

## STANDING COMMITTEE REPORTS

**SCRep. 1                      Finance on H.B. No. 1**

The purpose of this bill is to authorize funds for the expenses of the Legislature up to and including June 30, 1994, and to provide funds for the expenses of the legislative support agencies during the 1993-1994 fiscal year.

Your Committee has amended the bill by providing the appropriation amounts for the Legislature and the legislative support agencies.

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

Signed by all members of the Committee.

**SCRep. 2                      Health on H.B. No. 33**

The purpose of this bill is to prohibit the use of genetic testing by employers, labor organizations, employment agencies and licensing authorities, except for investigating worker's compensation claims and determining an employee's susceptibility to toxic exposures. This bill also defines the terms "genetic test" and "licensing authority".

Oral testimonies received by the Governor's Committee on AIDS/HIV and the Hawaii Lupus Foundation and written testimonies received by the Hawaii Nurses Association and the ACLU support the passage of this bill. The Committee concludes that this bill will preclude discrimination based on medical wellness and physical limitations. Your Committee notes that genetic tests are not always accurate and sometimes show that there is a possibility of a physical limitation when in fact these limitations may never actually manifest themselves.

This bill has been amended to correct technical errors in grammar and spelling.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 33, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 33, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.

**SCRep. 3                      Ocean Recreation and Marine Resources on H.B. No. 247**

The purpose of this measure is to prohibit the selling or offering for sale of hihiwai taken from any of the waters within the jurisdiction of the State of Hawaii.

Your Committee on Ocean Recreation and Marine Resources finds that harvesting of snails of the hihiwai species for sale reduces the population below the normal reproduction cycle. This measure would prevent depletion of hihiwai reserves by prohibiting the sale or offering for sale of this species.

Supportive testimonies for prohibiting the sale of hihiwai were provided by the Department of Land and Natural Resources and six residents of Molokai. General opposition to commercial harvesting of hihiwai was expressed, since the supply for home consumption will become endangered should this practice continue.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 247 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Amaral and Tajiri.

**SCRep. 4                      Ocean Recreation and Marine Resources on H.B. No. 51**

The purpose of this bill is to amend Section 188-30.2, Hawaii Revised Statutes, to prohibit the possession or use of any gill net in any embayment estuary or marine life conservation district.

Your Committee finds that there are no prohibitions against the use of gill nets in an embayment estuary or marine life conservation district in the State. Your Committee believes that such prohibitions are desirable as a conservation measure.

Your Committee further finds that boundaries of embayment estuaries and marine life conservation districts should be defined and delineated if these boundaries are not already established by statute or rules in order to ensure conformity with this prohibition throughout the State.

Your Committee heard supportive testimony for this measure from the Department of Land and Natural Resources. The Department observed that there is little control over how many fish and what kinds are caught in gill nets, and that the problem is especially acute in embayment estuaries, which may serve as nursery areas for many marine species.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 51 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Amaral and Tajiri.

**SCRep. 5                      Ocean Recreation and Marine Resources on H.B. No. 56**

The purpose of this bill is to create the marine and coastal affairs program in the Office of State Planning to implement the State's ocean resources management plan.

Your Committee on Ocean Recreation and Marine Resources recognizes that Hawaii is committed to the nurture of its marine and coastal resources and the protection of their quality and diversity.

Your Committee finds that many government agencies have responsibilities for different marine and coastal resources and uses but that our State needs a more coordinated and consistent ocean policy framework. Your Committee further finds that a Hawaii ocean resources management plan has been developed by the Hawaii Ocean and Marine Resources Council located in the Department of Business, Economic Development, and Tourism, as established by Chapter 228, Hawaii Revised Statutes. This bill proposes to repeal Chapter 228, Hawaii Revised Statutes, and establish a marine and coastal affairs program in the Office of State Planning to carry out the management plan.

The program is intended to assume the following functions with regard to marine and coastal affairs:

- (1) Overall ocean resources planning and policy development;
- (2) Interagency coordination;
- (3) Communication facilitation; and
- (4) Conflict resolution.

There is to be a deputy director for this program with a comprehensive list of duties relating to coastal resources management. Among these duties is the preparation of an options plan for the establishment of a proposed Department of Marine and Coastal Affairs to be submitted to the Legislature not less than twenty days prior to the convening of the Regular Session of 1995. An advisory council for marine and coastal affairs is established within the program for administrative purposes.

Testimony was heard from the Office of State Planning and the Environmental Center of the University of Hawaii. While both agencies agreed with the intent of the bill, that the Hawaii ocean resources management plan was worthy of implementation, neither group supported it for the following reasons:

- (1) The Office of State Planning cited budget shortfalls for its lack of support.
- (2) The U.H. Environmental Center cited a lack of enforcement authority for the program's wide mandate.

Furthermore, the Environmental Center suggested that a provision be added to strengthen the program's ability to mediate interagency conflicts through the use of an objective fact-finding group which could develop recommendations toward resolution. In addition, the Environmental Center felt that the size of the advisory council should be expended to include appropriate agency representation. Finally, the center suggested that the University of Hawaii should be added to the list of agencies with responsibilities relating to marine and coastal affairs.

Your Committee on Ocean Recreation and Marine Resources finds that, in light of the fact that the Hawaii ocean resources management plan is already two years old, there is a need for an additional mechanism to undertake the plan's implementation. The plan is overdue and OSP needs to be motivated through legislative action. The bill was amended to change the appropriation amount from \$200,000 (on page 11, line 16) to \$1, recognizing that your Committee on Finance will be in a better position to determine the availability of funds.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 56, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 56, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral and Tajiri.

**SCRep. 6                      Ocean Recreation and Marine Resources and Economic Development and Business Concerns on H.B. No. 58**

The purpose of this measure is to amend Chapter 187A, Hawaii Revised Statutes, to establish a Hawaii fish ponds restoration program in the Department of Land and Natural Resources.

Your Committees on Ocean Recreation and Marine Resources and Economic Development and Business Concerns find that ancient Hawaiian fish ponds, which were historic and cultural treasures of the Hawaiian people, are gradually being filled in or otherwise rendered unusable.

Your Committees further find that utilization of these fish ponds would provide food and employment for Hawaii's people, as well as serve as a source of cultural pride for Hawaii's youth and kupuna.

This bill proposes to establish a Hawaiian fish ponds restoration program within the Department of Land and Natural Resources for the purposes of:

- (1) Assisting landowners in restoring and preserving Hawaiian fish ponds;
- (2) Placing juvenile mullet, awa, and other appropriate species into operating ponds without depleting wild populations;
- (3) Training prospective pond operators and workers and assisting them in completing relevant permit applications; and
- (4) Promoting community support for the program.

A Hawaiian fish ponds restoration board is established within the Department of Land and Natural Resources to oversee the Hawaiian fish ponds restoration program in consultation with members of the community.

Testimony was heard from the State Department of Land and Natural Resources, the Oceanic Institute Center for Applied Aquaculture, and Kamehameha Schools/Bernice Pauahi Bishop Estate. In general, all groups supported the intent of the bill which was that fish ponds are a valuable resource worthy of protection.

Concerns were raised, however, by DLNR and Kamehameha Schools regarding the establishment of a Hawaiian fish ponds restoration board if the board were granted broad policy making authority. These concerns also focused on the board becoming another ineffective bureaucratic layer which would add to the already complicated permit process. DLNR also cited this year's budget constraints as a reason for opposition.

Your Committees on Ocean Recreation and Marine Resources and Economic Development and Business Concerns see a need to centralize the efforts to protect and preserve fish ponds without adding another bureaucratic obstacle to the process. This bill has been amended to ensure that the Hawaiian fish ponds restoration board serves as an advocate in an advisory capacity by changing "oversee" on page 2, line 14 to "advise". In passing this bill, your Committees seek formally to establish and codify legislative action which until now has been lacking on this issue.

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Economic Development and Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 58, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 58, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Apo.  
(Representative Tajiri voted no.)

#### **SCRep. 7                      Ocean Recreation and Marine Resources on H.B. No. 29**

The purpose of this bill is to appropriate funds to implement a helicopter shark watch program in the Department of Land and Natural Resources.

Your Committee on Ocean Recreation and Marine Resources finds that the numbers of reported incidents in Hawaii of individuals being attacked by sharks, often fatally, have been escalating in recent years.

Your Committee recognizes that these attacks represent public safety concerns, as well as a threat to the State's economy, since reports of these attacks may deter tourists from visiting Hawaii.

Your Committee further finds that several measures have been initiated to prevent future shark attacks on humans and to remove sharks from waters with high recreational usage. However, the effectiveness of helicopter surveillance of shark movement and activity has not been adequately explored. House Bill No. 29 proposes to appropriate funds to implement a helicopter shark watch program, focusing on high risk areas that are widely used by the public.

Supportive testimonies were received from the Environmental Center, University of Hawaii; the Waikiki Aquarium; the Hawaii Institute of Marine Biology, University of Hawaii; the Hawaii Cooperative Fishery Unit; Sea Grant; Sea Life Park, Hawaii; Town and Country Surf Shops; and a concerned citizen. The Department of Land and Natural Resources expressed reservations about the bill since it felt that shark watch programs should be conducted only after effectiveness concerns are addressed and public support assured. A concerned citizen representing the surfing community testified that the use of helicopters wasn't the answer, and that the money should be used for further studies of the problem.

Your Committee amended the bill by reducing the appropriation to \$1, since the Committee on Finance will be in a better position to determine availability of funds.

Your Committee further amended the bill by making a technical, nonsubstantive amendment for the purpose of style and clarity.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 29 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral and Tajiri.

**SCRep. 8                      Health on H.B. No. 240**

The purpose of this bill is to appropriate funds to provide improved health care and medical services for individuals with health and medical care needs on the neighbor islands.

Testimonies given by the Department of Health, the Governor's Committee on AIDS/HIV and the Hawaii Association For Home Care support this bill. Your Committee concludes that this bill, if passed, will provide funds for improved health care and medical services desperately needed by individuals with health and medical care needs on the neighbor islands.

This bill has been amended to correct technical errors in grammar and has been amended with an appropriation of \$1.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 240, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 240, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki and O'Kieffe.

**SCRep. 9                      Health on H.B. No. 54**

The purpose of this bill is to require nonresident pharmacies to register with the Board of Pharmacy, to provide a toll free phone number 8 a.m. to 5 p.m. Monday through Friday and 8 a.m. to 12 p.m. Saturday and Sunday and to follow Hawaii's drug product selection and drug formulary. This bill also prohibits advertising by an unregistered nonresident pharmacy and permits the board to discipline nonresident pharmacies for failure to comply with the law.

Testimonies received by the Board of Pharmacies and the Hawaii Pharmaceutical Association support the passage of this bill. Although the Committee concludes that Hawai'i residents should have the right to choose their own pharmacy whether it be in or out-of-state, they feel that it is more important for the public to know that their health, safety and welfare will not be jeopardized especially when they utilize another state's facilities by mail order.

This bill has been amended to include the locations, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to state residents report to be submitted biennially rather than annually.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 54, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 54, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative O'Kieffe.

**SCRep. 10                    Tourism on H.B. No. 623**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the promotion of the Hawaii Pro Bowl.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Hawaii Hotel Association, and Outrigger Hotels.

Your Committee finds that the Pro Bowl event itself provides considerable economic benefit to Hawaii and also gives Hawaii tremendous television exposure that promotes Hawaii as a visitor destination. In addition, the strong competition faced by Hawaii during its recent, successful attempt to renew its contract with the National Football League demonstrated the effort that other destinations will make to lure the Pro Bowl and similar events in order to promote themselves to the markets of potential visitors.

In addition, the Department of Business, Economic Development and Tourism stated that funding for the Pro Bowl has also been included in the Governor's requested additional \$9.5 million for tourism promotion.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 623, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 623, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.



**SCRep. 11                      Tourism on H.B. No. 618**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for promotion of the Hula Bowl.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Hawaii Hotel Association, and Outrigger Hotels.

Your Committee finds that the Hula Bowl event itself provides considerable economic benefit to Hawaii and also gives Hawaii tremendous television exposure that promotes Hawaii as a visitor destination.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 618, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 618, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 12                      Tourism on H.B. No. 501**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for promotion of the 1993 Senior PGA Tour Kaanapali Classic Golf Tournament.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Kaanapali Beach Resort Association and the Hawaii Hotel Association.

Your Committee finds that this event gives Hawaii considerable news and television sports exposure, providing economic benefit that far outweighs its cost.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 501 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 13                      Tourism on H.B. No. 656**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for tourism promotion.

Your Committee received testimony in support of this bill from the Hawaii Visitors Bureau, the Office of the Mayor of the County of Kauai, Outrigger Hotels, the Hawaii Hotel Association, the Poipu Beach Resort Association, Aloha Festivals, the Chamber of Commerce of Hawaii and concerned citizens, and in support of the intent of the bill, but not the funding level, from the Department of Business, Economic Development and Tourism.

