and egress at shorelines adjacent to public parks do not constitute development. Provisions have been added that exempt noncommercial structureless public recreational uses from the

definition of development, in addition to structureless uses in public harbors designated in rules adopted under chapter 266. Also, a provision has been included which states that the legislative body of the respective counties may by ordinance determine what does not constitute commercial structureless use, subsequent to review by the authority. Your Committees have also amended this measure by including the provision that the special management area boundary may be defined by the authority as the area between mean sea level and the shoreline.

Your Committees on Planning, Energy and Environmental Protection and Ocean and Marine Resources are in accord with the intent and purpose of H.B. No. 3149, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3149, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hashimoto and Isbell.

SCRep. 757-90 Planning, Energy and Environmental Protection and Health on H.B. No. 2670

The purpose of this bill is to require that all state agencies recycle all recyclable paper materials and purchase only recycled paper. The bill also provides that all newspapers of general circulation in the State be required to use not less than 50 percent recycled paper.

Your Committees recognize the importance of recycling materials to protect our natural resources and to maintain the health, safety, and well-being of our State. By taking this initiative, your Committees believe that state agencies would set an example for the people of the State to avoid wasting our precious resources and to recycle whenever possible.

At the same time, it may not be feasible to require newspapers in the State to use recycled paper at this time. Accordingly, your Committees have amended this bill so that newspapers in the State will not be required to use recycled paper.

Your Committees have further amended this bill to:

- (1) Provide more specific direction on state and county procurement so that every bidder for the purchase of goods, supplies, equipment, materials, and printing containing the minimum percentage of recycled content shall be given a preference of ten percent of the bid amount; and
- (2) Require all state agencies to recycle all recyclable paper materials after June 30, 1991.

Your Committees on Planning, Energy and Environmental Protection and Health are in accord with the intent and purpose of H.B. No. 2670, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2670, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 758-90 Planning, Energy and Environmental Protection and Health on H.B. No. 2678

The purpose of this bill is to prohibit, as a form of litter, the mass release of ten or more lighter-than-air, helium filled balloons into the atmosphere.

Your Committees find that the mass release of balloons has adverse effects on marine wildlife. In addition, the cost of cleaning and maintaining beach, park, and street areas increases because of the volumes of litter produced by the mass release of balloons. Littering on a grand scale should not be condoned in this State for any reason.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committees on Planning, Energy and Environmental Protection and Health are in accord with the intent and purpose of H.B. No. 2678, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2678, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 759-90 Planning, Energy and Environmental Protection and Judiciary on H.B. No. 2753

The purpose of this bill is to update Section 607-25, Hawaii Revised Statutes, which awards attorney's fees and costs to a private person bringing a successful lawsuit against illegal private development.

Your Committees find that the threat of a lawsuit pursuant to Section 607-25 is usually sufficient to prevent illegal development and to encourage the application for required agency permits.

Existing law requires compliance with the requirements for permits or approvals under Chapters 176D, 177, and 342, Hawaii Revised Statutes, which were repealed. This measure reflects recent statutory amendments by deleting reference to those repealed chapters and inserting instead the following new Chapters 174C, 342B, 342D, 342F, 342H, 342J, 342L, and 342N.

Your Committees received testimony from the Life of the Land in support of this bill. They testified that unless this measure becomes law, the public will not be able to obtain judgments awarding attorney's fees and costs for successful lawsuits against illegal stream diversions or illegal discharge of solid, liquid, or gaseous pollutants.

Your Committees on Planning, Energy and Environmental Protection and Judiciary are in accord with the intent and purpose of H.B. No. 2753 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 760-90 Planning, Energy and Environmental Protection and Judiciary on H.B. No. 2898

The purpose of this bill is to make housekeeping amendments to Act 212, Session Laws of Hawaii 1989, which repealed the law on environmental quality, Chapter 342, Hawaii Revised Statutes, and replaced this chapter with seven new chapters regarding the environmental welfare of the State.

Your Committees find that some of the amendments made by Act 212 are contrary to the original language and intent of these environmental statutes. This bill will strengthen and clarify the Department of Health's statutory enforcement position and eliminate conflicts found in related subsections.

In addition, this measure will correct definitions, remove references to media appearing in the wrong chapters, remove references to "variances" when it was never intended to allow variances, and insert subsection references that had been overlooked.

Your Committees received testimony in support of this measure from the Department of Health.

Your Committees on Planning, Energy and Environmental Protection and Judiciary are in accord with the intent and purpose of H.B. No. 2898 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Peters and Cavasso.

SCRep. 761-90 Planning, Energy and Environmental Protection and Judiciary on H.B. No. 2897

The purpose of this bill is to amend the State's law relating to environmental emergency response. In general, this bill amends the law to: (1) make it more consistent with the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the federal Superfund Amendments and Reauthorization Act of 1986; and (2) clarify and broaden the authority of the State to generally administer and enforce the law, collect criminal penalties, respond to spills and emergencies involving hazardous substances, and adopt necessary rules.

Your Committees find that there is a growing trend throughout the nation to enact emergency response legislation at all levels of government to address spills and releases of hazardous substances into the environment. Recent environmental disasters clearly demonstrate the need to maintain a program of preparedness to monitor, regulate, and assist in the abatement and cleanup of such releases. The capacity to respond swiftly and with clear authority is critical to the success of any emergency response program and essential toward the protection of the environment.

While your Committees concur with the need to develop an efficient and effective emergency response program, your Committees are also cognizant of the concerns and the views of the regulated community with regard to the possible ramifications of this bill. Your Committees find that it is essential that legislation that is acceptable and compatible with the concerns of all parties involved be developed.

Your Committees have amended this bill by making numerous substantive and nonsubstantive amendments in response to concerns and recommendations offered by the public as well as the private sector. In general, your Committees have amended this bill by:

- (1) Eliminating the department's authority to issue citations for violations of the law;
- (2) Eliminating the criminal penalties for violations and clarifying that persons shall be subject to penalties only if the person knowingly releases any hazardous substance into the environment;
- (3) Clarifying the definition of the term "pollutant or contaminant" and providing that the term does not include pollutants or contaminants for which there are permits or enforcement actions pending by the department of health under the state water pollution law;
- (4) Providing that the definition of a "release" does not include releases that involve:
 - (A) The normal application of fertilizers;
 - (B) The application of pesticides registered under the Federal Insecticide, Fungicide, and Rodenticide Act; and
 - (C) Releases from sewerage systems collecting and conducting primarily domestic wastewater;
- (5) Providing that permitted releases and releases which occurred prior to July 1, 1990, need not be reported;
- (6) Authorizing the use of the moneys in the environmental response fund for remedial actions;

- (7) Clarifying the "good Samaritan" provision of the law;
- (8) Eliminating the liability toward any past damages to natural resources;
- (9) Clarifying the due process requirements of the law and the department's scope of authority with regard to removal and remedial actions;
- (10) Providing the procedures for the judicial review process;
- (11) Providing an exemption for financial institutions under the definition of "owner" or "operator"; and
- (12) Making technical nonsubstantive amendments for purposes of clarity and style.

Your Committees on Planning, Energy and Environmental Protection and Judiciary are in accord with the intent and purpose of H.B. No. 2897, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2897, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Amaral, Bellinger, Bunda, Hashimoto, Oshiro, Takamine, Cavasso and O'Kieffe.

SCRep. 762-90 Judiciary on H.B. No. 2694

The purpose of this bill is to amend Sections 286, 291, and 663, Hawaii Revised Statutes, to:

- (1) Include urine tests as a type of test to which drivers of motor vehicles consent when driving;
- (2) Include drug content tests as a type of test to which drivers of motor vehicles consent when driving;
- (3) Remove the requirement of driving on the public highways as a requirement for consent;
- (4) Provide the driver with an option of taking any two approved tests for the purpose of determining the alcoholic content of the driver's blood;
- (5) Require hospitals, laboratories, or clinics to keep records of chain of custody of blood specimens and to turn over such records to police officers at their written request;
- (6) Allow a blood specimen to be withdrawn and tested upon the written request of a police officer without regard to the reasonable grounds requirements of section 286-151(b) and (c); and
- (7) Make other technical, nonsubstantive changes.

Your Committee received testimony from the Attorney General's Office, the Office of the Public Defender, the Director of Health, and the American Civil Liberties Union.

Upon consideration of the testimony, Your Committee has amended this bill as follows:

- (1) By providing a probable cause, rather than a reasonable grounds standard in section 286-151, and requiring the person to submit to a blood test if there is probable cause;
- (2) By requiring testing for drugs and their metabolic products, in addition to alcohol;
- (3) By providing an exception to liability for any damages resulting from disclosure to the police of the record of the chain of custody and test results of blood specimens; and
- (4) By making other technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2694, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2694, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bellinger, Cachola, Yoshimura and Cavasso.

SCRep. 763-90 Judiciary on H.B. No. 256

The purpose of this bill is to allow removal of cases from the Small Claims Division only when the removal is agreed to by the plaintiff.

Your Committee received testimony from the Administrative Judge of the District Court and a representative of the Hawaii Independent Condominium & Cooperative Owners association in support of this bill.

Your Committee finds that this measure will help to preserve the original intent of the Small Claims Division because of abuses to the present system of removal to the Regular Claims Division.

Your Committee has amended the bill by changing the effective date of July 1, 1989 to an effective date upon its approval.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 256, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 256, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bellinger, Cachola, Yoshimura and Cavasso.

SCRep. 764-90 Judiciary on H.B. No. 2388

The purpose of this bill is to amend Act 77, Session Laws of Hawaii 1989, which prohibits over-the-counter sale of refrigerants, raises the standards of automobile air conditioner repair facilities, and promotes the recovery and recycling of chlorofluorocarbons (CFCs).

Much testimony was received from spokespersons representing professional, educational, and community groups favoring the passage of this bill.

Your Committee has amended this bill by:

- (1) Clarifying the definition of CFC to expressly exclude the class of compounds with low ozone depletion potential termed HFCs and HCFCs, considered to be interim phase-down substitutes for CFCs;
- (2) Substituting the industry accepted word "refrigerant" in place of the word "coolant";
- (3) Adding specific language to the prohibited acts, so that "intentionally cause or allow CFCs to be released into the air from any source" more specifically reads "intentionally cause or allow CFC refrigerant to be released into the air from any source or process regulated under this Act.";
- (4) Insert a new section on product labeling, and
- (5) Amending the criminal penalty provisions and establishing that violations of the affected sections would constitute class C felonies.

Your Committee has also amended this bill by making technical and nonsubstantive changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2388, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2388, H.D. 2.

Signed by all members of the Committee except Representatives Bellinger, Cachola, Yoshimura and Cavasso.

SCRep. 765-90 Judiciary on H.B. No. 2827

The purpose of this bill is to authorize the entry of judgments in malpractice actions against health care providers which provide for the option of payment of future damages through periodic payments rather than lump-sum payments.

Your Committee emphasizes that this proposed program is voluntary. H.B. No. 2827 as amended provides that the courts may only schedule periodic payments under this new section if requested by either party and then only if the courts choose to accept the responsibility.

Testimony was received from the Medical Coalition for Tort Reform.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2827, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2827, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bellinger and Cavasso.

SCRep. 766-90 Judiciary on H.B. No. 2826

The purpose of this bill is to allow the courts the option to establish a periodic payments schedule for a minor where the verdict, award, or settlement of at least \$20,000, arising from a medical tort, is reached against a health care provider.

Testimony regarding this bill was received from the Medical Coalition for Tort Reform.

Your Committee believes that the court, acting in the best interests for a minor who receives a verdict, award, or settlement against a health care provider for at least \$20,000 arising from a medical tort, should have the option, if requested by a party, to schedule periodic payments. Your Committee emphasizes that the opportunity to have the court schedule periodic payments is voluntary. Consequently, your Committee has amended this bill by adding language stressing that the court may only act upon the request of a party and that the court has the option as to whether to act upon that request or not.

Your Committee has also amended this bill by deleting the option of having a periodic payment schedule developed by an arbitrator. Your Committee believes that the arbitration system, presently staffed by volunteers and in use by the courts, would be unable to properly attend to these matters due to the current workload arbitrators now face.

Technical, nonsubstantive changes were also made to this bill by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2826, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2826, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bellinger and Cavasso.