Your Committee finds that tourism is the single most important sector of private economic activity in Hawaii and that the state needs to increase its tourism funding levels in order to commit adequate resources to ensure the viability of its revenue sources. The speed of the economic recovery of competing destinations demonstrates the need for Hawaii to act decisively to ensure its own economic survival.

Your Committee changed the bill by:

- (1) Removing all reference to the original appropriation amount and those recommending the funding level;
- (2) Substituting an appropriation amount of \$1 for the original amount; and
- (3) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 656, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 656, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 14                      Tourism on H.B. No. 626**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the promotion of the Aloha Bowl.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Hawaii Hotel Association, and Outrigger Hotels.

Your Committee finds that the Aloha Bowl provides considerable economic benefit to Hawaii and also gives Hawaii tremendous television exposure that promotes Hawaii as a visitor destination. The Department of Business, Economic Development and Tourism estimated that the 1991 Aloha Bowl resulted in \$21.1 million in economic activity and \$1.2 million in tax revenue to the state.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill; and
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 626, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 626, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 15                      Tourism on H.B. No. 624**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for promotion of the Honolulu Marathon.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Hawaii Hotel Association, and Outrigger Hotels.

Your Committee finds that, as one of the most prominent marathons in the world, the Honolulu Marathon provides considerable economic benefit to Hawaii by drawing thousands of runners and other interested persons from around the world and also gives Hawaii tremendous television exposure that promotes Hawaii as a visitor destination.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill; and
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 624, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 624, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 16                      Housing on H.B. No. 296**

The purpose of this bill deletes the requirement that private developers fulfill affordable housing requirements imposed by the State Land Use Commission or a county land use decision-making body in order to obtain the affordable housing development tax exemption under Act 303, Session Laws of Hawaii 1992.

Representatives from the Department of Taxation, Hawaii Association of Realtors, Land Use Research Foundation, and the City and County's Department of Housing and Community Development submitted testimony in support of this bill.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 296 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Okamura.

**SCRep. 17                      Housing on H.B. No. 293**

The purpose of this bill is to delete the provision in section 201E-212, Hawaii Revised Statutes, which requires that not less than 60% of the units be sold in affordable price ranges, developed by or with assistance from the Housing Finance and Development Corporation.

Your Committee received supporting testimony from the Housing Finance and Development Corporation, the Land Use Research Foundation of Hawaii, and the Building Industry Association of Hawaii.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 293 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Okamura.

**SCRep. 18                      Housing on H.B. No. 295**

The purpose of this bill is to transfer the functions and authority held by the Housing Finance and Development Corporation (HFDC) with respect to the Kama'aina Hale project, to the Hawaii Housing Authority (HHA).

Supporting testimony was received from the HHA and the HFDC.

While in agreement with the intent of the bill, your Committee believes that renovations to Kama'aina Hale are necessary.

After careful consideration, your Committee has amended the bill by:

- (1) Directing the Director of Finance to transfer \$500,000 for renovations to Kama'aina Hale from the following sources:
  - (A) First, from unexpended and unencumbered moneys remaining in DURF at the close of the 1992-1993 fiscal year, which moneys are subject to lapse to the credit of the state general fund; and
  - (B) Second, from moneys in DURF;
- (2) Forgiving the repayment to DURF of the foregoing sum for renovations;
- (3) Forgiving any outstanding debt due to DURF arising from the acquisition of Kama'aina Hale by the HFDC;
- (4) Clarifying that the transfer of the foregoing \$500,000 shall occur on July 1, 1993; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 295, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Okamura.

**SCRep. 19                      Ocean Recreation and Marine Resources and Intergovernmental Relations and International Affairs on H.B. No. 461**

The purpose of this measure is to appropriate funds for the Hawaii Chapter of the Pacific Congress of Marine Science and Technology (PACON).

Your Committees on Ocean Recreation and Marine Resources and Intergovernmental Relations and International Affairs find that the Hawaii Chapter of Pacon International has been incorporated to support international and local programs for its membership of ocean scientists, engineers, and educators living in Hawaii. This bill proposes to appropriate funds to enable the Hawaii Chapter to conduct meetings and forum discussions for the interchange of marine science and technology. Your Committees further find that since the Hawaii chapter and the international headquarters are located in Hawaii, the State is in a position to advance its interests in ocean development, ocean technology transfer, and international scientific and technology interchanges. The proposed funding of \$80,000 for the Department of Business, Economic Development, and Tourism will enable the Hawaii Chapter of PACON to carry out its mission.

Supportive testimony was heard from the Pacific Congress on Marine Science and Technology. It was pointed out that this organization permits our state to demonstrate our research and technical accomplishments, opens up cooperative and business opportunities, provides an opportunity for firms in Hawaii to market their products and expertise, and that this program will benefit the State, the nation and private industry. The Department of Business, Economic Development, and Tourism supports the activities of PACON International, but is unable to support the appropriation at this time.

Your Committees very strongly believe that the Hawaii Chapter of PACON deserves financial support and should not be left unfunded. However, in light of limited resources and uncertainties about State priorities, your Committees have amended this bill by reducing the appropriation to \$1, since the Committee on Finance will be in a better position to determine the availability of funds for this deserving program.

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 461, as amended, and recommend that it pass Second Reading as attached hereto as H.B. 461, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Apo and Tajiri.

**SCRep. 20 Energy and Environmental Protection on H.B. No. 882**

The purpose of this bill is to amend section 195D-2, Hawaii Revised Statutes, to provide for the inclusion of polynesian introduced land plant species whenever feasible in all new or renovated landscaping of any state buildings or facilities, provided that suitable species can be transplanted without jeopardizing other species in the natural habitat.

Testimony in favor of the bill was presented by the Department of Land and Natural Resources, the College of Tropical Agriculture and Human Resources and the University of Hawaii's Environmental Center.

Your Committee is in agreement with the intent of this bill but believes that a more specific definition of what constitutes "Polynesian plant species" be included. Therefore they have amended the bill by adding the language suggested by U.H. Environmental Center:

- (1) Polynesian plants include those 25 or so plant species brought to Hawaii by Polynesians before European contact, among which are kukui, noni and coconut.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 882, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 882, H.D.1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 21 Transportation on H.B. No. 173**

The purpose of this bill is to effectuate the title of this Act.

H.B. No. 173 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily used to introduce a bill without specific details in long form. Your Committee has amended the contents of the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of the Committee on Transportation that is attached to this report, your Committee is in accord with the action to report out H.B. 173, as amended herein, and recommends that it be recommitted to the Committee on Transportation for the purpose of holding a public hearing, in the form attached hereto as H.B. No. 173, H.D. 1.

Signed by all members of the Committee except Representatives Hagino, Suzuki and Ward.

**SCRep. 22 Housing on H.B. No. 516**

The purpose of this bill is to require the Director of Finance, with the advice of the Governor, to transfer \$5,000,000 to the general fund from the special, revolving, and other funds established under chapter 201E, Hawaii Revised Statutes. The bill also appropriates \$5,000,000 out of the general revenues of the State for deposit into the rental housing trust fund.

Your Committee received testimony in support of the bill from the Hawaii Developer's Council and a member of the American Association of Retired Persons.

The Housing Finance and Development Corporation testified that it could not support the transfer of interest earnings or principal from any of its program funds since most of these funds are targeted for very specific purposes and cannot be tapped for other purposes.

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

- (1) Deleting the requirement that the \$5,000,000 transfer come from interest earnings or principal from chapter 201E special, revolving, and other funds;
- (2) Requiring that the source of the \$5,000,000 transfer be the unexpended and unencumbered moneys remaining in each special, revolving, or other fund at the close of the 1992-1993 fiscal year, which are deemed, by the Director of Finance, to be in excess of the moneys necessary to carry out the purposes of each fund; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 516, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Okamura and O'Kieffe.

**SCRep. 23 Energy and Environmental Protection on H.B. No. 697**

The purpose of this bill is to encourage the development and application of environmentally-sound conservation practices by requiring agencies and institutions of the State of Hawaii to use recycled paper products. This bill provides criteria for awarding contracts to providers of recycled paper.

Testimony in favor of the bill was presented by the Sierra Club, Hawaii Chapter and a private citizen. They pointed out that a greater demand for recycled paper would encourage it's production at a more competitive cost. Another benefit of using recycled paper is taking material out of the solid waste system for landfills.

The State Department of Taxation recommended the bill be deferred as bills governing the procurement of recycled products are currently being reviewed by the Attorney General's Office.

Despite the testimony of the Department of Taxation, your Committee feels that the State should be an immediate role model for responsible environmental practices.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 697 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

#### **SCRep. 24                      Energy and Environmental Protection on H.B. No. 152**

The purpose of this bill is to protect passing pedestrians and motorists who might have a sensitivity to herbicide exposure, when roadside herbicide application, such as spraying, is in progress. This bill seeks to require the State Department of Transportation and the Public Works Branch of the county of Hawaii to post notices to warn passing pedestrians and motorists of roadside herbicide applications in progress.

Testimony in favor of the bill was presented by the Sierra Club, Hawaii Chapter; the Hawaii Audubon Society; and members of the Roadside Spray Task Force. The Department of Health, Department of Transportation, and the Department of Agriculture also supported the bill provided modifications were made to the language and symbols proposed for the warning signs. The Environmental Center and the College of Tropical Agriculture and Human Resources at the University of Hawaii were not in favor of the bill. The Hawaii Sugar Planters Association opposed the bill.

Those in favor of the bill emphasized that it would validate the "public's right to know". They also pointed out that 23 other states now have notification programs, and 15 of them require posting of a public notice in an area being sprayed. Another positive benefit is the value of notification to the young, elderly, and infirm who are particularly vulnerable to herbicides.

Opposition to the bill was on the basis of the word "poison", and the skull and cross bone image being too extreme and possibly misleadingly frightening. Another consideration was that the signs themselves might be distracting and possibly contribute to unsafe situations. Opponents to the bill also felt that action should await the official report of the Roadside Spray Task Force.

Questions by Committee members raised other issues. These included the restriction of the bill to Hawaii county only; the length of time warning signs should be posted; and how counties are exploring the use of alternatives to spraying.

Your Committee, upon further consideration, has amended the bill by:

- (1) Making it apply to all counties in Hawaii;
- (2) Removing requirements for the skull and cross bone sign and the word "poison" in posted and vehicle signs;
- (3) Changing the wording of the required signs to be posted at spray sites and on the motor vehicle utilized in the herbicide application area to read, at a minimum, "WARNING: AREA TREATED WITH HERBICIDE" in bold typeface print readable and conspicuous to passing motorists;
- (4) Replacing the word "pesticide" with "herbicide" throughout the bill;
- (5) Adding a fourth paragraph that requires that the warning signs shall remain posted at the site until the herbicide is dry; and
- (6) Removing reference to a resolution adopted at the 1992 State Democratic Convention on page 1, lines 18-20.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 152, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 152, H.D. 1, and be referred jointly to the Committees on Transportation and Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Takamine.

#### **SCRep. 25                      Agriculture on H.B. No. 251**

The purpose of this bill is to:

- (1) Provide for the recovery of expenses and attorneys' fees incurred on a defendant's behalf in nuisance lawsuits found to be frivolous by the court; and
- (2) Provide that all county ordinances that declare or make the operation of a farm a nuisance are void.

In addition the bill also amends the following four definitions under Chapter 165, Hawaii Revised Statutes (HRS) by:

- (1) Redefining the definition of "established date of operation" to specify that the established date of operation for expansion or for new portions of a farming operation shall be the date of the original operation;
- (2) Repealing the definition of "expansion" from Section 165-2, HRS;
- (3) Expanding the definition of "farming operation" to include the effects of farming operations, such as noise, odors, and the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and
- (4) Deleting from the definition of "nuisance" the provision that nuisance as used under Chapter 165, HRS (the Hawaii Right to Farm Act), does not include an alleged nuisance that involves water pollution or flooding.

Your Committee notes that deleting language referring to water pollution or flooding from the definition of "nuisance" as contained in the original bill may be challenged legally on grounds of inappropriate state preemption of federal anti-pollution statutes.

Supporting testimony was received from the Department of Agriculture and the Hawaii Farm Bureau Federation. Your Committee also received written testimony from two concerned citizens.

Accordingly, your Committee has amended the bill by reinserting into the definition of "nuisance" the provision that nuisance as used under Chapter 165, HRS, does not include an alleged nuisance that involved water pollution or flooding.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 251, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 251, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Ishii-Morikami and Tam.

**SCRep. 26                      Agriculture on H.B. No. 358**

The purpose of this bill is to allow domestic cooperatives or associations to merge or consolidate with each other or with associations incorporated under the laws of another state.

Testimony in support of this measure was received from the Hawaii Farm Bureau Federation.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 358 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Tam.

**SCRep. 27                      Agriculture on H.B. No. 258**

The purpose of this bill is to appropriate funds for the Governor's Agriculture Coordinating Committee (GACC) to implement low-input sustainable agriculture research, education, and demonstration projects in cooperation with the Hawaii Farm Bureau Federation.

Your Committee received supporting testimony from Hawaii Farm Bureau, the National Audubon Society, Natural Resources Defense Council, Aikane Nursery, Hawaii Macadamia Nut Association, MacFarms of Hawaii, Hawaii Avocado Association, Papaya Orchards of Hawaii, Inc., Citizens for Jobs & Environment, Environmental Planning Associates Inc., the Hawai'i Green Party, and Richard Waller and Associates. The GACC testified in support of the intent of the bill to the extent that the bill does not change the priorities reflected in the 1993-1995 Executive Biennium Budget. Testimony was also submitted by the Dean of University of Hawaii's College of Tropical Agriculture and Human Resources.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 258 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tam.

**SCRep. 28                      Agriculture on H.B. No. 257**

The purpose of this bill is to appropriate funds for the monitoring, rearing, and releasing of parasites for the diamondback moth through the establishment of a demonstration predator augmentation pilot project to control the moth.

Your Committee notes that the diamondback moth has wrought immense damage to Hawaii's leafy vegetable crops. Establishing a project to control the diamondback moth through the release of its natural enemies would control or reduce the diamondback moth population as well as reduce the reliance on pesticides to combat this harmful pest.

Your Committee received supporting testimony from the Department of Agriculture (DOA), the Hawaii Farm Bureau Federation (HFBBF), and the Hawaiian Sugar Planters' Association (HSPA). The Dean of the College of Tropical Agriculture and Human Resources (CTAHR) of the University of Hawaii testified that CTAHR is willing to contribute its expertise in the demonstration predator augmentation pilot project to control the diamondback moth with DOA, HFBBF, and HSPA. Your Committee also received testimony from the Governors' Agriculture Coordinating Committee in support of the intent of the measure insofar as it does not change the priorities reflected in the 1993-1995 Executive Biennium Budget.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 257 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tam.

**SCRep. 29                      Agriculture on H.B. No. 254**

The purpose of this bill is to appropriate funds to support the following two activities under the Hawaii Farm Bureau Federation (HFBBF):

- (1) Promotion grant for the Hawaii State Farm Fair in the sum of \$30,000 for fiscal year 1993-1994; and
- (2) Continuation of the Pesticide Program for farmers in the sum of \$60,000 for fiscal year 1993-1994.

Testimony in support of this bill was received from the Governor's Agriculture Coordinating Committee, the Dean of the College of Tropical Agriculture and Human Resources, and HFBBF.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 254 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ishii-Morikami, Morihara and Tam.

**SCRep. 30                      Agriculture on H.B. No. 250**

The purpose of this bill is to transfer moneys from the general revenues to the Agriculture Loan Revolving Fund to make loans available to qualified farmers pursuant to section 155-10, Hawaii Revised Statutes.

Your Committee recognizes that recent natural disaster emergencies such as Hurricane Iniki and inclement weather conditions have substantially increased activity in the Agriculture Loan Program of the Department of Agriculture (DOA). To deal with these emergencies, the DOA has recently obtained approval from the Governor which lifts the restrictions placed on DOA's expenditures for emergency loan purposes. The DOA is currently working on making available the sum of \$1,500,000 for such emergency loans.

The DOA testified that the Agricultural Loan Program can continue to meet the priorities for loan requests despite the State's current fiscal situation. However, your Committee would like to retain this measure as a legislative vehicle to provide loan funds for farmers who require loans for emergency situations should the need arise.

Your Committee also received testimony in support of the bill from the Hawaii Farm Bureau Federation.

Accordingly, your Committee has amended the bill by changing the appropriation sum from \$5,000,000 to \$1. Technical nonsubstantive amendments were also made for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 250, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 250, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tam.

**SCRep. 31                      Ocean Recreation and Marine Resources on H.B. No. 464**

The purpose of this bill is to repeal the statutory requirements for the ocean resources management plan by repealing appropriate sections of Chapter 228, Hawaii Revised Statutes.

Your Committee on Ocean Recreation and Marine Resources finds that provisions of Sections 228-11, 228-12, and 228-13, Hawaii Revised Statutes, relating to the preparation, process and distribution of the ocean resources management plan are no longer applicable since their requirements have already been implemented.



Your Committee heard testimony from the Department of Business, Economic Development, and Tourism that Sections 11, 12, and 13 of Chapter 228 were no longer necessary, since the management plan has been prepared and distributed as requested.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 464 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 Apo and Tajiri.

**SCRep. 32                      Health on H.B. No. 433**

The purpose of this bill is to allow certified first responder personnel to provide automatic external defibrillation to aid in the resuscitation of victims of cardiac arrest.

Testimonies provided by the Department of Health, the Honolulu Fire Department, the Hawaii State Fire Council, the Hawaii Fire Chiefs Association and various other groups strongly support this bill. Your Committee recognizes that the Fire Department is usually the first responder to a cardiac arrest emergency, responding in about 3-4 minutes. Your Committee also realizes that in a cardiac arrest situation, time is of the essence. Your Committee also notes that in states with early defibrillation programs, the survival rate of cardiac arrest patients is 30 to 40 percent whereas in states without this program the survival rate is only 2 to 8 percent.

Upon careful consideration, your Committee has amended the bill by deleting language which would have given an overseeing physician full responsibility for defibrillation performed by first responder personnel.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 433, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 433, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

**SCRep. 33                      Health on H.B. No. 434**

The purpose of this bill is to allow funding to the Department of Health to provide for the establishment of a first-responder early defibrillation program.

Testimonies provided by the Department of Health, the Honolulu Fire Department, the Hawaii State Fire Council, the Hawaii Fire Chiefs Association and various other groups support this bill. Your Committee realizes that with such a program the amount of lives that are saved will be tremendous. The Committee also notes that time is crucial in cardiac arrest cases and that time can be saved with a first responder program.

For the purposes of continued discussion, your Committee has amended this bill by inserting the sum of \$1 for the appropriated amount.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 434, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 434, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 34                      Health and Labor and Public Employment on H.B. No. 430**

The purpose of this bill is to expand the scope of the law prohibiting smoking in the workplace by including all private corporations, firms, and associations that employ more than ten people.

Testimonies received by the Department of Health, HMSA, the American Heart Association, the American Lung Association and various other organizations strongly support the passage of this bill. Although your Committees concluded that smokers do have the right to smoke, it was further noted that non-smokers have an equal right to breathe clean air. Your Committees recognized that 3000 non-smokers die of second hand smoke each year and that environmental tobacco smoke is the third leading preventable cause of death in the United States today, behind active smoking and alcohol consumption. The staggering economic impact of environmental tobacco smoke was also noted by your Committees.

As affirmed by the records of votes of the members of your Committees on Health and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 430 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Alcon and Taniguchi.

**SCRep. 35                      Intergovernmental Relations and International Affairs on H.B. No. 118**

The purpose of this bill is to permit a public utility providing local exchange telecommunications service to add the capital cost of providing statewide enhanced 911 emergency telephone service into its ratebase and to recover this capital cost and associated operating expenses through its basic service rates.

Your Committee received testimony in favor of the bill from the Kauai County Council, the Kauai Police Department, the Maui Police Department, and GTE Hawaiian Tel. Concerns about costs to the consumer were raised, however, your Committee feels that the Public Utility Commission will diligently scrutinize all costs.

Your Committee concludes that for the safety and welfare of the people of Hawaii and visitors to our State, statewide enhanced 911 systems are necessary on all islands in order to produce speedier medical responses, reduce property losses and save the lives of residents and visitors alike.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 118 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 36                      Intergovernmental Relations and International Affairs on H.B. No. 1082**

The purpose of this bill is to permit the counties to prepare biennial budgets, provided that they adhere to a July-June fiscal year basis.

Counties are currently required to prepare annual budgets. Your Committee feels that allowing the counties the flexibility to prepare biennial budgets is a reasonable request.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1082 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 37                      Intergovernmental Relations and International Affairs on H.B. No. 975**

The purpose of this bill is to allow the counties to administratively attach delinquent civil fines to the violator's assessments for real property taxes, vehicle weight taxes, and driver's license renewal fees without additional notice or another opportunity for a hearing.

Your Committee received testimony in favor of the bill from the City and County of Honolulu's Department of Land Utilization and a private citizen.

Since 1988, when the counties first began imposing civil fines, the large number of unpaid civil fines is steadily increasing, and the counties have no recourse in collecting these fines other than through the existing judicial process, which is a costly and lengthy one. Your Committee finds that allowing the counties to attach fines administratively to other county fees or taxes will decrease the number of outstanding fines and mitigate legal costs associated with the collection of these fines.

Your Committee has amended this bill by:

- (1) Allowing the counties to add unpaid civil fines to the violator's real property taxes and water service charges. At the same time, your Committee has excluded the attachment of delinquent civil fines to vehicle weight taxes and fees for the renewal of the violator's driver's license; and
- (2) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 975, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 975, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hagino.  
(Representatives Alcon and Ward voted no.)

**SCRep. 38                      Tourism and Agriculture on H.B. No. 1349**

The purpose of this bill is to appropriate funds to the Departments of Business, Economic Development and Tourism, and Agriculture to promote hotel resorts and agricultural products of Hawaii.

Your Committees received testimony in support of the intent of this bill from the Departments of Business, Economic Development and Tourism, and Agriculture, and in support of this bill from the Hawaii Island Economic Development Board, the Hawaii Hotel Association, and Outrigger Hotels.

Your Committees find that large numbers of visitors to Hawaii purchase agricultural products, such as macadamia nuts, Kona coffee and pineapple, demonstrating the potential for a successful coordinated agriculture-tourism promotion campaign.

Your Committees changed the bill by:

- (1) Specifying the Department of Business, Economic Development and Tourism as the single expending agency, with the cooperation of the Department of Agriculture;
- (2) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill; and
- (3) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Tourism and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1349, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1349, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives M. Ige, Ishii-Morikami and Tam.

**SCRep. 39                      Tourism on H.B. No. 619**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the promotion of the Great Aloha Run.

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

Your Committee finds that the Great Aloha Run attracts great numbers of local residents as well as hundreds of runners from around the world, providing considerable economic benefit to Hawaii and also gives Hawaii tremendous television exposure that promotes Hawaii as a visitor destination.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 619, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 619, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 40                      Tourism on H.B. No. 1085**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism to send a hula halau on a world exhibition tour, retracing the route of King David Kalakaua.

Your Committee received testimony in support of the intent of this bill from the Department of Business, Economic Development and Tourism, and in support of the bill from the Hawaii County Council.

Your Committee finds that this would not only help to promote the Hawaii visitor industry, but also offer the opportunity to reshape the popular image of Hawaii beyond "sun and surf" to share our rich cultural heritage.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1085, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1085, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 41                      Tourism on H.B. No. 1199**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism to establish a visitor regional office in Brussels, Belgium.

Your Committee received testimony in support of this bill from the Hawaii Visitors Bureau and the Hawaii Hotel Association, and in support of the intent of this bill from the Department of Business, Economic Development and Tourism.

Your Committee finds that most of Hawaii's visitors come from Japan and western North America. Development of a third major market would help avoid a repeat of the current situation, with Hawaii feeling the effects of simultaneous stagnant economies in both major markets.

Visitors from Europe tend to have liberal spending patterns and a greater tendency to visit the neighbor islands, compared to those from other regions. The ongoing European unification will offer a single market of more than 300 million people to Hawaii and other travel destinations that choose to establish a presence in Europe. Locations with tourism-based economies, however, will fall behind and see their revenues dwindle if they fail to commit the necessary resources to the European market.

Subtle national feelings have resulted in the emergence of Brussels as the most acceptable location for the political seat of combined Europe and the logical location for a visitor office that would also distribute information to the rest of Europe.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1199 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 42                      Tourism on H.B. No. 1200**

The purpose of this bill is to require the Director of Taxation to establish reporting requirements and forms to enable accurate determination of the total amount of general excise tax revenues derived from transient accommodations transactions.

Your Committee received testimony stating no opposition from the Department of Taxation and testimony in support of this bill from the Tax Foundation of Hawaii and Outrigger Hotels.

Your Committee finds that the bill would provide information essential to accurate decision making on the part of the legislature, particularly in regard to tourism promotion and other long-term public policies.

Your Committee changed the bill by:

- (1) Amending the description of transient accommodations in §237-16(a)(3), Hawaii Revised Statutes, to refer to the definition in §237D-1, the transient accommodations tax law; and
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1200, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1200, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 43                      Tourism on H.B. No. 1326**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism to finance the general operating expenses of the Hawaii International Film Festival.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism; the University of Hawaii; the Office of the Mayor, County of Maui; the Office of Economic Development, County of Kauai; the Maui Visitors Bureau; the Hawaii Hotel Association; the Hawaii International Film Festival; Channel 6 of Kealahou, Hawaii; Lion Coffee; Hawaii Video Curriculum Association; Japan Air Charter Company; Pacific Islanders in Communications; the United Filipino Council of Hawaii; the Japan-America Society of Hawaii; GTE Hawaiian Tel; Hawaii Press Newspapers; Pomare; Ogilvy and Mather, Hawaii; Cinemaya Asian film magazine; King's Travel Inc.; and Bates/Lee/Witter Advertising.