SCRep. 767-90 Judiciary on H.B. No. 1651

The purpose of this bill is to add a new part to Chapter 327D, Hawaii Revised Statutes, which recognizes a Durable Power of Attorney for Health Care and establishes requirements for its valid execution. Such a power of attorney would authorize a principal to designate another person as the attorney-in-fact to make any and all medical decisions on the principal's behalf when that person is incapable of doing so.

Your Committee finds that the absence of a durable power of attorney law is a major omission in Hawaii's health care statutes. A durable power of attorney for health care is essential for hospitals, families, or friends who are caught in the dilemma of needing to make decisions on a patient's behalf when that person is incapacitated. Often it is unclear who among relatives can or should make these decisions. This bill would allow individuals to designate the person who should make decisions on their behalf.

Your Committee heard testimony in favor of this bill from the Director of Health, the American Association of Retired Persons, the Life Foundation, the American Civil Liberties Union, and members of the community. Opposing testimony was heard from the Hawaii Right to Life.

Your Committee has amended this bill by deleting the proposed amendments to Chapter 327D.

Your Committee has further amended this bill by adding the sentence "A durable power of attorney is a power of attorney which may also be used for medical treatment decisions," to Section 551D-1, Hawaii Revised Statutes, to make it clear that a durable power of attorney may be used for medical treatment decisions. Your Committee intends to have durable powers of attorney assist in timely and appropriate health care decisions which are consistent with the patient's desires. Your Committee also believes that this mechanism may be useful to persons with mental illness who may suffer from episodes when they are unable to make health care decisions for themselves.

Your Committee has also amended this bill by making it effective upon approval.

Technical, nonsubstantive amendments have also been made to the bill for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1651, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1651, H.D. 2.

Signed by all members of the Committee.

SCRep. 768-90 Judiciary on H.B. No. 2611

The purpose of this bill is to delete existing language which implies that the Family Court may "order otherwise" upon receipt of notice from the Director of Corrections that a juvenile is about to be discharged.

Your Committee received testimony in support of this bill from the Senior Judge of the First Circuit Family Court and the Director of the Department of Corrections.

This bill will conform the existing law with existing practice because the Family Court does not reserve authority to "order otherwise" after a person is committed to the custody of the Director of the Hawaii Youth Corrections Facility.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2611 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Shon and Cavasso.

SCRep. 769-90 Judiciary on H.B. No. 2425

The purpose of this bill is to amend Section 266-27, Hawaii Revised Statutes, by prohibiting the mooring of vessels in state harbor facilities under certain situations.

Your Committee received favorable testimony from the department of transportation.

Your Committee agrees that a person must have a valid use permit in order to moor a vessel in a state harbor facility. Your Committee recognizes that an expired or terminated permit is not valid. Your Committee recognizes, however, that there exists an exception to this requirement when law enforcement authorities seize vessels they have determined to be

carrying illegal drugs and then keep the vessels moored at state harbors. Your Committee, therefore, agrees with the exception contained within this bill.

Your Committee has made technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2425, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2425, H.D. 2.

Signed by all members of the Committee except Representatives Shon and Cavasso.

SCRep. 770-90 Judiciary on H.B. No. 2862

The purpose of this bill is to authorize the counties to impose civil fines for any violation of county ordinances or rules.

Your Committee finds that the counties have difficulty dealing with unauthorized encroachments and unauthorized commercial uses in city parks. The current method of enforcing ordinances and rules involves the filing of civil lawsuits. Authorizing the counties to impose administrative fines will increase their efficiency in enforcing their ordinances and rules.

Testimony received from the Department of Parks and Recreation, City and County of Honolulu, supported the intent of this bill. It is expected that this measure will allow the counties to avoid lengthy and expensive court proceedings whenever possible.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2862 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Shon and Cavasso.

SCRep. 771-90 Judiciary on H.B. No. 2752

The purpose of this bill is to make the Hawaii Administrative Procedures Act (HAPA) applicable to a board or commission in the legislative branch of government if the board or commission is defined as an agency and required to adopt rules under other general law.

Your Committee finds that this bill removes ambiguity by explicitly stating that boards and commissions in the legislative branches of the state and county governments are "agencies" provided that under general law they are defined as agencies and required to adopt rules.

Testimony favoring the passage of this bill was received from Life of the Land and Hawaii's Thousand Friends.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2752 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 772-90 Judiciary on H.B. No. 2965

The purpose of this bill is to amend the powers of the Civil Rights Commission, and to streamline the operation of the Commission.

Your Committee believes that this bill would facilitate the original intent of the creation of the Civil Rights Commission - to expeditiously resolve discrimination complaints.

Testimony was received from the Chamber of Commerce of Hawaii, the Department of the Attorney General, the Honolulu County Committee on the Status of Women, Liberty House, the American Civil Liberties Union, the Hawaii Women's Political Caucus, Hawaii Women Lawyers, the Committee on Welfare Concerns, Hawaiian Electric Company, PRI, Oahu Filipino Community Council, Hawaii Civil Rights Commission, Na Loio no na Kanaka, Afro-American Association of Hawaii, and the Hawaii State Commission on the Status of Women.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2965, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 773-90 Consumer Protection and Commerce on H.B. No. 2415

The purpose of this bill is to clarify that the exceptions and definitions contained in Section 515-3, Hawaii Revised Statutes, also apply to Sections 515-5, 515-6 and 515-7.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs (DCCA), Sun Village-Kauai, the Institute of Real Estate Management, and the Hawaii Association of Realtors. The

DCCA testified that this bill would prevent certain housing from violating State law when it is in compliance with federal law.

The Sun Village-Kauai suggested that the bill be conformed to the exemptions for elderly housing contained in the State Fair Housing Act, to the exemptions contained in the Federal Fair Housing Act, and to clarify that the exemption for elderly housing are included in all the provisions prohibiting discrimination against children.

Upon further consideration, your Committee has amended this bill to include those portions of SECTIONS 2, 3, 5, 6, and 7 of H.B. No. 2029, also heard by your Committee, as they relate to the change to "handicapped status".

H.B. No. 2029 also amends Chapter 515. The term "physical handicap" has been changed to "handicapped status" to render all provisions of Section 515 to be in concert with federal law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2415, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2415, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Bellinger, Cachola and Cavasso.

SCRep. 774-90 Consumer Protection and Commerce on H.B. No. 2323

The purpose of this bill is to amend Section 514-A, Hawaii Revised Statutes, to define "accessory building" and "accessory dwelling," and to give the counties the authority to regulate the sale of accessory buildings and accessory dwellings under condominium property regime statutes.

The Real Estate Commission (Commission) expressed serious reservations about this bill. The Commission was concerned that by excluding "accessory building" and "accessory dwelling" from the definition of "apartment", the amendment would adversely affect all types of Condominium Property Regime (CPR) projects in addition to "ohana" projects. The Commission was also concerned with the creation of CPR projects which include an "accessory building" or an "accessory dwelling" through filings at the Bureau of Conveyances because of the lack of a mechanism for comprehensive review. Finally, the Commission expressed concern with the section in the bill allowing ordinances adopted by county councils and regulating the sale of accessory buildings and accessory dwellings to be superior to rules adopted by the Commission. The Commission reasoned that enacted ordinances may conflict with the consumer protection provision of Chapter 514A, which regulates the sale of condominium apartments.

The City and County of Honolulu (City) and the County Council of Maui supported the intent of the bill, to prevent the separate ownership or sale of "accessory buildings" and "accessory dwellings" and thereby reinforcing the legislative intent regarding "ohana" zoning. The City believed that before passage, however, clarification was needed as to whether the counties would be able to designate an accessory dwelling or building and under what circumstances the counties would need to regulate their sale.

The Condominium Property Regime Committee of the Hawaii State Bar Association testified against the bill because it believes that:

- (1) The definitions provided for "accessory building" and "accessory dwellings" are vague; and
- (2) Land use is a county matter and should be regulated by county zoning codes; and
- (3) It is arbitrary and illogical to make exclusions to the definition of "apartment"; and
- (4) The transfer of the power to regulate the sale of condominium units from the State to the counties would be against the intent and purpose of Chapter 514A which specifically deems condominium sales to be a State concern.

The Ohana Homeowners Network opposed the bill because it believes that the definitions of "accessory building" and "accessory dwelling" will cause further confusion with respect to ohana homes approved by the City prior to April 28, 1988; that the effect of the amendment would be to prohibit CPR'S for ohana developments which can be a useful technique for family estate or financial planning; and that the Real Estate Commission would not be able to continue its charge to prevent fraudulent practices and to protect the consumer.

Your Committee believes that the Real Estate Commission's proposed amendment will accomplish the bill's intent to benefit ohana CPR residential units that follow the law without creating the problems that testifiers believed would arise with the passage of the bill as proposed. Families will continue to be able to add a second residential unit for family members with separate ownership, mortgages and taxation and not be forced to find a residence elsewhere, while other CPR projects will not be inadvertently affected. Your Committee further believes that this amendment addresses the concerns that the original legislative intent with the establishment of ohana zoning has been undermined by individuals who have used the ohana zoning to build additional residences to be sold by requiring "that the developer of a project with two apartments should occupy one of the apartments as the developer's principal residence for one year from the recordation of the conveyance of the subject apartment."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2323, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2323, H.D. 1.

Signed by all members of the Committee except Representatives Bellinger, Cachola, Peters and Cavasso.

SCRep. 775-90**Consumer Protection and Commerce on H.B. No. 3256**

The purpose of this bill is to amend Section 453-3, Hawaii Revised Statutes, to amend the present requirements for licensure to practice medicine.

The Board of Medical Examiners opposed this bill because it believes the present law is conservative but fair and clearly understandable.

A physician testified that he had been denied licensure to practice as a physician in Hawaii even though he believed he satisfied the licensure requirements. This physician had received his degree in Ireland, practiced for 17 years in Canada, and completed four years of psychiatric residency at the University of Hawaii. After graduating from his residency at the University of Hawaii, he was accepted for a child psychiatrist position at the Windward Mental Health Clinic but was denied licensure by the Board of Medical Examiners because he did not qualify under one of the requirements under Section 453-3 for the licensure of graduates of foreign medical schools. This requirement is either to pass the Educational Commission for Foreign Medical Graduates (ECFMG) exam or hold the certificate of Fifth Pathway Program of the American Medical Association (AMA). This physician had not taken the ECFMG exam, which is a normal requirement of the residency program at the University of Hawaii School of Medicine because the School of Medicine had waived this requirement due to his prior experience.

Your Committee has amended this bill as recommended by the parties involved by amending Section 453-4 to allow this particular physician to apply for licensure as it believes that he has been caught in a situation which he did not create where his four-year residency in a program accredited by the Accreditation Council for Graduate Medical Education is more than equivalent to the requirements in this section. It is believed that this individual's situation is unique and this bill has a drop dead provision to afford this one applicant time to be licensed in Hawaii, but not be made available on a permanent basis. Based on the testimony that it has received, your Committee, as well as the Board of Medical Examiners, does not feel that the licensure of this individual will be a threat to the health and safety of the public and will indeed fill a need in the field of child psychiatry.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3256, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3256, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bellinger and Cavasso.

SCRep. 776-90**Consumer Protection and Commerce on H.B. No. 2450**

The purpose of this bill is to amend Section 269-1, Hawaii Revised Statutes, by amending the definition of "public utility" to exclude private shared telecommunication services.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (DCA), the Hawaii Hotel Association (HHA), a telephone service provider, a hotel, and a resort association.

The DCA testified in support of the concept of the bill, but had reservations. The DCA stated that the exclusion of "shared telecommunications services" (STS) from the definition of "public utility" would remove significant protections for consumers because STS issues would only be reviewed at the PUC when the telephone company files a tariff to provide access to an STS company. In the PUC review of the tariff of the telephone company, the telephone company would be able to state what issues would be relevant, specifically, the criteria for market entry by STS providers, quality of service, and costs and fees. The DCA stated that this scenario would not encourage STS providers to provide equitable service and small businesses and residential condominium dwellers would be left unprotected by the deregulatory scheme. The DCA recommended that a new section be added to Chapter 269 to direct the PUC to review and analyze the issues with specific criteria or standards before deregulation of this service begins.