Your Committee finds that the Hawaii International Film Festival has become one of the premier festivals in the Pacific and has brought international attention to Hawaii and its culture, strengthening Hawaii's position as an international crossroads.

Your Committee changed the bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1326, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1326, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 44                      Human Services on H.B. No. 31**

The purpose of this bill is to provide an appropriate vehicle for legislative action relating to long term care.

Your Committee finds that the establishment of a mechanism for financing long-term care without impoverishing Hawaii families is a matter of compelling State interest. Unless a strategy is adopted to make long-term care affordable, families paying for nursing home care will be increasingly forced to deplete their savings and other non-housing assets and face impoverishment. Accordingly, this bill has been amended to establish the Hawaii long-term care trust fund system to administer a contribution-based, self-supporting and actuarially sound long-term care program for the people of Hawaii.

As affirmed by the record of votes of the members of the Committee on Human Services that is attached to this report, your Committee is in accord with the action to report out H.B. No. 31, as amended herein, and recommends that it be recommitted to the Committee on Human Services, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 31, H.D. 1.

Signed by all members of the Committee except Representative Peters.

**SCRep. 45                      Transportation on H.B. No. 2052**

The purpose of this bill is to allow the Department of Transportation (DOT) to issue special facility revenue refunding bonds, to do some housekeeping to the statutes, and to delete the sunset provision in the existing statute.

Your Committee finds that because of recent declines in the interest rates payable on bonds, it is desirable to provide the maritime industry the opportunity to refund outstanding special facility revenue bonds that were issued at higher interest rates, and replace them with special facility revenue refunding bonds at lower rates.

Your Committee further finds that the special facility revenue bond statute needs to be revised to allow the Department of Transportation to issue special facility revenue bonds. The housekeeping amendments to the statutes are needed to conform to the re-enactment of Part I and Part III of Chapter 39 by Act 28, Session Laws of Hawaii 1988.

Your Committee received testimony from the State Department of Transportation.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2052 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino, Shon and Ward.

**SCRep. 46                      Ocean Recreation and Marine Resources on H.B. No. 1740**

The purpose of this measure is to establish a sport fish special fund in the Department of Land and Natural Resources.

Your Committee on Ocean Recreation and Marine Resources finds that Hawaii receives funds under the Federal Aid in Sport Fish Restoration Act, and that the Department of Land and Natural Resources has been requested to document compliance with Rules pertaining to nondiversion of sport fishing license fees for purposes other than administration of the State fish and game agency.

While the State assents to provisions of the Federal Aid in Fish Restoration Act, Section 187A-9, Hawaii Revised Statutes, there is no specific mention as to interest, dividends or other income earned from sport fishing license fees. Revenues are deposited in the general fund to be available for expenditure with appropriations authorized by the legislature. Section 36-21, Hawaii Revised Statutes, states that income derived from investment of general funds shall be a realization of the general fund.

Your Committee finds that Federal aid to Hawaii's fisheries management agencies amounts to about \$2-million annually. Your Committee further finds that the establishment of a special fund, as proposed in this bill, would resolve any doubt that the State is in compliance with Federal law pertaining to nondiversion of license fees. While members of this committee oppose a proliferation of special funds, it was felt that this request was justified in order to be assured that the State Statute is consistent with Federal requirements, and that the State continues to receive Federal aid for its programs.

Supportive testimony was received from the Department of Land and Natural Resources, which stated that this was an "administrative" proposal to amend Chapter 187A, Hawaii Revised Statutes, to establish in the Department a special fund for sport fishing license and permit fees, and other associated monies to implement programs under Title 12, HRS.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1740 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.

**SCRep. 47                      Human Services on H.B. No. 1645**

The purpose of this Act is to appropriate moneys to prevent the reduction or discontinuance of financial assistance payments to needy individuals and families under the payment programs, Aid to Families with Dependent Children (AFDC), General Assistance (GA), and Aid to the Aged, Blind, and Disabled (AABD).

Your Committee received testimony from the Department of Human Services indicating that the projected shortfall will be less than what was originally expected. This bill has been amended to reflect the new figures provided to your Committee by the department. This measure now requests \$6,175,152 from the general fund, and \$4,736,586 out of other federal funds to be used for the financial assistance payments noted above.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1645, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1645, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 48                      Human Services on H.B. No. 2023**

The purpose of this Act is to prevent the reduction or discontinuance of direct services by the medical assistance program, also known as the Medicaid program.

Your Committee received testimony from the Department of Human Services, Healthcare Association Hawaii, and the Hawaii Long Term Care Association in strong support of this measure, which will appropriate \$35,250,924 from the general fund, and \$12,336,347 out of other federal funds, to be used for health care payments to medical assistance providers.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2023 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 49                      Health and Human Services and H.B. No. 670**

The purpose of this bill is to include children suffering from any form of cancer in the group of children with special needs receiving services from the department of health.

Testimonies received by Kapiolani Medical Center, the American Cancer Society, and the Ronald McDonald House as well as testimonies submitted by private citizens and physicians strongly support this bill. Your Committees note that children with cancer receive no assistance from the State or the Department of Health, unless the family is qualified for welfare benefits under the Department of Human Services. Your Committee also recognizes that in 38 of the 50 United States, children with cancer receive assistance under provisions for "children with special health needs".

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 670 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Peters and O'Kieffe.

**SCRep. 50                      Health on H.B. No. 467**

The purpose of this bill is to exempt amounts received by health care facilities or practitioners for the sale of auditory devices from the general excise tax.

Testimonies received by the Hawaii Federation of Physicians and Dentists, the Coalition to Repeal the General Excise Tax on Health Care, various physicians around the State, along with several other groups, support this bill. Your Committee notes that the Legislature has already accepted the principle of exemption of prosthetic devices from the general excise tax. Your Committee also recognizes that a hearing aid is a prosthetic device and that a regressive tax on such a device is burdensome on both the elderly and the poor citizens of our State.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 467 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative O'Kieffe.



**SCRep. 51****Health on H.B. No. 1563**

The purpose of this bill is to establish a pilot water quality surveying and sampling program within the Department of Health. The bill also requires the submittal of a report on the long term feasibility of wide-spread volunteer programs and appropriates funds for the implementation of the pilot program.

Testimonies received from the Mediation Center of Windward Oahu, the Sierra Club, Save Our Surf Foundation, various neighborhood boards and children of all ages support this bill. Your Committee recognizes that one of Hawaii's greatest resources is its water and beaches. Your Committee also realizes that many members of the general public have a great love of Hawaii's resources and are willing to volunteer a great deal of their time and effort to help not only with clean up efforts but also with regular monitoring of their beaches and coastal waters.

Upon careful consideration several grammatical changes have been made to this bill for clarification purposes. A dollar amount of \$1 was also added for discussion purposes.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1563, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1563, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 52****Health on H.B. No. 32**

The purpose of this bill is to prohibit an insurer providing health care insurance, including required health care benefits for individuals through the prepaid health care law, and the state and its political subdivisions which provide health insurance through the public employees health fund, from (1) requiring or requesting individuals to obtain a genetic test; (2) revealing whether a test has been obtained or the results of any test; (3) conditioning the provision of insurance coverage or health care benefits on a test or its results; and (4) determining rates or any other aspect of insurance coverage or health care benefits on a test or its results. This bill also exempts insurers writing life or income continuation insurance, provided that they do not (1) use any test information to condition coverage or affect rates or benefits; and (2) provide for rates or any other aspect of coverage that is not reasonably related to the risk involved.

Testimonies given by the Governor's Committee on HIV/AIDS, the ACLU, HMSA and the Hawaii Lupus Foundation as well as various other groups support this bill. Your Committee notes that genetic testing may be used as a discriminatory device and may inadvertently hurt people whose genetic tendencies do not manifest into an actual physical condition.

After careful consideration your Committee amended the bill by:

- (1) Prohibiting a requirement or request to reveal whether "a member of the individual's family who is not covered by insurance" has obtained a genetic test and the results thereof, rather than prohibiting revelation of the same with regard to the individual or a member of the individual's family;
- (2) Prohibiting a refusal to provide insurance coverage or health care benefits solely upon the following: (A) whether an individual or a member of the individual's family has obtained a genetic test; or (B) what the results of such a test, if taken, were;
- (3) Prohibiting a determination of health insurance rates or coverage, or health care benefits solely on the taking of a genetic test by an individual or a member of the individual's family, or the results thereof; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committee on Health that are attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 32, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 32, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative O'Kieffe.

**SCRep. 53****Health on H.B. No. 446**

The purpose of this bill is to allow diplomats of the National Board of Medical Examiners and those who have passed the federation licensing exam (FLEX), any other examination approved by the board, or any combination thereof (approved by the Board), to be licensed to practice medicine without the necessity of further examination.

Testimonies received by the Hawaii Medical Association, the Board of Medical Examiners and various other groups support this bill. Your Committee realizes that it is a tedious process to obtain a medical license and notes that this bill will allow the Board of Medical Examiners to exercise their discretion in determining the appropriate qualifications for licensing. Your Committee also notes that since many medical students and physicians will have successfully completed some parts of either of the two medical exams already in existence, it would be unfair to penalize examinees who sat for and passed these examinations.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 446 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.



Signed by all members of the Committee except Representatives Arakaki and O'Kieffe.

**SCRep. 54                      Health on H.B. No. 530**

The purpose of this bill is to require managed care review agents to act in the best interests of the patient in reviewing and determining the appropriate allocation of services and also authorizes the director of health to bar a review agent who is guilty of a violation under chapter 334B from performing utilization review or managed care for patients in this State.

Testimonies received from the Department of Health and the Hawaii Psychological Association support this bill. Your Committee realizes that it is in the best interest of the people of Hawaii that case managers and review agents in the mental health field act with high ethical standards.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 530 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 55                      Energy and Environmental Protection on H.B. No. 1600**

The purpose of this bill is to relax the stringent requirement of certification on the criteria of performance of solar water-heating and heat pump water-heating systems by giving more flexibility to the language used in reviewing them by engineers.

Testimony in support of this bill was presented by the Department of Business, Economic Development & Tourism, the Department of Taxation, the Hawaiian Electric Company, Inc. and the Tax Foundation of Hawaii

The points made by these testifiers include:

- (1)        The use of more flexible languages removes the reluctance of some engineers to testify because they will not now be held responsible if a system does not operate at any guaranteed specific level of performance.
- (2)        Because of weather conditions and unpredictable user habits a specific level of performance can not be guaranteed.
- (3)        The bill appears to strengthen the laws requiring the solar energy system or heat pump to provide the hot water needs of a multi-unit residential building.

Your Committee recognizes the need to use alternative, sustainable energy resources whenever possible and accordingly supports this bill.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1600 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 56                      Energy and Environmental Protection on H.B. No. 1658**

The purpose of this bill is to create in the state treasury a special fund to be designated as the noncovered source special fund. Proceeds in the fund shall be used in addition to other state funding to pay for the costs of the clear air program not related to costs covered by the clean air special fund.

The Department of Health and the Sierra Club, Hawaii Chapter presented testimony strongly supporting passage of this administration bill. Their reason include:

- (1)        The appropriateness of using fees collected from the program in supporting and administering the program; and
- (2)        The validity of using monies from those responsible for polluting the air to support programs to clean the air.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1658 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 57                      Human Services and Health on H.B. No. 2013**

The purpose of this bill is to provide an appropriate vehicle for legislative action relating to long term care.

Your Committees find that the establishment of a mechanism for financing long-term care without impoverishing Hawaii families is a matter of compelling State interest. Unless a strategy is adopted to make long-term care affordable, families paying for nursing home care will be increasingly forced to deplete their savings and other non-housing assets and face impoverishment.

Accordingly, this bill has been amended to establish the Hawaii long-term care trust fund system to administer a self-supporting and actuarially sound long-term care program for the people of Hawaii without requiring mandatory participation or imposing a contribution tax for participation. However, a modified financing plan (which may include a contribution tax) to be developed by the Executive Office on Aging (EOA) to reflect appropriate federal commitments, agreements, and waivers secured by the EOA and to be approved by the legislature is required to be submitted by January 1, 1994.

As affirmed by the records of votes of the members of the Committees on Human Services and Health that are attached to this report, your Committees are in accord with the action to report out H.B. No. 2013, as amended herein, and recommend that it be recommitted to the Committees on Human Services and Health, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2013, H.D. 1.

Signed by all members of the Committees except Representative Peters.

**SCRep. 58                      Finance on H.B. No. 1691**

The purpose of this bill is to amend Hawaii's income tax law to conform to the changes in the Internal Revenue Code.

H.B. No. 1691 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.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1691, as amended herein, and recommends that it be recommitted to the Committee on Finance for the purpose of holding a public hearing, in the form attached hereto as H.B. No. 1691, H.D. 1.

Signed by all members of the Committee except Representatives Alcon and Santiago.

**SCRep. 59                      Higher Education and the Arts on H.B. No. 1147**

The purpose of this bill is to foster individual artists in Hawaii by granting them fellowships which will enable them to pursue their particular craft and encourage them to remain in the state, thereby enriching the cultural atmosphere of Hawaii.

Testimony was received from the State Foundation on Culture and the Arts.

Your committee finds that while the aims of this bill are worthwhile, the link between private gain and public purpose must be made more explicit. Moreover, in this time of budget stringency, your committee recognizes the need to spend state funds wisely.

Therefore, your committee has amended the bill by:

- (1) Adding a new section which requires artists receiving fellowships to hold an exhibition or give a performance for the benefit of the people of Hawaii;
- (2) Removing the funding provisions for this fiscal year;
- (3) And making other technical and nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1147, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1147, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Duldulao and M. Ige.

**SCRep. 60                      Legislative Management on H.B. No. 785**

The purpose of this bill is to appropriate \$1,000,000 to the Legislative Reference Bureau for the publication of replacement volumes to the Hawaii Revised Statutes (HRS) and to employ temporary staff to accomplish this task.

Your Committee finds that the HRS volumes have not been replaced since 1985. As a result, the size of the Supplements to the bound volumes have become somewhat cumbersome to use. Furthermore, the present supply of HRS sets that is distributed by the Lt. Governor's office is expected to be depleted by the end of this year.

In addition, two other projects could be accomplished while the replacement volumes are being prepared at no additional cost: (1) replacing current HRS language with gender-neutral language; and (2) validating the HRS database in the SHADO computer system.

Testimony in support of this bill was received from the State Department of Taxation, Legislative Reference Bureau, State Attorney General, Office of the Lieutenant Governor, and Department of Commerce and Consumer Affairs.

For the purposes of continued discussion, your Committee has amended this bill by changing the appropriation of \$1,000,000 to \$1.00 in section 3, line 14.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 785, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 785, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

**SCRep. 61                    Hawaiian Affairs on H.B. No. 1990**

The purpose of this bill is to amend Chapter 13D-1, Hawaii Revised Statutes (HRS), to permit residents of Lanai and Niihau to run for Office of Hawaiian Affairs (OHA) representative seats from Molokai and Kauai, respectively.

Your Committee received testimony from the Office of the Lieutenant Governor and OHA in support of this bill.

Your Committee finds that although Article XII, section 5 of the Constitution of the State of Hawaii requires representation on the Board of Trustees of OHA from the islands of Oahu, Kauai, Maui, Molokai, and Hawaii, it does not require that representatives reside on the islands represented. Your Committee further finds that in the implementation of this constitutional provision, Chapter 13D-1, HRS, requires that OHA representatives from the islands of Oahu, Kauai, Maui, Molokai, and Hawaii reside on the island represented. This precludes residents of Lanai and Niihau from running for representative seats.

Your Committee recognizes that it is a matter of practice within OHA that Niihau is represented by the Kauai Board of Trustee and Lanai is represented by the Molokai Board of Trustee. Therefore, your Committee concludes that in order to provide residents of Lanai and Niihau equal opportunity to be elected to the Board of Trustees they should be allowed to submit nomination papers for the representative seats from Molokai and Niihau, respectively.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1990 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative D. Ige.

**SCRep. 62                    Energy and Environmental Protection on H.B. No. 1368**

The purpose of this bill is to appropriate \$20,000 to the Department of Land and Natural Resources (DLNR) to facilitate its participation in implementing the Federal Hawaii Tropical Forest Recovery Act

Testimony in favor of this bill was presented by the Hawaii Institute of Tropical Agriculture and Human Resources at the University of Hawaii, the Hawaii Forest Industry Association, the Hawaii Society of American Foresters and a Forestry Consultant. The DLNR supported the concept of the bill but due to a shortfall of revenue in the state, could not speak totally in its favor.

The Committee is in full agreement with the concept of state responsibility for the care and management of our valuable forest resources. A minor amendment accepting the suggestion of the Institute of Tropical Agriculture and Human Resources to include "natural resource management" in line 15 of the bill has been made. Moreover the appropriation amount in the bill has been changed to \$1 to allow the Finance Committee flexibility in setting its priorities.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1368, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 63                    Energy and Environmental Protection on H.B. No. 890**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$233,820 for the next biennium; \$106,920, or so much thereof as may be necessary for the fiscal year 1993-1994 and \$126,900 for 1994-1995, for firetree research and control.

Testimony strongly supporting this bill was presented by the Natural Area Reserves System Commission, the Department of Agriculture, a faculty member from the University of Hawaii, the Firetree Control Steering Committee, the Environmental Center at the University of Hawaii and the Natural Resources Defense Council. The points made included:

- (1) This serious threat to Hawaii's forests and rangelands covers nearly 100,000 acres principally on Hawaii and Kauai.
- (2) This noxious tree damages native ecosystems, degrades watershed areas and destroys ranch and agricultural lands.
- (3) These state funds will be used in conjunction with federal assistance to continue research in the development of a successful biological control program which offers the best long-term solution to the problem.

Your Committee is in agreement with the Department of Agriculture request to continue having the Governor's Agriculture Coordinating Committee continue to be designated as the expending agency and has amended the bill according. The revised allocation of \$1 is to allow the Finance Committee flexibility in setting its priorities.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 890, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 64                      Energy and Environmental Protection on H.B. No. 492**

The purpose of this bill is to require that a licensed contractor be used when handling hazardous substances even if the project is under the \$1000 "handyman" exemption of the general contractors licensing laws.

Testimony in favor of this bill was presented by the Subcontractors' Association of Hawaii, Painting and Decorating Contractors Association and the Contractors License Board. However, they pointed out that clarification was needed as to "minimal use" and the types of hazardous substances that would be included although asbestos and lead paint were obvious qualifiers.

The Environmental Center at the University of Hawaii found the bill to be unworkable and unenforceable due to definition problems with words intended for use in environmental spill context used for workplace activities.

After discussions, the Chair requested an appropriate wording to define the circumstances when the \$1,000 exemption for using a licensed contractor would not apply. The wording proposed by the Subcontractors' Association of Hawaii and agreed to by the Contractors License Board, "where the project or operation involves hazardous substances in construction activity as defined by the Board's Rules" satisfied the Committee members.

Your Committee believes that this bill, as amended, will protect both the public and our environment from hazardous materials in an appropriate and enforceable manner.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 492, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 65                      Judiciary on H.B. No. 206**

The purpose of this bill is to amend Section 76-16, Hawaii Revised Statutes, by making the positions of a judicial education officer, a judicial education staff assistant and a clerk typist exempt from civil service.

Testimony in support of this measure was submitted by the Judiciary.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 206, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 206, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 66                      Judiciary on H.B. No. 198**

The purpose of this bill is to increase the number of law clerk positions in the civil administrative court and the civil and criminal motions courts in the circuit court of the First Circuit.

Currently, judges for the civil administrative court and the civil and criminal motions courts are each permitted one law clerk in addition to the one law clerk allowed to each judge of the circuit court. By means of this bill, the law clerk positions for the civil administrative judge would increase from one additional law clerk to three additional law clerks. Also, the law clerk positions for the civil motions judge and the criminal motions judge would increase from one additional law clerk to two additional law clerks each. Because administrative and judicial duties and responsibilities in these three courts have increased substantially, your Committee finds that the additional law clerks would assist these three

courts in providing basic operational services, which are necessary for the effective and efficient administration of these courts.

Testimony in support of this bill was submitted by the Judiciary.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 198, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 67                      Judiciary on H.B. No. 190**

The purpose of this bill is to amend Section 601-3.5, Hawaii Revised Statutes to establish a revolving fund in lieu of a special fund for the statewide supreme court law library system.

The Judiciary submitted testimony in support of this measure.

Your Committee finds that this amendment would allow the supreme court law library system to have an immediate, regular, and self-sustaining source of revenue to purchase replacements and enhance library services. The revolving fund would better insure that lost, stolen, or damaged materials are replaced soon.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 190 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 68                      Judiciary on H.B. No. 191**

The purpose of this bill is to clarify the disposition of all interest earned on court deposits.

For housekeeping purposes, where the court order or statute does not specify the disposition of interest earned on court deposits, this measure will allow the interest earned to be credited to the State of Hawaii.

Testimony in support of this measure was submitted by the Judiciary.

Technical, non-substantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 191, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 191, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 69                      Judiciary on H.B. No. 188**

The purpose of this bill is to create a Judicial Foresight Commission consisting of eleven members appoint by the Chief Justice of the Hawaii Supreme Court. The Commission would be charged with the tasks of examining innovative court structures and proposing new rules and policies to the Court.

Your Committee received testimony in support of this bill from a representative of the Judiciary and from the Hawaii State Bar Association.

Your Committee finds that since the bill proposes that the Chief Justice appoint the members of the Commission, the selection of the Commission Chairperson should be left to the Commission members and not the Chief Justice. Further, your Committee finds that references to Chapter 91 should be deleted, as the Judiciary is generally not subject to the rule-making procedure under Chapter 91. Lastly, your Committee finds that the Legislature, as well as the Judiciary, could benefit from the reports prepared by the Commission.

Therefore, your Committee has amended the bill by:

- (1) Providing that the Chairperson be selected by the Commission members from one of their number;
- (2) Providing that the Commission submit its report to the Legislature as well as to the Chief Justice;
- (3) Deleting all references to Chapter 91;
- (4) Providing an appropriation of \$30,000 for the fiscal year 1993-1994 to carry out the program.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 188, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 188, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hirono, Peters and Takamine.  
(Representatives Menor and Thielen voted no.)

**SCRep. 70                      Judiciary on H.B. No. 457**

The purpose of this bill is to establish a pilot crime reduction program in the County of Hawaii.

As the occurrence of crime increases and becomes more complex, the establishment of a pilot crime reduction program would encourage innovative ideas and initiatives when determining methods to reduce crime through the assistance of volunteer and reserve officers, per diem judges, prosecutors and contract investigators.

Testimony in support of this measure was submitted by the County of Hawaii Police Department, the Hawaii Association of Realtors, and a private citizen.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 457 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral, Bunda, Oshiro, Peters and Takamine.

**SCRep. 71                      Public Safety and Corrections on H.B. No. 1003**

H.B. No. 1003 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.

As affirmed by the record of votes of the members of your Committee on Public Safety and Corrections that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1003, as amended herein, and recommends that it be recommitted to the Committee on Public Safety and Corrections, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1003, H.D. 1.

Signed by all members of the Committee except Representatives Ishii-Morikami and Thielen.

**SCRep. 72                      Agriculture on H.B. No. 427**

H.B. No. 427 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 so that a public hearing may be properly held on its substantive contents.

Your Committee notes that the gist of this bill was originally contained in H.B. No. 420. However, at the time of the joint public hearing of the House Committees on Agriculture and Transportation held on February 8, 1993, the bill title of H.B. No. 420 which read, "RELATING TO AN AGRICULTURE FUMIGATION FACILITY AT LIHUE AIRPORT, KAUAI", was deemed defective because "deinfestation facility" was determined to be the appropriate term rather than "fumigation facility". As a result, since the title of a bill cannot be amended your Committee identified H.B. No. 427, a short-form bill, as a substitute vehicle for the substance of H.B. No. 420.

The purpose of H.B. No. 427 in its amended form is to authorize the Director of Finance to issue general obligation bonds for plans, design, construction, and equipment, for an agriculture deinfestation facility on Kauai; provided that operation and maintenance of the deinfestation facility shall be the responsibility of the Department of Agriculture.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the action to report out H.B. No. 427, as amended herein, and recommends that it be recommitted to the Committee on Agriculture for the purpose of holding a public hearing, in the form attached hereto as H.B. No. 427, H.D. 1.

Signed by all members of the Committee except Representatives Ishii-Morikami and Tam.

**SCRep. 73                      Agriculture on H.B. No. 426**

The purpose of this bill is to provide an appropriate vehicle for legislative actions relating to agriculture.

Your Committee finds that the proliferation of applesnails in certain areas of the State has led to serious damage to taro crops. The infestation has been especially serious in taro fields on the island of Kauai. Your Committee finds that it is imperative that the applesnail infestation be curtailed before the pest is allowed to spread to taro fields throughout the State. In this regard, this bill has been amended to designate the applesnail as an injurious pest to agriculture under the



law, and require the Department of Agriculture to exercise all emergency powers to eradicate the destructive pest on the island of Kauai.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the action to report out H.B. No. 426, as amended herein, and recommends that it be recommitted to the Committee on Agriculture, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 426, H.D. 1.

Signed by all members of the Committee except Representatives Ishii-Morikami and Tam.

**SCRep. 74                    Agriculture on H.B. No. 1585**

The purpose of this bill is to bring the Poultry Inspection Act, Chapter 161, Hawaii Revised Statutes (HRS), more closely in line with the Poultry Products Inspection Act, 21 U.S.C. section 451 ("PPIA").