The HHA, the hotel, and the resort association stated that this bill would clarify the ability of hotels and others to use common telecommunications services. The telephone service provider testified that this bill would provide clear guidance to the PUC to assist GTE Hawaiian Tel (Hawaiian Tel) in providing the public service. The hospital supported this bill because it would allow its physician tenants the opportunity to utilize its telecommunication services currently available at the medical center and would also allow the medical center to expand its services to physicians and possibly reducing its overall cost to the medical center and its physicians.

The Public Utilities Commission (PUC) and Hawaiian Tel opposed this bill as drafted. The PUC stated that it does not support a blanket exclusion of STS providers from the definition of a public utility. The PUC acknowledged that because the STS systems can concentrate traffic at the PBX and route it through a relatively small number of trunks, the advantage of STS to tenants may consist of prices for telephone service that are lower than the rates for service directly from Hawaiian Tel. In addition, tenants can have access to enhanced services or interexchange carriers that are economical only under an STS arrangement. However, the PUC believes it requires the flexibility to determine the conditions under which, and the degree to which, innovative and evolving telecommunications services should be regulated. Regulatory oversight will ensure that the benefits associated with these arrangements will be realized and that customers of Hawaiian Tel and STS providers will be protected.

Hawaiian Tel testified that STS would have an adverse effect on the local telephone rates paid by the general ratepayers. Because STS would allow providers to be selective in who they serve, how they provide service, and what they charge, STS providers could reduce revenues that are currently received which are used for keeping local telephone rates low and reduce the number of telephone subscribers who share the cost of the public telephone network. Further,

Hawaiian Tel believed that the PUC was the proper body to evaluate the appropriateness of allowing STS service in Hawaii and the extent and severity of its impacts to the general ratepayers.

Your Committee intends that the PUC have continuing jurisdiction over STS service providers until the STS services providers are exempted as a public utility. The PUC should also retain the right to re-regulate exempted STS providers.

In addition, your Committee is concerned about the impact of an STS provider becoming defunct and the potential of increased costs to the local telephone company, which must then step in to provide services, which costs will then be borne by the general telephone ratepayer. Therefore, your Committee expects that while the PUC should deal with the STS providers expeditiously, the PUC should be thoroughly satisfied that the STS service provider has the resources to continue STS service to its customers.

Your Committee finds that these concerns are not unique to STS services. As other innovative telecommunications services emerge, the Legislature will be asked to address the issue of regulation and the demand for swift introduction of such services. Rather than a legislative response to each emerging telecommunications services, your Committee believes that the PUC should be given the flexibility to regulate or deregulate, partially or fully, any telecommunications service or provider as required by the public interest. The PUC is equipped to consider the ramifications of deregulation and, as an administrative agency, is able to respond quickly to conditions that may militate against continued deregulation.

Accordingly, your Committee has amended this bill to provide for the following:

- (1) A telecommunications provider is recognized as a "public utility" subject to the regulation by the PUC unless the PUC exempts the telecommunications provider as a "public utility";
- (2) The PUC may exempt a telecommunications provider or service, permanently or on a trial basis, from any or all regulatory requirements if such an exemption is in the public interest;
- (3) The PUC shall streamline the regulatory process for the granting of exemptions, where practicable, and shall formulate guidelines for the equitable provision of telecommunications services;
- (4) The PUC may attach conditions to the exemption;
- (5) An exempted telecommunications provider must provide written notice of any intent to terminate its service. Upon such termination, the basic local exchange service provider shall ensure that all affected customers continue to receive basic local exchange service; and
- (6) If appropriate, the PUC may reassert its regulatory oversight over any exempted provider or service.

Your Committee intends that this bill, as amended, will address concerns specific to STS services. Your Committee anticipates that the PUC will act promptly upon approval of this bill, to prevent any discontinuance or threatened discontinuance of access by existing STS providers or existing users to the local exchange system until a final PUC ruling is made affecting existing systems. The PUC also should respond in an expeditious manner to STS providers or users who wish to update and modernize equipment now in use.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2450, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bellinger and Cavasso.

SCRep. 777-90

Consumer Protection and Commerce on H.B. No. 3176

The purpose of this bill is to amend Chapter 481B, to ensure that consumers are informed about the inadequacies of radar detectors before purchasing them.

The Department of Commerce and Consumer Affairs (DCCA) concurred with the intent of the bill. The DCCA's Office of Consumer Protection testified that they had been informed that radar detectors on the market were not effective with respect to the speed detection devices currently employed by the Honolulu Police Department.

The main purpose of a radar detector is to alert the consumer of the proximity of a speed detector device. Your Committee believes these radar devices pose a traffic safety problem since consumers who have them may excessively speed on highways on the false notion that their radar detecting device will prevent them from receiving a speeding ticket. Your Committee is informed that there is a direct correlation between speeding and the incidence of traffic accidents. Your Committee views this measure as one which ultimately will discourage speeding. Your Committee believes that preventing speeding is more important than protecting the "right" of consumers to spend hundreds of dollars on devices which are of little or limited use, but on which they may rely.

Additionally, your Committee has amended this bill by adding a new chapter on activity providers. Your Committee heard H.B. No. 2161, Relating to Travel Agencies, and testimony on the bill revealed concerns regarding the practices of entities known in the tourist industry as "activity desks". "Activity desks" are the middlemen selling the service of "activity providers" (i.e. providers of helicopter tours, fishing outings, snorkeling, etc.).

The concerns raised include the advertising practices of some activity desks the advertising practice is a deceptive, that is, the activity desk conceals or covers ("stickers-over") the name of the activity provider, thus not allowing the consumer to speak directly with the activity provider. Your Committee was also informed that some activity desk operators are

using the funds collected for the activity provider to pay for the activity desk operating costs rather than paying the activity provider in a timely manner. Many activity providers stated that they are not able to collect the funds owed to them when an activity desk becomes bankrupt. Thus, they suggested that activity desks should be required to deposit funds collected for the activity provider in a separate account.

Your Committee understands that these concerns cannot be resolved between the activity providers and the activity desks through contract negotiations. Past practices by some activity desks show that some activity desks eliminate selling the activity provider's service when an activity provider requests segregation of funds or requests that the desk not "sticker-over" the activity provider's name on the activity brochure. Because activity providers rely on activity desks to help sell their services, they risk being "blackballed" if they do not comply with the desks' terms. The nature of the desk-provider relationship indicates unequal bargaining power, with attendant negative impact on our visitor industry. Several states including California and New York have regulated these desks by statute.

The new chapter on activity providers added to this bill the following:

- (1) A definition section for activity providers and activity desk;
- (2) A prohibition on covering, concealing, or obscuring the activity provider's name, address, or telephone number without the permission of the activity provider;
- (3) A requirement that the activity desk must keep all funds owed to activity providers in a separate account;
- (4) Injunctive relief for activity providers;
- (5) A violation of not less than \$1,000 shall be assessed to the activity desk for violating this chapter; and
- (6) An exemption for any bona fide employee of an activity provider or any person subject to Chapter 468K (travel agencies).

Your Committee notes that this bill is being used as the vehicle to regulate activity providers as H.B. No. 2161, RELATING TO TRAVEL AGENCIES, did not have an appropriate bill title to report this amendment out of committee. Your Committee notes that it intends to keep this bill moving to afford time for the parties affected by this chapter to continue discussion and review of the language.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3176, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Bellinger, Cachola, Peters and Cavasso.

SCRep. 778-90

Consumer Protection and Commerce on H.B. No. 3435

The purpose of this bill is to amend Chapter 457, Hawaii Revised Statutes, by adding a new provision to allow qualified nurses prescriptive authority in certain circumstances.

The Board of Nursing (Board) expressed some concerns about this bill although it recognized and appreciated the merits of this bill. The Board's concerns included that the bill lacked clarity as to how the chapter was being amended since prescriptive powers would expand the scope of practice of registered nurses; established a separate scope of practice for a specialty (advanced nurse practitioner) while other specialties such as midwives, nurse anesthetists, etc. have not been recognized; lacked clarity as to the roles of the Board and the Department of Commerce and Consumer Affairs relative to this change and to the additional burden on resources it would create. The Board recommended that this issue be examined through a study.

The Department of Health, the Interim Dean and faculty members of the University of Hawaii School of Nursing, the Hawaii Nurses' Association, the Hawaii Certified Nurse-Midwives, several health care clinics, and several nurse practitioners testified in support of the bill. Several groups and individuals pointed to the fact that 28 states, with an additional 5 states in progress, allow nurses prescriptive authority in specific circumstances. They also testified that there was a need for nurses to be able to respond to the primary health care needs of rural populations, the medically indigent and the chronically ill.

Those supporting the bill also noted that this bill would simply codify the common practice of physicians delegating prescription responsibilities to qualified nurses and would allow the qualified nurses to proceed in the treatment of their patients without the formality of getting the physician's signature, which is time-consuming and sometimes life-threatening. It was pointed out that nurses have been held by the courts to be liable for dispensing medications that physicians erroneously prescribed, for not stopping a medication when an adverse reaction is observed, and for not initiating a medication in an emergency case, thereby placing nurses "in a precarious legal position in increasing responsibility and liability without corresponding authority". Pending legislation mandating access to primary care by registered nurses for recipients of medicaid was also noted.

The Hawaii Medical Association (HMA) provided testimony against any bill which expanded the scope of practice of any licensed professional through the legislative process. The HMA believed that the Sunset Law process should take place before such a bill is passed and that such issues as the liability issue for the State and others, the capability of the University of Hawaii to develop the required training programs, the relationship of the Board of Nursing to the Office of

Narcotics Enforcement, and the impact of this bill on all of the statutes defining who may dispense, administer or otherwise safeguard prescribing practices need to be addressed.

Recognizing that Hawaii needs to further address the health needs of certain populations, that advanced nurse practitioners have an important role in this endeavor, and that prescriptive authority may be important in this effort, but also recognizing that legitimate concerns have been raised, your Committee has modified this bill to create a new chapter to allow advanced nurse practitioners to prescribe medications under certain conditions as follows:

- (1) Be aimed, but not be limited to, the developmentally disabled, homeless, medically indigent and mentally ill at sites including health maintenance organizations, primary care centers, group practices, governmental agencies and physician's offices.
- (2) Allow qualified advance nurse practitioners to prescribe from the defined categories.
- (3) Allow the Department of Health to adopt rules subject to Chapter 91, to implement this project.
- (4) Mandate the Department of Health to submit an interim report with findings and recommendations, including proposed statutory changes, to the Governor and the Legislature prior to the 1991 legislative session and a final report prior to the 1992 legislative session.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3435, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3435, H.D. 2.

Signed by all members of the Committee except Representatives Andrews, Cachola, Peters and Cavasso.

SCRep. 779-90 Labor and Public Employment and Judiciary on H.B. No. 2967

The purpose of this bill is to clarify the scope of the functions and authority of the Department of Public Safety.

Your Committees received testimony in support of the intent of this measure from the Governor's Public Safety Transition Team, the Department of Health, the State Attorney General, and members of the public.

The bill, as received, does not transfer all of the responsibilities found in Chapters 329 and 329C, Hawaii Revised Statutes, from the Department of Health to the Department of Public Safety. As a result, important sections of the narcotics statutes, which should properly be under the Department of Public Safety, are left with the Department of Health.

This measure has been amended to transfer all narcotic functions to the Department of Public Safety. These amendments will clarify the scope of the functions and authority of the Department of Public Safety with regard to the state narcotics program.

In addition, your Committees have amended this measure to provide that the state law enforcement officers transferred from the Department of the Attorney General by Act 211, SLH 1989, will continue to be housed in the State Capitol building. They will be responsible for the public safety in state buildings and the personal protection of government officials and employees while conducting their duties.

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

Your Committees on Labor and Public Employment and Judiciary are in accord with the intent and purpose of H.B. No. 2967, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2967, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bellinger, Bybee, Tajiri, Cavasso and Marumoto.

SCRep. 780-90 Labor and Public Employment on H.B. No. 2028

The purpose of this bill is to identify specific job classes in which seriously mentally ill persons can be productively employed, and to reserve the filling of these positions for only the mentally ill unless the Department of Health has made a determination that there are no eligible persons for these jobs. This bill requires the various political jurisdictions to establish a separate recruitment and examination program for these reserved job classes.

It is the intent of your Committee to be responsive to the needs of mentally ill persons by providing these individuals with needed employment opportunities that will allow them to become more independent and productive members of our society.

Your Committee received testimony from the Department of Health, the Department of Human Services, and the Oahu Alliance for the Mentally Ill. The Department of Human Services expressed concern about being able to fill identifiable positions with only applicants who are seriously mentally ill.

Accordingly, your Committee has amended this bill by providing that whenever hiring persons to fill positions for which seriously mentally ill persons can be productively employed, state and county departments shall give preferential

consideration to employing the seriously mentally ill. If these positions cannot be filled by seriously mentally ill persons, then the position will be filled in the usual manner.

Technical, non-substantive amendments have been made for the purposes of style and clarity.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 2028, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2028, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bybee, Tajiri and Marumoto.

SCRep. 781-90 Legislative Management and Judiciary on H.B. No. 2737

The purpose of this bill is to limit the liability of the Legislature in providing legislative information and services through the Hawaii Area-Wide Information Network (HAWIAN). This measure also specifies that the Legislature will be the sole and exclusive owner of rights, titles, and interests in and to its databases.

Your Committees received testimony from Common Cause of Hawaii, the American Association of University Women, and others. It was noted that the Legislature should not be allowed to waive responsibility when someone relies on erroneous information that had been intentionally included on the information network.

In addition, it was also noted that referring only to HAWIAN as the network of dissemination is too limiting. Not only HAWIAN, but other on-line information networks might be used to disseminate legislative information services. The term "gateway network" is also technically inappropriate.

Based on the recommendations of the foregoing, your Committees have amended this bill by:

- (1) Amending the definition of "ACCESS/legislative information service" to mean the information service provided by the Legislature through on-line information networks, including without limitation HAWIAN;
- (2) Adding a new definition of "on-line" to mean accessed by the use of data communications hardware and software;
- (3) Amending the purpose of this new chapter to provide certain legislative information and services prepared by the Legislature through one or more on-line information networks and to increase the accessibility by the public and state government to information and services;
- (4) Specifying that the Legislature will not be liable or held responsible for any unintentional omissions, additions, or errors;
- (5) Specifying that the Legislature is the sole and exclusive owner of all rights, titles, and interests in and to legislatively-generated databases, including but not limited to all computer software and certain data; and
- (6) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committees on Legislative Management and Judiciary are in accord with the intent and purpose of H.B. No. 2737, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2737, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Alcon, Kihano, Oshiro, Shon, Souki, Yoshimura and Cavasso.

SCRep. 782-90 Legislative Management and Judiciary on H.B. No. 2738

The purpose of this bill is to improve citizen access to the Hawaii Revised Statutes and other statutory compilations by requiring the copyright of these legislative collections. By doing so, the Legislature would be able to ensure that these works are current, accurate, and complete.

During your Committees' deliberations it was noted that the copyright question involves an examination of two very separate issues. The provision of statutory data to an individual citizen at low cost to cover reproduction expenses is completely separate from the provision of the data at low cost to an individual or corporate entity which plans to resell the same information to consumers at for-profit levels. The Hawaii Revised Statutes, Session Laws of Hawaii, and other statutory compilations were created at substantial cost to Hawaii taxpayers, and as such are within the public domain. Accordingly, if the legislative information has commercial value, then the taxpayers who paid for the creation of these works are entitled to share in any profits realized.

Your Committees are especially concerned that Hawaii's statutory compilations be kept current, accurate and complete, particularly where private publishers are proposing to offer Hawaii Revised Statutes and other legislative information as on-line, electronic information services to the public. Currently, some publishers have developed such electronic services through the purchase and electronic conversion of hard-copy versions of the Hawaii Revised Statutes, a method through which only selected private publishers benefit.

With the passage of Chapter 206P, Hawaii Revised Statutes, however, the Legislature has enacted legislation to promote the economic diversification of the State through the development of an information industry. Legal information services,

such as Lexis and Westlaw, are well-known and widely-used nationally. To develop marketable information services utilizing Hawaii statutory databases, there must be a mechanism to obtain current, accurate, and complete copies, in a machine-readable form, of statutory data which is editorially created by the Legislature.

To ensure broad public access to commercially-distributed versions of the Hawaii Revised Statutes, this measure should provide for nonexclusive grants of royalty-bearing licenses on a nondiscriminatory basis to anyone who can satisfy the Legislature that a grant will not hurt the public interest. Your Committees find that a requirement for nondiscriminatory, nonexclusive licenses would encourage competition, discourage monopoly, and promote wide dissemination of the Hawaii Revised Statutes.

At the same time, to ensure that this measure does not impair nonbusiness activities, the bill should contain a blanket license allowing all citizens to use, copy, and distribute portions of the Hawaii Revised Statutes, for other than business or profit-generating use.

During the hearing, an issue was raised regarding the constitutional propriety of state copyrights. However, your Committees find that more than 20 states claim copyrights on their statutes with at least ten of these states enacting legislation authorizing the copyright of these statutes.

Furthermore, in response to your Committees' request for an opinion regarding the constitutional and other issues raised in the hearing, the State Attorney General rendered a letter opinion (dated March 2, 1990) that the measure does not present any constitutional defects.

Accordingly, your Committees have amended this bill by:

- (1) Adding a blanket license allowing all citizens to use, copy, and distribute portions of the Hawaii Revised Statutes; provided that the statutes are not used by businesses to generate revenues for profit;
- (2) Providing for nonexclusive grants for royalty-bearing licenses on a nondiscriminatory basis to anyone who can prove to the Legislature that the grant will not hurt the public interest;
- (3) Replacing the requirement of paying for the "cost of preparation" with requiring potential licensees to pay "reasonable royalties prescribed by the legislature"; and
- (4) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committees on Legislative Management and Judiciary are in accord with the intent and purpose of H.B. No. 2738, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2738, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Alcon, Kihano, Oshiro, Shon, Souki, Yoshimura and Cavasso.

SCRep. 783-90 Housing and Consumer Protection and Commerce on H.B. No. 3103

The purpose of this bill is to amend Section 516-33, Hawaii Revised Statutes, by requiring applicants to certify to the Housing Finance and Development Corporation that they have no beneficial interest in a land trust for land condemnation proceedings. This bill also provides penalties for false certification.

Your Committees heard testimony from the Housing Finance and Development Corporation (HFDC), which neither supported nor opposed the measure.

The HFDC recommended that:

- (1) "Land trust" should be defined as a trust under chapter 558;
- (2) The disqualification should be limited to those persons with 100 percent beneficial interest in the land trust;
- (3) There may be some problems with the penalty section because HFDC may not want to retain the lease fee interest and HFDC may have problems determining the consideration received in reconveyance; and
- (4) The bill should apply prospectively to all new applications received by HFDC.

The Corporate Trustees Association of Hawaii and some concerned persons opposed this bill because they stated that this change would discriminate against individuals who are using a land trust for reasons other than as an attempt to circumvent the requirements of this chapter and that those who in fact wish to circumvent the intent of this chapter would, in any case, find other ways to do so.

A representative of the Kaneohe Ranch, Kamehameha Schools/Bernice Pauahi Bishop Estate, and the Small Landowners' Association testified in favor of this bill which would eliminate an existing loophole for individuals who would not be qualified to acquire the fee simple interest in their leasehold residential lot because they own other residential property to circumvent the law by placing the other property in a land trust.

Your Committees understand that a situation has developed where individuals have established land trusts in order to qualify under the provisions of Section 516-33 and that some land trusts have been designed to circumvent the intent of this chapter and that others would fall within the intent but not the letter of the chapter as it is currently being

administered. Your Committees recognize that the interest in fee held by some of these individuals is less than 100 percent and that they may not have control over the fee property such that their fee interest provides them with a fee property which is truly suitable for their own residential needs. That is, they may have inherited a portion of a fee property together with other family members and that they are therefore not able to use this property for their own home. Your Committees believe that it is the intent of this chapter to allow such individuals to qualify to purchase a residential lot under the provisions of this chapter.

Your Committees have amended this bill to clarify the intent of Section 516-33(a)(7). Currently, HFDC does not determine what "suitable for residential purposes" means under this subpart and therefore any sliver of fee ownership would disqualify a person for the fee purchase of the residential lot. Ownership in "fee simple lands suitable for residential purposes" was intended in this chapter to mean ownership of fee simple property that is available to the individual for his/her personal residence and not simply any residential fee ownership. Therefore, your Committees have amended this bill to clarify the intent of the Land Reform Act to give guidance to HFDC in qualifying persons for the purchase of their residential lots by clarifying that the chapter would not exclude individuals having less than 100 percent ownership of residential fee simple property. (Your Committees presume that anything less than 100 percent ownership may not truly afford the individual the actual control needed to establish residence on the property.)

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 3103, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3103, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Amaral, Andrews, Chang, Duldulao, M. Ige, Kawakami, Leong, Peters and Cavasso.

SCRep. 784-90

Housing and Consumer Protection and Commerce on H.B. No. 1275

The purpose of this bill is to amend Section 519-1, Hawaii Revised Statutes, to modify the basis upon which the renegotiation of the rental amount or other recompense for the lease of private lands to reflect the value of the land as it is actually being used at the time of renegotiation rather than the value of its "highest and best use" as may be stipulated under a lease document. The bill also provides that if subdivided lots have been consolidated for purposes of multi-family apartment use, such lots shall be deemed to be one lot.

Your Committees received testimony on this measure from the Housing Finance and Development Corporation (HFDC), the Hawaii Sugar Planters Association (HSPA), Canal Classic (a co-op residence complex), a representative of Date-Laaui residents, and several individual leasehold cooperative owners.

By way of background, your Committees were informed that the situation which gave rise to this measure involves a master lease which contained the clause that lease rents would be negotiated based on the "highest and best use" for which the property was ever zoned. This master lease was never recorded and the lessees had no notice of this provision. The owner of this property subsequently had the property zoned as "high rise". The property was thereafter again down-zoned. Under the terms of the undisclosed master lease, the lease rent would be based on the "high rise" zoning regardless of the fact that the underlying zoning had changed. While it is appropriate that property owners and lessees be able to negotiate the bases upon which any renegotiation of rents will take place, this assumes that both are aware of these bases. The question of fairness arises when one side has no notice of the operative terms.

Moreover, it is also your Committees' understanding that national appraisal standards for real property appraisals take into account the actual use of property at the time of appraisal, so appraisals will reflect all the appropriate relevant factors.

Upon further consideration, your Committees have amended this bill to leave intact the current statutory provisions regarding rent renegotiations, except to provide that in situations where there is no notice of the renegotiation terms, "actual use" shall be the basis upon which renegotiations of lease rents shall occur. It is the intent of your Committees that this change would underline the legislature's expectation that proper disclosure be provided to consumers and that if such material facts are not disclosed, a penalty should properly ensue.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1275, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1275, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Amaral, Andrews, Chang, Duldulao, M. Ige, Kawakami, Leong, Peters and Cavasso.

SCRep. 785-90

Water and Land Use on H.B. No. 3164

The purpose of this bill is to help minimize the difficulty that displaced businesses have in relocating due to government's acquisition of private lands. This bill provides that any lessee or tenant engaged in commercial or industrial uses who is displaced from private property due to acquisition by the State or any county has the right of first refusal to enter into a lease in an industrial park created under Chapter 171 (public lands), Hawaii Revised Statutes. Under this bill, the lessee or tenant may enter into the lease after the industrial park has been designated as an appropriate relocation site by law or by resolution adopted by the Board of Land and Natural Resources and approved by the Legislature by concurrent resolution.

The majority of the testimony received by your Committee focused on the Department of Transportation's recent announcement to acquire private industrial lands adjacent to the Honolulu International Airport as part of its airport

expansion plans. DOT testified that this legislation would allow it to relocate the lessees with the least possible impact on the continuity of their businesses. The Airport Tenants Association, representing some 2,400 jobs with a combined annual payroll of over \$68 million, highlighted the importance for immediate State action on this matter. The Association claimed that the longer the decisionmaking process takes, more employees will quit, more sub-tenants will move out, and fewer banks will be willing to provide financing or lines of credit to the businesses.

To remedy this specific problem, your Committee finds that the Department of Transportation is actively seeking suitable State-owned lands close to the airport area, especially in Kapalama and on Sand Island. The identification of potential sites is expected shortly.