Your Committee notes that this bill is intended as a housekeeping measure. According to testimony submitted by the Department of Agriculture (DOA), the bill also accomplishes the following:

- (1) Brings the provisions of Chapter 161, HRS, into line with the Hawaii Meat Inspection Act, Chapter 159, HRS; and
- (2) Brings the language of Chapter 161, HRS, into line with that of other statutes in the HRS. For example, the word "regulation" is replaced by "rule", "prescribe" is replaced by "require", and "such" is replaced by "these" or "that" or other appropriate words.

Your Committee received supporting testimony from the DOA.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1585 and recommends that it pass Second Reading and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Ishii-Morikami and Tam.

**SCRep. 75                    Agriculture on H.B. No. 914**

The purpose of this bill is to prevent the theft of crops, and agricultural products, equipment, and supplies by subjecting violators to a class C felony, except that for the first offense the fine of \$1,000 or twofold damages sustained by the victim, whichever is greater, shall be imposed on violators.

Theft of agricultural products, farm equipment, and crops is a growing problem within the agricultural industry, incurring great losses to farmers, the State, and others in the agricultural community. Your Committee also recognizes that one of the criteria for the offense of theft in the second degree--theft of property or services the value of which exceeds \$300--may be too permissive an amount for theft of agricultural products, equipment, and supplies.

Supporting testimony was received from the Department of Agriculture, the Office of the Prosecuting Attorney for the County of Hawaii, Hawaii Farm Bureau, Hawaii Macadamia Nut Association-Hamakua District, and United Cane Planter Cooperative.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 914 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 76                    Ocean Recreation and Marine Resources on H.B. No. 685**

The purpose of this bill is to appropriate funds for a temporary guard position for the Ala Wai Boat Harbor.

Your Committee on Ocean Recreation and Marine Resources is aware that Ala Wai Boat Harbor is one of the busiest harbors in the State, and that it is located in a very densely populated residential and commercial area. Your Committee finds that incidents concerning the safety and security of persons and property are prevalent, and that the presence of a security guard, to be funded by the proposed appropriation in this bill, will prevent or reduce unlawful activities at the Ala Wai Boat Harbor.

Testimonies in support of this measure were received from the Ala Wai Boat Harbor Advisory Committee and the Department of Public Safety. The Department of Land and Natural Resources concurs with the need for additional security services during periods when the Marine Patrol officers are not present, especially after normal working hours when the harbor staff is not on duty, but does not support the appropriation at this time due to the anticipated shortfall in revenue.

Your Committee has amended this bill by making an appropriation of \$1 in light of limited resources and uncertainties about State priorities, enabling the Committee on Finance to determine the availability of funds for this deserving expenditure.



As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 685, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 685, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 77                      Energy and Environmental Protection on H.B. No. 1449**

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii \$104,100 in the next biennium (\$27,500 for 1993-1994, and \$76,500 for 1994-1995,) for preventing the loss of agricultural and forest resources by controlling melastome plant pests.

Testimony strongly supporting this bill was presented by the Natural Area Reserves System Commission, the Department of Agriculture, a faculty member of the University of Hawaii at Manoa, a Pu'u Kukui Watershed Supervisor, the Maui Pineapple Company/ Melastome Action Committee Chair, Tri-Isle Resource Conservation & Development Council, the Natural Resources Defense Council and the Environmental Center at the University of Hawaii at Manoa.

The testifiers made the following points:

- (1)        The time to act is now before this invasive species gets out of control (as it has in Tahiti).
- (2)        The preservation of Hawaii's special plants and animals is of benefit to all Hawaiians: for our native species contribute greatly to the Hawaiian culture's material and spiritual existence, as well as being of value to ranchers and agriculturalists.
- (3)        The passage of this bill would reaffirm the state's commitment to continued research. This would help ensure the uninterrupted contribution of federal funding for cooperative efforts such as those of the Tri-Isle Resource Conservation and Development Council, Inc., which is currently working in cooperation with the U.S. Forest Service, and the National Parks Service through its Cooperative Parks Research Studies Unit and the Department of Agriculture. Estimated federal expenditures supporting the melastome control project are \$40,000 in Fiscal year 1992 and \$140,000 for the fiscal biennium 1993-95.
- (4)        Another important component of this bill is increasing public awareness of the threat of this admittedly attractive plant so that it can be contained until a long term eradication solution is found.

Your Committee believes this bill carries out its mandate to oversee and protect Hawaii's environment. They are also in agreement with the request by the Department of Agriculture to have the Governor's Agriculture Coordinating Committee be the expending agency and have amended the bill accordingly. However the appropriation amount in the bill has been changed to \$1 to allow the Finance Committee flexibility in setting its priorities.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1449, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1449, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 78                      Tourism on H.B. No. 1202**

The purpose of this bill is to:

1.        Increase the transient accommodations tax from five percent to seven percent;
2.        Establish a temporary "convention center financing special fund" which shall receive moneys from revenues from operation of the convention facility, parking and other concessions, and two-sevenths of all transient accommodations tax revenues.
3.        Require that moneys from the fund go toward operating expenses of the convention center and reimbursement of the general fund for repayment of reimbursable general obligation bonds issued by the state to finance the convention center.

Your Committee received testimony on this bill as follows:

1.        Stating no opposition from the Department of Taxation, the Convention Center Authority, and the City Council of the City and County of Honolulu;
2.        In opposition from the Tax Foundation of Hawaii, the Chamber of Commerce of Hawaii, Haseko Hawaii, the Hawaii Hotel Association, Hilton Hotels Corporation, and the Hilton Hawaiian Village; and
3.        In support of the intent of this bill but opposed to the transient accommodations tax provisions from Outrigger Hotels.

Your Committee finds that the need for a world-class convention center expresses itself in every new report on Hawaii's slow visitor industry and its resulting economic problems. The continuing absence of adequate facilities will allow other destinations with convention centers to improve their positions at Hawaii's expense in a competitive market that gives no quarter and quickly leaves behind those who fail to commit sufficient resources to ensure their own economic health.

Unfortunately, fiscal constraints prevent the financing of the convention center by any one of the groups or entities advocating such a center. Although the initial cost of the project appears daunting, a fully operational center will draw enough conventioners to Hawaii to generate approximately \$336 million in state tax revenues, essentially reimbursing the state for its entire construction cost in one year of operation.

In light of the strong opposition to the funding proposal contained in the bill and to the alternate funding proposal that would finance the convention center with 40 percent of transient accommodations tax collections, your Committee finds that a third approach needs to be explored.

The most feasible funding plan for the convention center, therefore, will need to be a cooperative effort combining the resources of multiple sources.

Your Committee changed the bill by:

1. Removing the provisions for the convention center financing special fund and the increase in the transient accommodations tax from 5 to 7 percent;
2. Adding provisions for a "convention center capital special fund," administered by the Convention Center Authority, that will receive moneys from:
  - a. Transient accommodations tax collections beyond the 1991-1992 level;
  - b. The state's 5 percent share of transient accommodations tax collections up to the 1991-1992 level;
  - c. General excise tax collections from transient accommodations above the 1991-1992 level; and
  - d. Legislative appropriations, if necessary;
3. Specifying that the capital special fund will be used to repay the general fund for reimbursable general obligation bonds issued to finance the development and construction of a convention center at the Aja Wai Gateway, the former Aloha Motors site or Fort DeRussy, provided that the state shall accelerate payment on the debt if possible and that the Legislature shall make appropriations to make up for any shortfall in the fund to service the debt in the unlikely event that such a need arises;
4. Declaring in the purpose section the Legislature's intent to repeal the capital special fund and the associated transient accommodations tax and general excise tax provisions;
5. Providing that the developer shall provide relocation assistance only if such a need exists;
6. Renaming the "convention center development revolving fund" in section 206X-10, Hawaii Revised Statutes, to the "convention center operations revolving fund";
7. Providing that the sources of revenue of the operations revolving fund shall include but not be limited to income from operation of the center, parking lots and other concessions, and legislative appropriations for shortfalls, if necessary;
8. Allowing the Convention Center Authority to define revenues from convention center operations and to administer the fund;
9. Providing that the authority shall use the fund to pay for operation of the convention center and carry out the purposes of the convention center law;
10. Amending section 237-31, Hawaii Revised Statutes to provide for deposit of all general excise tax revenues from transient accommodations above the 1991-1992 level into the convention center capital special fund;
11. Amending section 237D-6.5, Hawaii Revised Statutes to provide for deposit into the capital special fund of:
  - a. The state's 5 percent share of transient accommodations tax revenues, up to the 1991-1992 level;
  - b. Transient accommodations tax revenues above the 1991-1992 level; and
12. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1202, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1202, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

The purpose of this bill is to prohibit smoking in family child care homes with the provision that the providers of family child care homes may designate certain rooms in their care homes where smoking is permitted and is off-limits to the children under their care.

Testimonies received by the Department of Health, the American Cancer Society, the American Heart Association, the American Lung Association and various other groups support the passage of this bill. Your Committees concluded that second hand smoke is harmful and that children exposed to this second hand smoke are more likely to experience sickness and chronic illness as they grow older. Your Committees also recognized that the health of Hawai'i's children is of utmost importance.

Upon careful consideration, your Committees have deleted language which would have allowed smoking in designated rooms which are off limits to children.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 432, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 432, H.D. 1, and be referred to the Committee on Judiciary

Signed by all members of the Committees.  
(Representative O'Kieffe voted no.)

**SCRep. 80                      Ocean and Marine Resources and Water and Land Use Planning on H.B. No. 59**

The purpose of this bill is to prohibit the filling in or damage to any fishpond during a construction project.

Your Committees on Ocean Recreation and Marine Resources and Water and Land Use Planning find that fishponds may be damaged or filled in either intentionally or inadvertently during construction projects. Some fishponds may not have been adequately identified, resulting in their being damaged or filled in accidentally. Other fishponds may have been intentionally filled in so that construction may be facilitated.

This measure requires construction projects to implement precautionary measures to ensure against filling in or damaging fishponds that might result from construction. To ensure that some fishponds not be overlooked, the Board of the Department of Land and Natural Resources is requested to develop a statewide plan to identify, locate, and protect all existing fishponds in shoreline areas.

Your Committees heard testimonies from the Department of Land and Natural Resources and the Environmental Center of the University of Hawaii. Both agencies supported the intent of the bill but did not support it in its present form.

DLNR cited that the existing Federal, State, and County regulatory regime is suitable for fishpond protection and was concerned that this bill might further restrict the use of these ponds for beneficial activities such as aquaculture. In addition, DLNR's Hawaiian Fishpond Study (1989 and 1990) comprehensively inventoried and described fishponds on all the major islands and provided recommendations for fishpond preservation. In short, DLNR believed the actions within this bill to be unnecessary, given that they have already been carried out.

The U.H. Environmental Center stated that there needs to be additional jurisdictional boundary clarification between DLNR and the U.S. Army Corps of Engineers. There was concern for the lack of an exact definition of a fishpond and for the existence of a blanket no-fill policy law. The Center suggested that there might be times when some fill would be appropriate or even necessary for fishpond maintenance.

There was agreement that state law as proposed by this amended bill would not conflict with other existing regulations and that there was a need to codify existing State fishpond protection within the Legislature. Further, your Committees recognized that fishponds need protection year-round, not just during construction projects, and moreover, your Committees recognized that fishponds are threatened by other acts, not just by filling them in.

Your Committees also recognize that DLNR has already conducted a statewide survey and that the development of a new plan is unnecessary. In addition, wording has been amended to allow DLNR more latitude in undertaking its fishpond management duties.

Your Committees on Ocean Recreation and Marine Resources and Water and Land Use Planning have made the following amendments to this bill:

- (a) To include the building and restoration of fishponds in the permit process.
- (b) To broaden the scope of protection by including "degradation" (rather than "filling") and by including "having historical and cultural significance" (rather than "during a construction project").
- (c) To omit references to construction projects and references requiring DLNR to develop any statewide plan regarding fishponds (omit page 2, lines 2 through 13).

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 59, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 59, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bainum, Kanoho and Tajiri.

**SCRep. 81                      Ocean and Marine Resources and Water and Land Use Planning on H.B. No. 1134**

The purpose of this measure is to remove the exclusion of State forest reserve lands from the definition of coastal zone management area.

Your Committees on Ocean Recreation and Marine Resources and Water and Land Use Planning find that the current definition of "coastal zone management area" means all marine waters extending from the upper reaches of the wash of the waves on shore seaward to the limit of the State's police power of authority, including the United States territorial sea and all land areas excluding those lands designated as state forest reserves, Section 205A-1, Hawaii Revised Statutes.

Your Committees find that there is an urgent need to develop a comprehensive approach to protecting Hawaii's coastal areas from nonpoint source pollution, siltation, and erosion. Extending the inland boundaries by removing the exclusion of the State's forest reserves from the coastal zone management area will allow for greater control over these negative impacts on coastal areas.