Your Committee on Water and Land Use is in accord with the intent and purpose of H.B. No. 3164, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 786-90 Consumer Protection and Commerce on H.B. No. 2571

The purpose of this bill is to amend Sections 287-4, 287-5, 287-20, and 291C-16, Hawaii Revised Statutes, to raise the property damage level which will trigger the requirement to file an accident report and the requirement for the filing of proof of financial responsibility for the conviction of certain offenses from \$300 to \$1,000.

Your Committee received testimony in support of this bill from the Department of Transportation (DOT) and the Department of Finance of the City and County of Honolulu (City). The City noted that in 1974 when the current \$300 property damage requirement was established, it was the intent of the Legislature to require proof of financial responsibility when a vehicle was involved in a major accident. The City finds that nearly every motor vehicle accident property damage exceeds \$300 of damage, because of the substantial increases in repairs and replacement parts, which in turn creates an enormous administrative burden to file accident reports and to notify vehicle owners of the financial responsibility requirement.

The DOT and the City believe that a \$1,000 property damage requirement will be consistent both with the increased costs of repair since the 1974 enactment of this statute (70.6% increase in cost of repairs and replacement costs from 1976 to 1987) and with the intent of this statute to require proof of financial responsibility for major accidents.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2571, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Bellinger and Cavasso.

SCRep. 787-90 Consumer Protection and Commerce on H.B. No. 2169

The purpose of this bill is to amend Section 521-71(a), Hawaii Revised Statutes, to require landlords to give month-to-month tenants at least ninety days' written notice if the building is to be converted to transient vacation rentals.

The Department of Commerce and Consumer Affairs testified in support of this exception to the standard 28-day notice termination requirement noting that the legislature has made a previous exception in situations where the landlord terminates the tenancy in contemplation of demolishing the units or converting the units to a condominium.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2169, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 788-90 Judiciary on H.B. No. 2015

The purpose of this bill is to regulate the transportation of animals in the open bed or load-carrying area of a pickup truck on any public street or highway.

Testimony was received from the Hawaiian, West Hawaii, East Hawaii, and Maui humane societies, and Veterinary Consultation Services. All testimony was in favor of this bill.

Your Committee finds that animals are susceptible to serious injuries when transported in the open bed or load-carrying area of a pickup. Your Committee further finds that should an animal be thrown or jump from the bed or load-carrying area of a pickup truck while traveling on a public highway, a tremendous traffic hazard may be created.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2015 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Peters, Takamine and Yoshimura.

SCRep. 789-90 Judiciary on H.B. No. 2118

The purpose of this bill is to conform the penalty provisions of Chapter 205, Hawaii Revised Statutes, which relate to lands classified in the state agricultural and rural districts, to be consistent with the provisions of Section 46-4, Hawaii Revised Statutes.

Your Committee finds that Section 205-13 has been interpreted to mean that a violator can continue operating for six months after being cited. This measure would correct this inequity by making the violation and penalty provisions of Chapter 205 consistent with Section 46-4. This permits the counties to establish civil fines and penalties for zoning violations and appropriate procedures for enforcement.

This measure also conforms with the provisions of Chapter 205A so that the penalty for violations shall not exceed \$10,000 in addition to a fine of \$1,000 per day for each day the violation persists.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2118 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 790-90 Judiciary on H.B. No. 2301 (Majority)

The purpose of this bill is to provide for the election of the Board of Education members through a system of primary and general elections while retaining the nonpartisan character of elections.

Your Committee received testimony on this measure from the Board of Education, the Hawaii State Teachers Association, the League of Women Voters of Hawaii, and a member of the public.

Your Committee finds that this measure will enable the public to make a well-informed, meaningful choice when electing candidates for the Board of Education. The primary election narrows the list of candidates running for office and gives the public more time to become familiar with the qualifications and viewpoints of the candidates.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2301 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Okamura, Peters and Yoshimura.
(Representative Cavasso did not concur.)

SCRep. 791-90 Judiciary on H.B. No. 2253

The purpose of this bill is to offer a program of financial aid to fourth year medical students of the John A. Burns School of Medicine in return for two years of practice in the State Department of Health or the Department of Public Safety on completion of residency and licensure by the Board of Medical Examiners.

Your Committee received testimony from the Department of Health, the Department of Corrections, and the John A. Burns School of Medicine.

Your Committee finds that there is a shortage of physicians that are willing to work in state-run hospitals and community health clinics. This bill attempts to fill the vacant positions and meet the overall health care needs of people across the State.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2253, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 792-90 Judiciary on H.B. No. 2912

The purpose of this bill is to limit the Rent Supplement Program to participants who are residents or who intend to become residents of the State.

The Hawaii Housing Authority submitted testimony in support of this bill.

Your Committee finds that the rent supplement program is entirely funded by the State and was established to ease the rental burdens of residents of the State. This bill is intended to preserve the original purpose of the Rent Supplement Program.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2912 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Andrews.

SCRep. 793-90 Finance on H.B. No. 2297

The purpose of this bill is to help alleviate the labor shortage in the visitor industry by providing additional benefits and incentives to its workers through the establishment of a two-year pilot program for at least one childcare project in each county.

Your Committee finds that the visitor industry is a major employer in the State and a major contributor to Hawaii's economic well-being. To alleviate the severe labor shortage it faces, the industry needs to find more progressive initiatives to attract and retain employees.

Your Committee further finds that the provision of childcare assistance as a worker benefit is an important tool in the recruitment and retention of workers, the reduction of absenteeism, and increased productivity on the job.

Therefore, your Committee feels that a demonstration project to provide incentives to the visitor industry to implement childcare assistance programs will benefit not only employees and their employers, but also the State's economy.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2297, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 794-90**Finance on H.B. No. 2265**

The purpose of this bill is to provide for a more efficient and effective shoreline and ocean waters enforcement program by transferring the boating branch, including the marine patrol program, and the responsibility of managing ocean recreation activities from the Department of Transportation to the Department of Land and Natural Resources.

Your Committee received testimony from the Department of Transportation, the Department of Land and Natural Resources, and the Department of Business and Economic Development indicating that marine enforcement in Hawaii has long been hampered by overlapping and confusing jurisdiction between the various enforcement agencies. This effective merger will create a more powerful and efficient enforcement branch.

While supporting the intent of this bill, the three Departments maintained that a more comprehensive transfer is needed that takes into consideration not only the enforcement functions relating to ocean recreation and boating, but also the nonenforcement functions as well.

Although your Committee agrees that a more comprehensive approach may be more appropriate from an administrative perspective and may, in fact, help reduce public confusion of departmental jurisdiction over ocean-related activities in the long run, your Committee believes that a major transfer of these nonenforcement functions should be well thought out. It is your Committee's intent to involve a step-by-step process to provide for a smooth integration of the transfer.

To address these concerns, this bill calls for a feasibility study to look at the transferring of the other functions from the Department of Transportation to the Department of Land and Natural Resources. In addition, this bill calls for a management team to develop appropriate transitional plans.

The findings of the Legislative Auditor's report of the Department of Land and Natural Resources' Division of Conservation and Resources Enforcement are required to be included in the plan and the management team shall report its findings and recommendations to the Legislature prior to the convening of the 1991 regular session.

Your Committee also recognizes that an immediate transfer may create some temporary logistical problems. For this reason, it is your Committee's intent that after the marine patrol personnel has been placed under the direction and supervision of the Department of Land and Natural Resources, the officers and employees be temporarily permitted, if necessary, to continue to utilize office space that was previously allotted to them by the Department of Transportation until such time that the Department of Land and Natural Resources secures adequate office space for them; provided that this temporary use of the Department of Transportation's office space not extend beyond July 1, 1991.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2265, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 795-90**Finance on H.B. No. 2644**

The purpose of this bill is to implement the recommendations of the Interim Task Force to Study the State of Hawaii's Animal Quarantine System (Interim Task Force) regarding a comprehensive, statewide rabies program.

More specifically, this bill proposes to:

- (1) Reduce the likelihood of the introduction of the rabies disease into the State by increasing the public's understanding of the disease through a rabies education program; and
- (2) Develop an accurate account of the animal population within the State by conducting a one-year statewide rabies research and planning study to collect baseline animal population and serological data.

Your Committee received testimony in strong support of this bill from the Board of Agriculture, the Hawaiian Humane Society, several members of the Interim Task Force, and several practicing veterinarians. This testimony consistently

stressed that public and professional understanding of the rabies threat, and the collection of valuable research data on animal populations is of vital importance to the development of effective strategies which will preserve Hawaii's rabies free status.

While in support of the education and research components of the bill, the Department of Health expressed its concerns that the bill may set a dangerous public health precedent if the underlying intent was to justify the establishment of a modified two-month quarantine program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2644, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 796-90 Finance on H.B. No. 2266

The purpose of this bill is to appropriate funds to conduct a statewide collection and disposal project for household and agricultural wastes and to investigate the feasibility of conducting a hazardous waste collection program on a long-term basis.

Your Committee received testimony in support of this bill from the Department of Health and the University of Hawaii, College of Tropical Agriculture and Human Resources.

Your Committee acknowledges the value of previous household and agricultural hazardous waste collection projects and finds this to be indicative of the public's interest in continuing similar projects on a long-term basis.

Your Committee further recognizes that as it becomes increasingly difficult to collect and dispose of hazardous wastes in the State, a one-shot collection project is insufficient to meet the environmental and health needs of the people of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2266, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 797-90 Finance on H.B. No. 2928

The purpose of this bill is to provide that pre-employment physical examinations required by the Director of Personnel Services shall be provided without cost to the applicants.

The bill appropriates funds to implement this measure for the first year, including funds to hire a temporary specialist to develop and coordinate this program.

Your Committee finds that all new employees entering the State civil service are required to take pre-employment physical examinations. State law requires private sector employers to pay for any pre-employment physical examinations. As the labor pool of the State shrinks and new sectors of the population are recruited, requiring prospective State employees to pay for their physical examinations may pose an obstacle to recruitment.

Testimony in support of this bill was submitted by the Department of Personnel Services.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2928 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 798-90 Finance on H.B. No. 2911

The purpose of this bill is to allow the Hawaii Housing Authority (HHA) to negotiate construction and rehabilitation agreements when bids submitted exceed the allocated budgets for the projects; provided that the cost of the agreement negotiated by HHA do not exceed the amount of moneys available for the respective project.

Your Committee finds that this measure will help expedite the development of low-income rental projects by giving HHA the authority to negotiate agreements without complying with Section 103-22, Hawaii Revised Statutes, upon approval of the Governor.

Your Committee received testimony in support of the bill from the Hawaii Housing Authority.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2911 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 799-90 Finance on H.B. No. 2919

The purpose of this bill, as received, is fourfold:

- (1) To establish a procedure that would allow for the transfer of designated community development districts from the State to the county;
- (2) To provide for residential housing in conjunction with redevelopment projects;
- (3) To provide for a loan program to assist in the relocation of small businesses that may be displaced in the redevelopment areas in Kakaako; and
- (4) To change the boundaries of the Aloha Tower complex.

Your Committee has amended this bill as follows:

- (1) To include special management area and shoreline setbacks review procedures to ensure the Kakaako waterfront development will proceed in a timely fashion;
- (2) To ensure that any outstanding bonds would not be impaired by the conveyance of lands to the Hawaii Community Development Association;
- (3) To allow in lieu fees that are collected by the Hawaii Community Development Corporation for the development of affordable housing in Kakaako to be transferred to the Housing Finance and Development Corporation for the development of affordable housing in areas outside Kakaako;
- (4) To designate the Hawaii Community Development Association as the expending agency for the appropriated funds;
- (5) To change the effective date to take effect upon approval; provided that the the appropriation section of the bill take effect on July 1, 1990; and
- (6) To make other technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2919, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2919, H.D. 2.

Signed by all members of the Committee.

SCRep. 800-90 Finance on H.B. No. 2900

The purpose of this bill is to authorize the use of Waimano Training School and Hospital as a respite care facility to eligible individuals with developmental disabilities in special circumstances.

Your Committee received testimony in support of this bill from the Department of Health, the Commission on Persons with Disabilities, the State Planning Council on Developmental Disabilities, the Protection and Advocacy Agency of Hawaii, and the Kapiolani Medical Center for Women.

It uniformly recognized that respite care services for persons with developmental disabilities are urgently needed and existing resources do not adequately meet this need. The proposed use of Waimano Training School and Hospital as a respite care facility will help to fill the present gap. However, your Committee stresses that this use of the Waimano facility is only part of a continuum of respite services, which need to be developed for the developmentally disabled.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2900 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 801-90 Finance on H.B. No. 2962

The purpose of this bill is to establish a revolving fund for the conference center program in the College of Continuing Education and Community Service at the University of Hawaii, Manoa campus.

Your Committee heard testimony from the University's Interim Vice President for Academic Affairs stating that this bill would enable the College and the University to effectively provide the support services required in the conduct of seminars and conferences held at the conference center.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2962 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 802-90 Finance on H.B. No. 3212

The purpose of this bill is to clarify that the State Housing Finance and Development Corporation and eligible bidders and eligible developers of projects developed under Chapter 201E are subject to the prevailing wages and benefits pursuant to Section 104-2.

This bill further specifies that Section 104-2 applies only to those employees who actually work on the particular housing project developed under Chapter 201E, Hawaii Revised Statutes, and not to all employees of the eligible bidder or eligible developer. This measure also exempts Chapter 201E projects developed by a private nonprofit corporation, if the entire cost of the project is less than \$200,000.

Your Committee recognizes the significant need for affordable housing for the residents of this State. The Legislature has taken significant steps in addressing this need, and the Housing Finance and Development Corporation (HFDC) plays a critical role in providing quality, affordable housing.

However, your Committee feels that the State's attempt to attack the problem of affordable housing should not be at the expense of lowering basic standards for working people involved in construction of these houses. Furthermore, HFDC already has authority to institute cost-saving measures through the provision of other incentives and financial assistance.

Section 104-2 is based on the federal Davis-Bacon Act to ensure that contractors who bid on public work projects will pay their employees the prevailing wages and benefits of the area to protect local area contractors from outside contractors taking advantage of cheap, imported labor. The same principle applies when a housing project is developed under Chapter 201E, whether developed directly by the (HFDC) or indirectly through financial assistance, tax breaks, land acquisition, and other incentives provided by HFDC.

Your Committee believes that this bill will ensure fair competition, as well as the payment of prevailing wage and benefit rates to employees on any projects developed under Chapter 201E.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3212, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 803-90 Finance on H.B. No. 2260

The purpose of this bill is to increase from \$100 to \$250 the tax deduction for political contributions by taxpayers to political candidates, including candidates who have not agreed to abide by campaign expenditure limits.

This measure also imposes a \$1,000 limit for contributions to any candidate running for any state or county office in the State; except that contributions for candidates running for a mayoral or gubernatorial office shall not exceed \$2,000.

Citizen participation in political campaigns increase communication and understanding between citizens and those who run for and are elected to office. Encouraging citizens to contribute to and support candidates, who represent differing political philosophies, is a necessary first step in revitalizing communication.

Your Committee believes that this measure will encourage greater participation in the political process by individual citizens and de-emphasize the importance of political action committees.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2260, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 804-90 Finance on H.B. No. 2208 (Majority)

The purpose of this bill is to provide funds to be deposited in the Discoveries and Inventions Revolving Fund for four nine-passenger electric vehicle G-Vans to strengthen the technical staffing capabilities of the Hawaii Natural Energy Institute's alternative transportation program.

The funds will not be available under this bill unless the United States Department of Energy provides matching funds.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2208, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
(Representative Isbell did not concur.)

SCRep. 805-90 Finance on H.B. No. 2500

The purpose of this bill is to amend Act 316, Session Laws of Hawaii 1989, and other appropriations and authorizations effective during fiscal biennium 1989-1991.

As in prior years, your Committee received additional budget requests in the form of two Governor's messages which were received after the supplemental budget request. Nonetheless, your Committee has made every attempt to thoroughly

review each funding request. Your Committee has also considered recommendations from the various House Standing Committees, and hereby submits a budget which will provide for the immediate and future needs of the State.

FINANCIAL AND BUDGETARY OVERVIEW

Your Committee began pre-session fiscal deliberations projecting a modest \$248.5 million surplus at the close of fiscal year 1989-90. This surplus is primarily due to the continued strength of the State's economy, led by the tourism and construction industries. A review of the general fund tax revenues for the first five months of the current fiscal year revealed a 1.7 percent increase over the previous year. Projected tax revenue growth for fiscal years 1990-91 and 1991-92 show increases of 13.8 percent and 7.6 percent respectively.

In developing this supplemental budget, your Committee focused on meeting the needs of today while continuing its efforts to develop opportunities for tomorrow. Your Committee, however, is concerned about the current and future economic well-being of the State and its people. The State's economy continues to depend heavily on tourism and tourism-related construction. Without further diversification, conflicts in key tourism-related industries could lead to rapid decreases in tax revenues, as well as a host of other economic problems. Excessive increases in spending during periods of rapid economic expansion can result in large deficits during periods of slower growth. Accordingly, it would be prudent for your Committee to recommend continued large increases in State spending, especially in a supplemental year.

As in past supplemental years, your Committee has focused first and foremost on meeting health and safety needs in all program areas. Your Committee has also provided funds to meet unanticipated expenses, as well as considered a number of one-time funding projects, such as improvements to the State's infrastructure. Highlighted below are some of the major program and budgetary changes made for the current fiscal biennium.

BUSINESS AND ECONOMIC DEVELOPMENT

Your Committee noted in its economic overview that in recognition of the external forces that affect Hawaii's economy, continuing efforts must be made to develop a strong and balanced economy. To reduce the State's reliance on traditional industries, your Committee has provided support for various economic development programs to diversify and expand Hawaii's economic base.

Business Development. Your Committee has provided funding for a number of initiatives designed to help diversify the State's economy, including:

- o Information Center. A one-stop service center for international traders to help position Hawaii as a broker of business service expertise throughout the Pacific Region.
- o High Technology Centers. Continuing support for high technology industry through the opening of two new high technology centers.
- o Space Industry. Funding to continue groundwork necessary for the development of the State's potential in both launch and non-launch space related activities.

Agriculture. Hawaii's agricultural industries remain an important element of the State's economy. Your Committee has provided funding for lant and pest control and eradication projects to protect this valuable asset. Diversification of agriculture has also been supported through capital improvement projects for the development of two agricultural parks on the island of Kauai.

EMPLOYMENT

Aware of the potential adverse repercussions of a labor shortage, your Committee has emphasized the need for work force expansion by increasing the "employability" of non-traditional and marginally employable sources of labor. Strengthening the labor exchange process will assist job seekers in obtaining valuable skills and provide the community with additional employees in meeting the current labor shortage.

Placement Services. Your Committee has appropriated funds to improve and expand employment services relating to job placement, employability development, and employer relations. Through the Job Help Store program, immigrant and potential job seekers will be provided with comprehensive employment and training services.

Employment and Training Programs. To bolster diversification and economic development, your Committee has funded programs to ensure and maintain a quality and competitive workforce. Funds have been provided for job-specific skills training in support of new industry development. Funds have also been provided to assist employers in training workers who require certain high-demand skills.

TRANSPORTATION

Transportation plays a vital role in the development of the State. Continued development cannot come about without the support of modern and economical transportation facilities.

Airports. Your Committee has provided funds for various airport facilities, including funds for continued renovations, neighbor island land acquisition, increased emergency services, and increased security and police coverage. In addition, funds have been provided for terminal improvements at Honolulu, Keahole, Kahului, Molokai, Lanai, and Lihue Airports.

Harbors. Increasing cargo volume has placed a high demand on the State's harbors. To help accommodate this demand, your Committee has provided capital improvement funds for expansion of storage facilities, container yard improvements for Sand Island, improvements to Kahului, Hilo, and Nawiliwili Harbors, and an inter-island ferry system.

Highways. Traffic congestion continues to be a statewide problem. Your Committee has provided funds for the decentralization of offices, teleworking, and the use of alternative modes of transportation such as buses and ferries. Additionally, funds have been authorized for widening Kalanianaʻole, Nimitz, and Queen Kaahumanu Highways, and upgrading Kamehameha Highway and Hana Highway to Kula.

ENVIRONMENTAL PROTECTION

The protection of our environment is one of the overriding concerns of your Committee. Wastewater, solid waste, and hazardous waste not only pose major health concerns, they threaten the foundations of island life. Accordingly, your Committee has provided funds to implement the revised State Water Quality Monitoring Program, protect our coastal waters, and expand hazard evaluation and emergency response activities. Funding has also been provided to conduct water management studies for the protection of existing surface and groundwater resources.

HEALTH

Acquired Immune Deficiency Syndrome. Your Committee is concerned about the rapid increase in the number of HIV+ and AIDS cases in Hawaii. To help combat the spread of AIDS, your Committee has provided funds on a number of fronts, ranging from preventive efforts to case management services to direct services for victims.

Substance Abuse. Your Committee has provided funds to provide education, prevention, and rehabilitation services for substance abusers, with an emphasis on youth. Funding has been provided for the expansion of the Teen CARE Program, and for treatment facilities for adolescents on Hawaii, Maui, and Kauai.

ASK 2000. Your Committee has provided funds for ASK 2000, to help bridge the gap between public and private service providers and potential service recipients. This innovative, single-access, statewide information and referral service represents the collaborative efforts of four State departments and the private sector.

HUMAN SERVICES

Human service programs embrace a range of activities, serve a diversity of people, deliver an array of services, and accommodate a multiplicity of varying needs. Your Committee has always demonstrated a strong commitment to maintaining a viable and responsive human service system. Today, that commitment continues.

Foster Care. The need for foster care continues to grow. A recent study found that the State lacks a unified system of foster care and is over-using foster care and under-emphasizing alternatives like adoption. Your Committee has responded by broadening and improving foster care services over the entire continuum, including prevention, placement, training, support teamwork, independent living, services to children with special medical and social problems, and adoption.

Elder Care. By the year 2005, those 60 years of age and older will comprise nearly 18 percent of the State's total population. Accordingly, your Committee has provided funds for the establishment of a multilingual access informational program, an older employment program, a statewide conference on elder care, and the expansion of the senior resource demonstration project.

JOBS. The Federal Family Support Act of 1988 requires recipients of Aid to Families with Dependent Children (AFDC) to participate in a Job Opportunities and Basic Skills (JOBS) program. The program seeks to encourage welfare recipients to work towards financial self-sufficiency by acquiring job skills which are in demand in the labor market. Your Committee provides for a JOBS pilot program on the Island of Oahu. Deliberate phased implementation will allow for field testing of concepts and ideas on a more manageable level before expanding statewide. Your Committee has also provided for the necessary administrative and operational support to plan for and to facilitate the statewide expansion of JOBS, as required by Federal law, in October 1992.

LOWER EDUCATION

Last session, major funding support was provided for educational reform. School-Community based management was the primary focus of your Committee's effort to improve the school system. Although the implementation of the demonstration program has not been as extensive as anticipated, your Committee is optimistic that continued progress will be made during the coming years. In providing additional resources for education, your Committee has focused on existing programs and new programs which can be easily delivered or provided without burdening the schools with additional requirements.

Consortium for teaching Asia and Pacific in the Schools. Your Committee has provided funds for the continuation of this program. With the increased involvement and activity of these countries in Hawaii's culture and economy, students as well as educators, will benefit tremendously from this program. It is hoped that support and involvement from the private sector will continue to enhance this program.

In-school Suspension Pilot Program. Development of a continuum of alternatives for students encountering problems in truancy, minor misconducts, adjustment difficulties, etc. must be established. Your Committee has provided funds to enable ten schools to participate in a demonstration project. Once the program is evaluated, your Committee is hopeful that suspensions from school will be managed through a range of alternative forms of discipline.

School Counselors. Your Committee has reaffirmed the concept of "school-community based management" and provided funding for thirty counselor positions to be used at the discretion of the elementary and high schools. These positions will provide schools with additional counselor support and enhance services for students requiring this attention.

Parent Community-Networking Centers. Increased parental and community involvement is crucial to the future success of both the student and the school. To this end, your Committee has provided additional funding to enable a total of 126 centers to be operational during the coming fiscal year.

School Food Services. Providing nutritional and adequate meals for our students is recognized as a critical need. However, your Committee notes that the current operations have resulted in major deficits in the department's current service operating budget. To assist in this shortfall, your Committee has provided \$2 million. Your Committee is concerned that this practice not continue, and recommends that the department review its current practices and examine and implement alternatives in order to rectify this deficiency.