Your Committees heard supportive testimony from The Office of State Planning, explaining that the inclusion of forest reserve areas in the Coastal Zone Management Program will enable the Office to address nonpoint source pollution more comprehensively. In addition, this legislation will give the State authority to review Federal activities in the forest reserves relative to the Coastal Zone Management Program. The Office of State Planning suggested that the definition of "coastal zone management area" be revised.

Your Committees have amended this bill by revising the definition of coastal zone management area to read: "Coastal zone management area" means all land areas of the State and all marine waters extending from the upper reaches of the washes of the waves on shore seaward to the limit of the State's police power and management authority, including the United States territorial sea.

Your Committees have further amended this bill by making technical, nonsubstantive corrections for purpose of style.

As affirmed by the records of votes of the members of your Committees on Ocean and Marine Resources and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1134, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1134, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

**SCRep. 82                      Judiciary on H.B. No. 202**

The purpose of this bill is to amend section 6F-5, Hawaii Revised Statutes (HRS), by deleting the requirement that the adoption, amendment or repeal of rules for the Judiciary History Center be done in accordance with chapter 91, HRS.

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

Your Committee finds that the Judiciary is exempted from rulemaking under chapter 91, Hawaii Revised Statutes (HRS), since the judicial branch is excluded from the definition of "agency" under section 91-1(1), HRS. However, there exists a conflict between section 91-1, HRS and section 6F-5(8), HRS. 6F-5(8), HRS, presently requires that the Judiciary History Center perform rulemaking in accordance with chapter 91, HRS. As a result, the Judiciary History Center, although administratively attached to the Judiciary, would be subject to chapter 91, HRS. Your Committee believes that the requirement under section 6F-5(8), HRS, that the Judiciary History Center comply with chapter 91, HRS, should be deleted. Additionally, your Committee has made technical, non-substantive changes to this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 202 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 202, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 83                      Judiciary on H.B. No. 200**

The purpose of this bill is to amend section 612-17, Hawaii Revised Statutes (HRS), to eliminate the requirement that trial jurors be assembled in panels of eighteen. Additionally, this bill amends sections 612-15, 612-17, 612-18, and 612-26, HRS to eliminate references to jury panels, and to make other technical and non-substantive changes.

Your Committee received testimony in support of this measure from the Judiciary and the Hawaii State Bar Association. The Judiciary recommends passage of this bill because it would result in the efficient management of the jury pool.

Your Committee finds that the current law, requiring jury panels of eighteen jurors, serves no useful purpose and adds to the workload of the jury pool staff. Additionally, it wastes jurors' time by requiring courts to order jurors by panels of eighteen rather than ordering the specific number of jurors needed. This amendment should increase the efficiency of the jury system by providing the Judiciary with greater flexibility in selecting and scheduling jurors.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 200 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, Hirono, Peters and Takamine.

**SCRep. 84                      Judiciary on H.B. No. 1068**

The purpose of this bill is to specify that a false endorsement is a method of forging a written instrument.

By including false endorsement within the definition of "forged instrument", this proposed amendment would provide clarity and consistency to definitions regarding forgery and other related offenses within the Hawaii Penal Code. Moreover, this proposed amendment would be consistent with the legislative intent as established in Act 155, SLH 1988, which included false endorsement as a method of committing the offense of forgery to strengthen the existing forgery laws at that time.

Testimony in support of this measure was submitted by the Department of the Prosecuting Attorney of the City and County of Honolulu and the Police Department of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1068 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, Bunda, Oshiro, Peters and Takamine.

**SCRep. 85                      Judiciary on H.B. No. 1061**

The purpose of this bill is to extend the exemption for parking violations of witnesses summoned or subpoenaed to circuit court to include witnesses summoned or subpoenaed to family or district court.

Often, witnesses summoned or subpoenaed for judicial proceedings receive parking citations because of the inability to leave the courtroom and pay the parking meters. Currently, witnesses summoned or subpoenaed for circuit court are exempt from parking violations and in the interest of fairness and consistency, your Committee finds that this courtesy should be extended to witnesses summoned or subpoenaed to family or district court as well.

Testimony in support of this measure was submitted by the Department of the Prosecuting Attorney of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1061 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, Bunda, Oshiro, Peters and Takamine.

**SCRep. 86                      Economic Development and Business Concerns on H.B. No. 855**

The purpose of this bill is to support economic development by appropriating funds to continue providing technical assistance to Hawaii's businesses.

H.B. No. 855 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 so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the action to report out H.B. No. 855, as amended herein, and recommends that it be recommitted to the Committee on Economic Development and Business Concerns for the purpose of holding a public hearing, in the form attached hereto as H.B. No. 855, H.D. 1.

Signed by all members of the Committee except Representatives D. Ige and M. Ige.

**SCRep. 87                      Housing on H.B. No. 1411**

The purpose of this bill is to establish that the buyback lien of the Housing Finance and Development Corporation (HFDC) shall be superior to any other mortgage or lien, except any first mortgage created for the purpose of enabling the purchaser to obtain funds for the purchase of the unit and any other mortgages made with the approval and consent of HFDC.

Supporting testimony was submitted by the Department of Housing and Community Development and the HFDC.

While in agreement with the intent of the bill, your Committee has requested that the HFDC put in writing, a policy setting guidelines with regard to second mortgages or liens. These guidelines shall be drafted with the intent of preserving the affordability of units developed under Chapter 210E, Hawaii Revised Statutes. These guidelines shall be given to the buyers of these units upon closing.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1411 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Peters.

**SCRep. 88                      Housing on H.B. No. 1624**

The purpose of this bill is to add the requirement that a person, if not a bona fide resident of the State, reside on their lot within twenty months of the date of final judgement in order to qualify under Chapter 516.

Supporting testimony was received from the Housing Finance and Development Corporation. Testimony from Kamehameha Schools/Bishop Estate supported the idea that bona fide residents who are owner occupants of single-family leasehold be allowed to partition for condemnation under Chapter 516; however, they oppose the principal of mandatory conversion.

Accordingly, your Committee has amended this bill by:

- (1)        Permitting an exception in hardship circumstances as determined by the corporation; and
- (2)        Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the records of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1624 and recommends that it pass Second Reading in the form attached hereto as H. B. No. 1624, H.D. 1, and be referred to the Committee of Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 89                      Housing and Human Services on H.B. No. 318**

The purpose of this bill is to place a moratorium on the construction of temporary shelters on the island of Oahu. The bill also:

- (1)        Requires that funds for the five proposed remaining transitional homeless village sites in Ewa, Hauula, Hawaii Kai, Manoa, and Waimanalo be used to construct five permanent special needs facilities; and
- (2)        Appropriates \$4,700,000 out of the general revenues of the State to plan, design, and construct five special needs facilities of generic design.

The HHA testified that it opposes having a moratorium placed on the construction of transitional homeless villages.

Testimony received from the Waikiki Health Center supports a moratorium on building shelters that are designed to be temporary.

Your Committees recognize the continued need for homeless shelters; however, your Committees believe that a mandate requiring future structures to be permanent is necessary.

Your Committees, upon further consideration, have amended the bill by:

- (1)        Deleting provisions requiring a moratorium on construction of temporary shelters on Oahu;
- (2)        Deleting the requirement that funds be used to construct five permanent special needs facilities for the remaining transitional homeless village sites in Ewa, Hauula, Hawaii Kai, Manoa, and Waimanalo;
- (3)        Deleting the appropriation of \$4,700,000 to plan, design, and construct five special needs facilities of generic design;
- (4)        Stipulating that all shelters for the homeless shall be permanent structures for transitional use by the homeless;
- (5)        Requiring that homeless shelter units shall not be temporary structures or on land which is not available on a long term basis;
- (6)        Clarifying that commitments already made to construct Weinberg village shelters in Waimanalo and Ewa shall not be affected by the bill;

- (7) Requiring that structures or shelters constructed at Waimanalo and Ewa or shelters already constructed as of the effective date of this Act be relocated to permanent sites upon the expiration of each pending five year contract; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Housing and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 318, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 318, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Peters.

**SCRep. 90 Hawaiian Affairs on H.B. No. 2006**

The purpose of this measure is to authorize and appropriate \$136,500,000 of general obligation bond funds for payment to the Office of Hawaiian Affairs (OHA) pursuant to Act 304, Session Laws of Hawaii (SLH) 1990, and Act 300, SLH 1992, including interest on the amount and the cost of issuance.

Favorable testimony on this measure was received from OHA and the Office of State Planning. Testimony was also received from the Department of Budget and Finance indicating that substantial savings could be realized if payment was made in a timely manner, thereby avoiding accumulating interest payments.

Your Committee finds that pursuant to Act 304, SLH 1990 and Act 300, SLH 1992, the State owes OHA \$111,883,000 which represents proprietary revenues or revenues that are generated from the use of disposition of the public trust lands and includes rents, leases, and licenses for the use of trust lands, minerals, and runway landing fees. Further, your Committee finds that pursuant to Act 304, SLH 1990, the State is obligated to pay ten percent interest on any unpaid balance due to OHA. The most recent general obligation bond sale was priced at a rate of five and six-tenths percent, and currently, it is estimated that general obligation bonds to finance this payment to OHA could be priced at a rate of about six percent. If the State acts on a timely basis and takes advantage of the existing favorable bond market, a substantial savings would be realized by the State.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2006 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 91 Hawaiian Affairs on H.B. No. 2010**

The purpose of this bill is to provide additional time for beneficiaries under the Hawaiian Home Lands Trust to file and resolve claims as provided for in Chapter 674, Hawaii Revised Statutes (HRS), and to appropriate funds to administer the law.

The 1991 Legislature created the Hawaiian Home Lands Trust Individual Claims Review Panel (the Panel) to hear claims by individual beneficiaries of the Hawaiian Home Lands Trust who have suffered actual damages as a result of a breach of trust. The breach must have occurred between Statehood and July 1, 1988, and have been caused by an act or omission of a state employee in the management and disposition of trust resources.

Section 674-7, HRS, gives beneficiaries until August 31, 1993 to file claims with the Panel. According to the Panel's testimony, however, the appointment of the panel members and the adoption of administrative rules have proved time-consuming. If the deadline is not extended, beneficiaries would only have seven months in which to file their claims. This bill proposes to extend the deadline to August 31, 1995.

In addition to the supporting testimony submitted by the Panel, your Committee also received supporting testimony from the Hawaiian Homes Commission and the Office of Hawaiian Affairs.

Upon further consideration, your Committee concurs with the Panel's recommendation to amend Section 674-11, HRS. Concerns had been raised as to whether statements made by the claimants, the Department of Hawaiian Home Lands staff, or other witnesses during the course of the investigation can be used against them in subsequent legal proceedings. The results might mean that individuals would be less likely to fully disclose all of the facts. To alleviate this concern, your Committee has inserted a new SECTION 8 that amends Section 674-11, HRS, by inserting the word "investigation" between the words "any" and "hearing". The amended sentence would read in part: "No statement made in the course of any investigation, hearing, or review proceedings of the panel shall be admissible in evidence..." Subsequent sections were also re-numbered.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2010, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2010, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo and Beirne.



**SCRep. 92 Hawaiian Affairs on H.B. No. 2017**

The purpose of this bill is to amend appropriate subsections of Section 213 of the Hawaiian Homes Commission Act to:

- (1) Remove the loan ceiling for home repairs and additions for loans from the Hawaiian Home General Loan Fund;
- (2) Identify the Hawaiian Home Operating Fund, the Hawaiian Home Administration Account, the Hawaiian Home Receipts Fund, the Hawaiian Home Trust Fund and the Native Hawaiian Rehabilitation Fund as "trust" funds rather than "special" funds; and
- (3) Clarify that receipts to the Hawaiian Home Trust Fund may include gifts and bequests.

Other technical and non-substantive changes to Section 213 have also been made.

Favorable testimony on this bill was received from the Department of Hawaiian Home Lands.

Your Committee finds that the current ceiling on home repair and home addition loans of \$15,000 is unrealistic in light of rising prices for labor and materials. In addition, your Committee finds that the funds mentioned above can be used only for the benefit of native Hawaiians, the designated beneficiaries of the Hawaiian Home Lands Trust. Therefore, the funds should be more properly and accurately described as "trust" funds rather than "special" funds.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2017 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo and Beirne.

**SCRep. 93 Hawaiian Affairs on H.B. No. 2019**

The purpose of this bill is to require that the value of permanent improvements on lands withdrawn pursuant to developer agreements entered into by the Department of Hawaiian Home Lands (DHHL) be based on fair market value or depreciated value, whichever is less.

Favorable testimony on this measure was received from DHHL.

Your Committee finds that Section 220.5(d), Hawaii Revised Statutes, is silent as to how permanent improvements on the lands withdrawn are to be valued. This measure will clarify how such permanent improvements are to be valued.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2019 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo and Beirne.