HIGHER EDUCATION

This supplemental budget reflects your Committee's continued dedication strengthening the educational foundations of the University, reinforcing areas where substantial progress has been made: in Hawaiian, Asian and Pacific studies; in ocean and earth sciences and technology; and the revision of undergraduate curricula to reflect a greater emphasis on writing, computer science and foreign languages.

In fulfilling its obligation to the people of Hawaii, the University must be responsive to the community's needs. Your Committee acknowledged this basic premise and provided for critical and essential programs, including increased security, teacher shortages, child care, and cooperative education. Additional funding has been provided for new or expanding programs.

Accreditation. Your Committee has supported accreditation needs for the Schools of Engineering and Medicine, the College of Education, and the community colleges.

UH Telecommunication Network. Your Committee has provided financing, through research and training revolving funds, for the continued development of the University's telecommunication network.

Physical Infrastructure Support. Your Committee has provided for the repair and maintenance of the UH Rainbow Stadium and various capital improvement projects including the renovation of Wist Hall for the College of Education; the renovation of classrooms, laboratories and offices; new agricultural sciences facilities; and capital improvements for community colleges.

Special Events and Athletic Facility. Your Committee shares the Board of Regents' concern that a 4,000 seat arena may be inadequate to meet the University's needs. While an 8,000 seat arena may be more appropriate, Blaisdell Center in Honolulu provides that capacity. Accordingly, your Committee has provided funds to plan for a 12,000-15,000 seat arena on the Manoa campus.

CULTURE AND RECREATION

The Culture and Recreation Program continues to support efforts to provide the general public with accessibility to the arts and with the opportunities to take advantage of varied recreational activities.

In keeping with the program's commitment to accessibility, your Committee has allotted funding to the Works of Art special fund to benefit the Arts In Public Places Program. Funds have been provided for the development of educational programs at the Waikiki Aquarium. Your Committee has also provided support for new and continuing productions to the Hawaii Public Broadcasting Authority.

In the area of recreation, the Na Ala Hele Program was endorsed to implement the Hawaii Statewide Trail and Access System. To address the concerns of preserving Hawaii's historical elements, your Committee has appropriated funds for the establishment of a Historic Preservation Division (separate from the State Parks) within the Department of Land and Natural Resources. Funds have also been provided for the upgrading of recreational boat launching facilities statewide.

PUBLIC SAFETY

The concerns of programs and facilities in the correctional system continue to receive recognition by your Committee. To provide for the orderly development of the State's correctional system, funds have been provided for a statewide facilities master plan.

In support of continued improvements in the correctional system, particular attention has been focused on the Women's Community Correctional Facility. Recognizing the need for alternatives to incarceration, your Committee has provided funding for a community based program for women with young children. Funds have also been provided for an assessment and study of the Women's Community Correctional facility population to determine population projections for the new facility.

GOVERNMENT WIDE SUPPORT

Integrated Payroll and Personnel System (PAYPERS). Your Committee has provided funds for an integrated payroll and personnel system that would update the present payroll and personnel system developed by the State in the late 1960s.

State Civic Centers. Your Committee has provided funds for the construction of State civic centers. The construction of the Waipahu Civic Center would provide the Leeward Oahu residents with easy access to government services. Your Committee has also provided funds for the Liliha Civic Center and the Kaunakakai Civic Center on Molokai.

SUMMARY AND RECOMMENDTION

In summary, your Committee has thoroughly reviewed the numerous and varied supplemental funding requests and concerns of the Administration, the House of Representatives and the citizens of the State. Your Committee believes that it has molded a supplemental budget which meets the needs of the State and addresses the aforementioned issues.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2500, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2500, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 806-90 Finance on H.B. No. 2608

The purpose of this bill is to amend Act 315, Session Laws of Hawaii (SLH) 1989, to provide supplemental appropriations to the Judiciary for fiscal year 1990-91.

Your Committee remained mindful of the budgetary foundation established through Act 315, SLH 1989, for the fiscal biennium 1989-91 during its budget deliberations. As such, your Committee addressed the Judiciary's most urgent concerns and operational requirements and have funded them accordingly.

To address the increasing workload and facilitate timely services, your Committee has provided for a Family Court Judge, as well as an additional social worker for the Family Court. Funds were also provided for the Judicial Services Office of the District Court.

In order to implement the new records retention schedule, and to maintain a manageable record keeping system, your Committee has provided additional staffing for the District Court's Records Management Division.

Your Committee has also funded programs to provide much needed services on the neighbor islands by expanding the Children's Advocacy Center and the Program Services Office statewide.

Finally, funds were provided to meet the growing facility needs of the Family Court in the First Circuit and to address facility needs on Kauai, Molokai, Maui, and Hawaii.

Your Committee continues to support the Judiciary in its need to conduct business and provide services in a timely fashion. However, your Committee remains concerned with the Judiciary's budgetary and fiscal procedures, and its inability to adequately justify supplemental requests. Without sufficient justification for each request, funding would be fiscally irresponsible.

Your Committee agrees that the Judiciary should be allowed flexibility in budget execution and day to day operations. However, it is not the intent of your Committee to extend that flexibility to continuously fund unauthorized programs and positions through internal savings and reallocations. This practice may create problems should internal savings become inadequate. More importantly, this practice circumvents the legislative budgetary process relating to fiscal responsibility.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2608, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2608, H.D. 2.

Signed by all members of the Committee.

SCRep. 807-90 Finance on H.B. No. 2229

The purpose of this bill is to amend Act 303, Session Laws of hawaii 1989, to provide supplemental appropriations to the Office of Hawaiian Affairs (OHA) for fiscal year 1990-91.

In prior sessions, your Committee had recommended that OHA establish policies, formalize its policy making process, develop and improve external relationships, and improve on overall effectiveness. The Legislative Auditor was requested to conduct a management and financial audit of OHA. The audit revealed many programmatic and financial concerns.

To address program concerns, the Legislative Auditor recommended that OHA develop a stronger program management system to review the purpose and costs of various activities and projects, assess the benefits, and evaluate the program's effectiveness.

To address financial concerns, the Auditor recommended that OHA adopt a budget policy that gives cohesion to its budget requests. OHA should prepare and submit budget information needed by the legislature and the public to evaluate and monitor programs. This would include accurate expenditure information, and a required annual report.

Your Committee is convinced that in order for change to take place, OHA must reassess its current programs and operations, and reaffirm its primary mission of serving the Hawaiian community.

The Trustees of OHA have a fiduciary responsibility to the Hawaiian community, just as the Legislature is accountable to the people of Hawaii. It is the responsibility of the Trustees to ensure that the Office of Hawaiian Affairs administratively carries out the programs and expenditures for the benefit of Hawaiians and native Hawaiians. Without a long term plan or directive for programs and expenditures, the beneficiaries have no basis for comparison or evaluation.

Your Committee has examined the supplemental budget request of OHA and recommends that in this supplemental year, OHA refrain from expansionary programs until it has addressed the concerns raised in the audit. Realizing that physical consolidation of the office may enhance communication and coordination, your Committee has provided funds for relocating existing staff from various locations to one central location.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2229, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2229, H.D. 2.

Signed by all members of the Committee.

SCRep. 808-90 Housing on H.C.R. No. 13

The purpose of this concurrent resolution is to urge the U.S. Internal Revenue Service and the U.S. Department of Housing and Urban Development to increase for Hawaii the maximum loan values allowed for homes insured by the Federal Housing Administration (FHA) and the Veterans Administration (VA).

This concurrent resolution also urges the U.S. Internal Revenue Service and the U.S. Department of Housing and Urban Development to reclassify Hawaii as a high housing market area.

Your Committee finds that Hawaii is a high housing market area. The median price of an existing home in Hawaii is now \$280,900, and there is a financing gap of about \$100,000 between this median price, and FHA and VA loan limits.

Your Committee received favorable testimony from the Housing Finance and Development Corporation (HFDC).

Based on the foregoing testimony, your Committee has amended the bill as follows:

1. Corrected the maximum costs amount allowed by the FHA to \$180,500;
2. Clarified that the resolution refers to maximum housing costs "insured" rather than "financed" by the FHA and VA;
3. Clarified that the \$180,500 limit for homes insured by the FHA has been imposed only on a temporary basis until December 31, 1990, after which date it will revert back to \$151,000;
4. Clarified that, despite the increased loan limits for homes insured by the VA, the effective rate for such homes is actually \$144,000 because the Government National Mortgage Association has not consented to purchase loans at the \$184,000 level; and
5. Urged the Government National Mortgage Association to purchase VA loans at the \$184,000 level; and
6. Made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Housing concurs with the intent and purpose of H.C.R. No. 13, as amended herein, and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs in the form attached hereto as H.C.R. No. 13, H.D. 1.

Signed by all members of the Committee.

SCRep. 809-90 Agriculture on H.R. No. 46

The purpose of this resolution is to support further development of the State of Hawaii's agricultural park program to make suitable lands available for farming to sustain the established agricultural diversification goals.

Currently, there are six completed agricultural parks:

- (1) Pahoa, Keahole, and Panaewa on the Big Island--administered by the Department of Agriculture (DOA);
- (2) Kula on Maui and Molokai (Phase I) on Molokai--administered by the County of Maui; and
- (3) Waimanalo (Phase I) on Oahu--administered by the Department of Land and Natural Resources (DLNR).

There are also four other agricultural parks at various stages of completion:

- (1) Kahuku, Waianae, and Waimanalo (Phase II) on Oahu--to be administered by the DOA; and
- (2) Waiahole on Oahu--to be administered by the Department of Business and Economic Development.

When these four parks are completed, there would be 3,700 acres under the agricultural park program.

Your Committee received testimony in support of this resolution from the DOA, the Department of Research and Development of the County of Hawaii, the Hawaii Farm Bureau Federation, and the 50th State Dairy Farmer's Cooperative. The testimony indicated that:

- (1) The agricultural park program has been helpful and effective in providing affordable long-term leases for farm lots to qualified farmers, new farmers, and dislocated farmers;
- (2) The introduction of alternative crops and the development of markets for these crops have created substantial interest among the current and prospective farmers for additional agricultural land; and
- (3) The DOA should increase the pace of agricultural park development, including an agricultural park for livestock on Oahu, through acquisition of private lands which are more suitable than State owned lands for future development of diversified agriculture.

Furthermore, the testimony from the DOA indicated that it is: (1) planning and looking for a livestock agricultural park site on Oahu; and (2) searching for sites to develop an agricultural park on Kauai (funding request have been made for development of this park).

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 46 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 810-90 Agriculture on H.C.R. No. 37

The purpose of this concurrent resolution is to support further development of the State of Hawaii's agricultural park program to make suitable lands available for farming to sustain the established agricultural diversification goals.

Currently, there are six completed agricultural parks:

- (1) Pahoia, Keahole, and Panaewa on the Big Island--administered by the Department of Agriculture (DOA);
- (2) Kula on Maui and Molokai (Phase I) on Molokai--administered by the County of Maui; and
- (3) Waimanalo (Phase I) on Oahu--administered by the Department of Land and Natural Resources (DLNR).

There are also four other agricultural parks at various stages of completion:

- (1) Kahuku, Waianae, and Waimanalo (Phase II) on Oahu--to be administered by the DOA; and
- (2) Waiahole on Oahu--to be administered by the Department of Business and Economic Development.

When these four parks are completed, there would be 3,700 acres under the agricultural park program.

Your Committee received testimony in support of this concurrent resolution from the DOA, the Department of Research and Development of the County of Hawaii, the Hawaii Farm Bureau Federation, and the 50th State Dairy Farmer's Cooperative. The testimony indicated that:

- (1) The agricultural park program has been helpful and effective in providing affordable long-term leases for farm lots to qualified farmers, new farmers, and dislocated farmers;
- (2) The introduction of alternative crops and the development of markets for these crops have created substantial interest among the current and prospective farmers for additional agricultural land; and
- (3) The DOA should increase the pace of agricultural park development, including an agricultural park for livestock on Oahu, through acquisition of private lands which are more suitable than State owned lands for future development of diversified agriculture.

Furthermore, the testimony from the DOA indicated that it is: (1) planning and looking for a livestock agricultural park site on Oahu; and (2) searching for sites to develop an agricultural park on Kauai (funding request have been made for development of this park).

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 37 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 811-90 Agriculture and Intergovernmental Relations and International Affairs on H.C.R. No. 38

The purpose of this Concurrent Resolution is to support and encourage the members of the Hawaii Congressional Delegation and their efforts to convince their colleagues to reject any unilateral moves on the part of the United States to reduce support for the U.S. sugar industry.

Your Committees find that the State's support and encouragement proposed in this Concurrent Resolution are critical to the survival of Hawaii's sugar industry which is the State's major agricultural industry and its third largest export income generator.

Your Committees on Agriculture and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.C.R. No. 38 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 812-90 Consumer Protection and Commerce on S.B. No. 609

The purpose of this bill is to amend Section 467-9.5, Hawaii Revised Statutes, to require that an applicant for the real estate license examination be a citizen on the United States or an alien authorized to work in the United States.

The Real Estate Commission (Commission) testified that they had administrative concerns with the bill. The Commission stated that the Immigration and Naturalization Service (INS) mandates that employers have to examine original documents of citizenship or alien status and identification documents of all employees to certify on an INS form that the employees are United States citizens or authorized aliens. Further, if the citizenship requirement was a pre-licensing requirement, the Commission would need staff in all counties to examine, in person, the original documents to verify citizenship or legal alien status. The Commission also believed that if the real estate brokers have to certify citizenship or legal alien status of its associating salespersons under the INS requirements, then the pre-licensing requirement would be a duplicative action. However, after further investigation, the Commission reported that it will be able to process the administrative requirements when an applicant applies to take the real estate license examination.

The Hawaii Association of Realtors testified that the Attorney General has indicated that the bill would be constitutional based on the passage by the United States Congress of the Immigration Reform and Control Act of 1986, which would supersede the Attorney General's earlier opinion that such a restriction might be unconstitutional.

Your Committee has amended this bill by extending the effective date to January 1, 1991, to allow the Real Estate Commission time to amend its application form.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 609, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 609, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 813-90 Labor and Public Employment on H.C.R. No. 22

The purpose of this concurrent resolution is to request the Department of Personnel Services to submit a report twenty days prior to the convening of the 1991 legislative session on employee and employment data for positions which are filled by a temporary employee or emergency hire.

Many state agencies rely upon the use of temporary or emergency hires when an employee unexpectedly leaves the workplace due to an illness or departure; or there is an unanticipated increase in workload. Temporary employees or emergency hires, however, often continue over an extended period of time and concerns have been expressed because these employees do not receive the same salaries and benefits as permanent employees.

Your Committee heard supporting testimony from the Department of Personnel Services.

Your Committee has amended this concurrent resolution by providing a timetable to the Department of Personnel Services in which to prepare a one-time computer generated report to be reviewed and updated by each state agency.

Your Committee has further amended this concurrent resolution to have the Department of Personnel Services work with the Hawaii Public Employees Health Fund, and the Department of Budget and Finance and other appropriate departments to calculate the cost implications of providing medical coverage and vacation pay for temporary employees and emergency hires. In addition, this concurrent resolution was amended to have a certified copy of the concurrent resolution transmitted to each state agency.

Your Committee on Labor and Public Employment concurs with the intent and purpose of H.C.R. No. 22, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 22, H.D. 1.

Signed by all members of the Committee.

SCRep. 814-90 Education on S.B. No. 3305

The purpose of this bill is to appropriate funds for fiscal year 1990-1991 to be expended by the Department of Education to give room cleaners and adult supervisors a raise from \$4 to \$6 per hour.

The Department of Education, the Hawaii State Teachers Association, the Hawaii School Office Services Association, and the principal of McKinley High School testified in favor of this measure.

Your Committee finds that the base salary for room cleaners and adult supervisors in the public schools is too low. The raise included in this bill would help our schools maintain health and safety standards.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 3305, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 815-90 Education on S.B. No. 2943

The purpose of this bill is to conform the Board of Education districts to the appropriate representative districts determined by the 1984 reapportionment.

The Lieutenant Governor and the Board of Education testified in favor of this measure.

Your Committee on Education 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 Judiciary.

Signed by all members of the Committee.

SCRep. 816-90 Human Services on S.B. No. 2284

The purpose of this bill is to propose housekeeping amendments to Act 381 (the Adult Protective Services) to clarify and correct certain provisions. More specifically, the bill:

- (1) Amends §346- of Section 1 of Act 381, Session Laws of Hawaii 1989 by clarifying and specifying the criteria and definition of "Abuse";
- (2) Provides for petty misdemeanor charges for persons who knowingly fail to report as required by the amended §346- of Section 1 of Act 381, Session Laws of Hawaii 1989, or who willfully prevents another person from reporting abuses of dependent adults; and
- (3) Makes amendments regarding the confidentiality of reports, the Order for immediate protection, the Order to show cause hearing, the Consolidation with guardianship proceeding, the Notice of proceeding, and the Appointment of counsel and guardian ad litem.

Your Committee received favorable written testimony from the State Judiciary of the State of Hawaii, the Department of Human Services, the Legal Aid Society of Hawaii, and the Health Task Force. The testimony supported the deletion of the sunset provision which would repeal Act 381 as of June 30, 1993. This deletion is consistent with S.B. No. 3144.

Your Committee on Human Services is in accord with the intent and purpose of S.B. 2284 S.D.1, recommends that it pass Second reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 817-90 Human Services on S.B. No. 2617

The purpose of this bill is to amend Section 346-29, Hawaii Revised Statutes, to increase the amount of resources and income which can be retained by the spouse of a medically institutionalized person.

Your Committee received testimony in support of this bill from the Executive Office on Aging, the Department of Human Services, the Hawaii Long Term Care Association, the Founders' Group of the Kokua Council for Senior Citizens, and the American Association of Retired Persons.

Upon further consideration, your Committee has amended the bill by deleting the dollar amounts specified and substituting language which would allow the State Department of Human Services to make adjustments to the amount of resources and income which may be retained by a community spouse under Section 346-29 to reflect the maximum amount set by federal statutes and regulations, including provisions for increases as allowed by the Secretary of Health and Human Services.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2617, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2617, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 818-90 Human Services on H.R. No. 44

The purpose of this resolution is to request the Legislative Reference Bureau to study the feasibility of State-provided liability insurance coverage for adult residential care homes.

Your Committee received testimony in support of this resolution from the Department of health, the Hawaii Academy of Plaintiff's Attorneys, and a private citizen.

Based on the foregoing testimony, your Committee has amended the resolution as follows:

- (1) Clarified that the proposed study shall examine the kinds of liabilities which adult residential care homes are exposed to, and the frequency, nature, and outcome of lawsuits arising therefrom;
- (2) Clarified that the study shall examine the impact which State-provided liability insurance for adult residential care homes will have on the State and the kind of precedent which may be set by State provision of this type of insurance coverage to for-profit organizations such as adult residential care homes; and
- (3) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 44, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 44, H.D. 1.

Signed by all members of the Committee.

SCRep. 819-90 Human Services on H.C.R. No. 35

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study the feasibility of State-provided liability insurance coverage for adult residential care homes.

Your Committee received testimony in support of this concurrent resolution from the Department of health, the Hawaii Academy of Plaintiff's Attorneys, and a private citizen.

Based on the foregoing testimony, your Committee has amended the concurrent resolution as follows:

- (1) Clarified that the proposed study shall examine the kinds of liabilities which adult residential care homes are exposed to, and the frequency, nature, and outcome of lawsuits arising therefrom;
- (2) Clarified that the study shall examine the impact which State-provided liability insurance for adult residential care homes will have on the State and the kind of precedent which may be set by State provision of this type of insurance coverage to for-profit organizations such as adult residential care homes; and
- (3) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 35, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 35, H.D. 1.

Signed by all members of the Committee.

SCRep. 820-90 Human Services on H.R. No. 21

The purpose of this resolution is to urge various groups to form a task force to serve as a reference and referral network for childcare providers who are seeking affordable liability insurance.

Your Committee received testimony in support of this resolution from the Office of Children and Youth (OCY), and People Attentive to Children (PATCH).

OCY recommended that the proposed efforts to assist childcare providers include education regarding the reduction of liability exposure through risk management. OCY also recommended that the task force provide information to employers who may be reluctant to consider sponsoring childcare assistance programs out of fear of liability.

PATCH testified that many childcare providers in Hawaii have experienced liability insurance to be both unavailable and unaffordable, and that this problem has had a chilling effect on potential and current providers when deciding whether to establish or continue operating a childcare business. While PATCH currently operates a liability insurance program for childcare providers, expansion is needed and the proposed task force will address that problem.

Additionally, PATCH recommended that the task force include family childcare providers.

Based on the foregoing testimony, your Committee has amended the resolution as follows:

- (1) Urged that family childcare providers, including representatives from the Professional Family Child Care Association, be included in the proposed task force; and
- (2) Made technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 21, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce in the form attached hereto as H.R. No. 21, H.D. 1.

Signed by all members of the Committee.

SCRep. 821-90 Ocean and Marine Resources on H.R. No. 31

The purpose of this resolution is to urge the Department of Land and Natural Resources to establish an advisory committee to develop a plan to mitigate damage to reefs caused by boat anchors and chains by utilizing pin technology in moorings.

Your Committee received testimony in support of this resolution from the Department of Land and Natural Resources (DLNR), the Department of Transportation (DOT), the Hawaii Institute of Geophysics, the University of Hawaii Sea Grant College Program and The Ocean Recreation Council of Hawaii (TORCH).

Testimony indicated that to address damage to coral and reef by anchors and anchor chains, the DOT was recently granted an after-the-fact Temporary Variance of the Conservation District Use Application process by the Board of Land and Natural Resources, for installation of 46 moorings along the West Hawaii (Kona) coastline.

Further testimony revealed that the information from monitoring the temporary moorings will be used to prepare an environmental assessment to convert the temporary variance to permanent status under a Conservation District Use Permit issued by DLNR to DOT.

In addition, DOT will be evaluating the performance and suitability of this type of mooring for installation and use at various popular dive sites throughout the State, as well as developing cost data and an appropriate management scheme for their use.

Your Committee has amended this resolution to have the DOT coordinate efforts in place of DLNR since pursuant to Chapter 266 of the Hawaii Revised Statutes, management of boating activities including anchoring and mooring, fall within their jurisdiction.

In addition, your Committee has amended this resolution to insert the phrase "in West Hawaii," between the words "reefs" and "caused" in the first "BE IT RESOLVED" section, to make it specific to the Kona moorings.

The resolution was further amended to include a plan for one Conservation District Use Application to take care of the initial areas designated as necessary by the Advisory Committee.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 31, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 31, H.D. 1.

Signed by all members of the Committee.

SCRep. 822-90 Ocean and Marine Resources on H.C.R. No. 21

The purpose of this concurrent resolution is to urge the Department of Land and Natural Resources to establish an advisory committee to develop a plan to mitigate damage to reefs caused by boat anchors and chains by utilizing pin technology in moorings.

Your Committee received testimony in support of this concurrent resolution from the Department of Land and Natural Resources (DLNR), the Department of Transportation (DOT), the Hawaii Institute of Geophysics, the University of Hawaii Sea Grant College Program and The Ocean Recreation Council of Hawaii (TORCH).

Testimony indicated that to address damage to coral and reef by anchors and anchor chains, the DOT was recently granted an after-the-fact Temporary Variance of the Conservation District Use Application process by the Board of Land and Natural Resources, for installation of 46 moorings along the West Hawaii (Kona) coastline.

Further testimony revealed that the information from monitoring the temporary moorings will be used to prepare an environmental assessment to convert the temporary variance to permanent status under a Conservation District Use Permit issued by DLNR to DOT.

In addition, DOT will be evaluating the performance and suitability of this type of mooring for installation and use at various popular dive sites throughout the State, as well as developing cost data and an appropriate management scheme for their use.

Your Committee has amended this concurrent resolution to have the DOT coordinate efforts in place of DLNR since pursuant to Chapter 266 of the Hawaii Revised Statutes, management of boating activities including anchoring and mooring, fall within their jurisdiction.

In addition, your Committee has amended this concurrent resolution to insert the phrase "in West Hawaii," between the words "reefs" and "caused" in the first "BE IT RESOLVED" section, to make it specific to the Kona moorings.

The concurrent resolution was further amended to include a plan for one Conservation District Use Application to take care of the initial areas designated as necessary by the Advisory Committee.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 21, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 21, H.D. 1.

Signed by all members of the Committee.