**SCRep. 94 Energy and Environmental Protection on H.B. No. 1327**

The purpose of this bill is to assist the Encogen Kawaihae, L.P. in providing electric service to the general public through the Hawaii Electric Light Company, Inc. This bill authorizes the issuance of special purpose revenue bonds in a total amount not to exceed \$36,000,000 to finance a 56-megawatt cogeneration power plant and related facilities on the Big Island.

According to supporting testimony presented by a Honolulu law firm (Carlsmith Ball Wichman Murray Case Mukai and Ichiki), the total project cost is estimated at \$100,000,000.

Your Committee has amended this bill to correct the following technical errors:

- (1) The correct name of the partnership is Encogen Hawaii, L.P. and not Encogen Kawaihae, L.P. (page 1, lines 5 and 10; and page 2, lines 3 and 9); and
- (2) The correct description of the facility is a power plant and not a cogeneration power plant (page 1, line 7; and page two, line 4).

Your Committee finds that this bill would:

- (1) Enable Encogen Hawaii, L.P. to pay an interest rate which is lower than interest rates on non-exempt taxable bond issues;
- (2) Benefit ratepayers due to the resulting reduction in capital costs; and
- (3) Not obligate the State of Hawaii to meet payments on the bonds.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1327, as amended herein,

and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1327, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 95                    Energy and Environmental Protection on H.B. No. 2001**

The purpose of this bill is to assist the Wailuku River Hydroelectric Power Company, Inc. in providing electric energy to the general public through the Hawaii Electric Light Company, Inc. This bill authorizes the issuance of special purpose revenue bonds (SPRBs) in a total amount not to exceed \$6,000,000 to finance a 10-megawatt hydroelectric power plant and related facilities on the Big Island.

According to supporting testimony presented by the Wailuku River Hydroelectric Limited Partnership (the partnership):

- (1) Previous Legislatures had authorized the issuance of \$25,000,000 in SPRBs for this project;
- (2) The 1992 Legislature passed H.B. No. 3642 which authorized the issuance of \$5,000,000 in SPRBs. However, because that bill passed final reading prior to the passage of the supplemental appropriations bill, the Governor vetoed H.B. No. 3642; and
- (3) The total project cost is \$30,000,000.

The Department of Business, Economic Development, and Tourism also supported this bill.

Your Committee notes that pursuant to Article VII, section 9, of the State Constitution, this bill contains language that recommends immediate passage. This would enable the partnership to fund a portion of the project costs prior to commencement of operations in June, 1993.

Your Committee finds that this bill would:

- (1) Enable the Wailuku River Hydroelectric Power Company, Inc. to pay an interest rate which is lower than interest rates on non-exempt taxable bond issues;
- (2) Benefit ratepayers due to the resulting reduction in capital costs; and
- (3) Not obligate the State of Hawaii to meet payments on the bonds.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2001 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 96                    Energy and Environmental Protection on H.B. No. 2027**

The purpose of this bill is to create and establish an environmental health program enhancement and education fund.

Testimony in favor of this bill was presented by the Department of Health which emphasized:

- (1) Programs in the Environmental Health Services Division generally do not receive federal funds although these programs for fact finding, training and education are the backbone of public health programs that maintain and preserve public health and quality of life.
- (2) These programs become the leaders during disasters such as Hurricane Iniki and yet the staff does not have appropriated funds to keep abreast of new statutes, technologies and innovations.
- (3) The establishment of this fund will enable staff to obtain the necessary education and training so as to enhance their interactions with educating the public.
- (4) The money in this fund will be used directly to benefit the individuals paying for it.

The Committee feels that funds should not be open-ended and suggests that a caps be considered for this fund by the Finance Committee.

The Chair and Committee members voiced concern over passing out bills which create special funds in this time of limited State revenues but have decided in view of the important environmental considerations in this fund to defer to the Committee on Finance.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2027 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 97                    Energy and Environmental Protection on H.B. No. 1376**

The purpose of this bill is to assist the Kauai Electric Division of Citizens Utilities Company in providing electric service to the general public. This bill authorizes the issuance of special purpose revenue bonds in a total amount not to exceed \$40,820,000 to finance a multi-purpose capital improvement program including:

- (1) Preliminary engineering design and construction necessary for a new fossil fuel generator facility;
- (2) Transmission lines; and
- (3) Other power plant additions or electric systems or both.

The Department of Business, Economic Development, and Tourism and the law firm of Carlsmith Ball Wichman Murray Case Mukai and Ichiki testified in support of this bill.

Your Committee finds that this bill would:

- (1) Enable Kauai Electric to pay an interest rate which is lower than interest rates on non-exempt taxable bond issues;
- (2) Benefit ratepayers due to the resulting reduction in capital costs; and
- (3) Not obligate the State of Hawaii to meet payments on the bonds.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1376 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 98                    Energy and Environmental Protection on H.B. No. 1187**

The purpose of this bill is to protect and preserve important natural resources on public and private lands by earmarking all of the conveyance tax revenues for the:

- (1) Natural Area Reserves System (50 per cent of all revenues);
- (2) Natural Area Partnership Program (NAPP) (87.5 per cent of the remaining 50 per cent of revenues); and
- (3) Forest Stewardship Program (12.5 per cent of the remaining 50 per cent of revenues).

Currently, conveyance tax revenues are deposited into the general fund.

Based on the Department of Land and Natural Resources' (DLNR) biennium budget testimony on LNR 407 (Natural Area Reserves and Management), your Committee is keenly aware of the financial problems facing these programs. Specifically, DLNR reported that:

- (1) Significant progress has been made by NAPP. Currently, three projects protecting over 7,500 acres are underway with a fourth potential project on West Maui that will be available in early 1993, which would add another 8,600 acres; and
- (2) Although the 1991 Legislature provided over \$500,000 for the first two years of the programs, this was considered a special appropriation, and no similar funds are included in the 1993-95 biennium budget request. As a result, "the state will not be able to meet its funding commitment and the partnership projects may terminate resulting in reduced management activities and a subsequent loss of native species."

The Natural Area Reserves System Commission, the Nature Conservancy, and the Natural Resources Defense Council supported this bill. The Department of Taxation preferred H.B. No. 1906, and DLNR preferred S.B. No. 1726. The Hawaii Society of American Foresters and the Hawaii Forest Industry Association expressed concerns regarding the breakdown of the proposed distribution of funds. Finally, both the Hawaii Association of Realtors and the Tax Foundation of Hawaii opposed the bill, and the Environmental Center also submitted comments.

Based on the testimony, your Committee finds that:

- (1) An assured source of funding is vital to these programs, especially when the intent of the partnership programs is to attract private landowners to enter into long-term agreements with the State;
- (2) The dilemma is identifying the appropriate source of funding. The conveyance tax is a convenient source that many programs hope to tap, especially when State funds are scarce; and
- (3) There is a real urgency to continue to fund these deserving partnership and reserve programs. All past progress could be quickly reversed if management is interrupted for just one budget period. During that brief period, fences can fall into disrepair, and non-native animals can quickly invade a protected area.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1187 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representatives Herkes and Takamine voted no.)

**SCRep. 99                      Finance on H.B. No. 1153**

The purpose of this bill is to appropriate approximately one-half of the general excise tax revenue increase generated by Hurricane Iniki to a Kauai-Hurricane Iniki Special Fund for disaster relief and rehabilitation on the island of Kauai.

The Mayor of Kauai and the Kauai County Council testified in support of this bill. Additional comments were submitted by the Tax Foundation of Hawaii and the Legislative Auditor.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1153 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 100                     Finance on H.B. No. 1121**

The purpose of this bill is to provide that:

- (1) Allowable losses for determining tax relief for natural disaster losses are to be reduced by any amounts received from either federal or State grants or loans; and
- (2) The remission or refund entitled to each claimant for each year of the five-year claim period shall first be applied to the real property taxes and then to the general excise taxes.

Testimony in support of this measure was submitted by the Mayor of Kauai and the Kauai County Council. The Tax Foundation of Hawaii also submitted comments. The Department of Taxation did not oppose the amendment regarding the allowable losses but did oppose the amendment relating to the order of the application of the remission or refund entitled to each claimant.

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

- (1) Providing that a claimant's total loss is to be determined by totalling the market value of all real and personal property damaged or destroyed by the natural disaster;
- (2) Providing that the allowable losses for determining tax relief is to be further reduced by the amount by which the claimant's real property was uninsured;
- (3) Clarifying the language regarding the order of applying the remission or refund of the real property taxes and general excise taxes; and
- (4) Making technical, nonsubstantive amendments to correct a technical drafting error and for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1121, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1121, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 101                     Finance on H.B. No. 1123**

The purpose of this bill is to increase the loan amounts under the State Disaster Loan Program to \$100,000 for a commercial loan and \$50,000 for a personal loan.

The Mayor of Kauai testified in favor of this measure citing the importance of the State Disaster Loan Program but noting the need to increase the present loan limits to better assist disaster victims. The Kauai County Council also presented testimony in support of this bill. However, the Department of Business, Economic Development, and Tourism testified against the measure.

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

- (1) Changing the maximum loan amounts to \$75,000 for a commercial loan and \$35,000 for a personal loan; and
- (2) Making a technical, nonsubstantive amendment for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1123, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Santiago, Tajiri, Tam and Marumoto.

**SCRep. 102                      Finance on H.B. No. 1124**

The purpose of this bill is to appropriate funds for recovery costs associated with Hurricane Iniki. Specifically, this measure would:

- (1) Reimburse the County of Kauai for real property taxes remitted, refunded, or forgiven under Chapter 234, Hawaii Revised Statutes;
- (2) Increase the moneys in the State Disaster Revolving Loan Fund; and
- (3) Provide a grant-in-aid to the County of Kauai for recovery costs associated with Hurricane Iniki, including public transportation, tourism promotion, public works, and other departmental recovery expenditures that are not reimbursed by the Federal Emergency Management Agency.

Your Committee received testimony in support of this measure from the Mayor of Kauai and the Kauai County Council. The Department of Business, Economic Development, and Tourism offered comments on this bill, noting that budget items not included in the Administration budget proposal could not be supported at this time.

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

- (1) Clarifying that the Department of Business, Economic Development, and Tourism, instead of the Department of Budget and Finance, expend the moneys appropriated to the State Disaster Revolving Loan Fund;
- (2) Deleting the grant-in-aid for a public transportation system;
- (3) Deleting the grant-in-aid for public works and other departmental recovery costs not reimbursed by the Federal Emergency Management Agency; and
- (4) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

In addition, for the purpose of determining a more accurate estimate of the costs for the tax reimbursement, the loan fund, and the tourism promotion at a later date, your Committee has amended the appropriation amounts to a nominal sum of \$1 for those items. However, for the grant-in-aid for tourism promotion, it is the intent of your Committee to fully fund that request at \$6 million.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1124, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1124, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 103                      Finance on H.B. No. 1126**

The purpose of this bill is to provide assistance to hurricane-ravaged Kauai through the issuance of general obligation bonds and an appropriation for Hurricane Iniki related damages.

The Mayor of Kauai and the Kauai County Council submitted testimony in support of this bill.

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

- (1) Changing the dollar amount for the general obligation bond authorization and for the appropriation from \$30,800,000 to \$1 for the purposes of continued discussion;
- (2) Deleting the appropriations for county sewer systems, new police headquarters, county affordable housing, county vehicle baseyard, and county emergency operations center;
- (3) Deleting the amounts appropriated for the land acquisition, design, construction, and equipment of the Koloa transfer station and instead leaving these amounts blank for purposes of continued discussion;
- (4) Providing for a blank appropriation for the land acquisition, plans, design, and construction for emergency housing on Kauai; and
- (5) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1126, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1126, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 104                    Finance on H.B. No. 1154**

The purpose of this bill is to exempt amounts received under commercial liability, property, and income insurance policies by reason of damage or destruction of a business property located within a state-declared natural disaster area from the general excise tax.

Supportive testimony was received from the Mayor of Kauai, Kauai County Council, Kauai Economic Opportunity, Gem of Hawaii, Taba Brothers Auto Parts, Hawaii Society of Certified Public Accountants, and a certified public accountant. The Tax Foundation of Hawaii also offered comments. However, the Department of Taxation opposed the measure, noting that the insurance proceeds are considered to replace lost revenue of the business.

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

- (1) Specifying that only amounts received under property and casualty insurance policies for damage or loss of inventory used in a trade or business in a state-declared natural disaster area are not taxable under the general excise tax;
- (2) Amending the effective date of the Act to make it retroactive to September 11, 1992; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors and for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1154, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1154, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Santiago, Tajiri, Tam and Marumoto.

**SCRep. 105                    Housing on H.B. No. 1667**

The purpose of this bill is to exempt the construction of elderly housing pursuant to the federal Fair Housing Amendments Act of 1988 from being considered a discriminatory practice under Chapter 515, Hawaii Revised Statutes.

Supporting testimony was submitted by The Hawaii Civil Rights Commission, Dwyer Imanaka Schraff & Kudo; and Cades Schutte Fleming & Wright

Your Committee finds that this amendment is necessary to correct an oversight made in Act 171, Session Laws of Hawaii 1992. This housekeeping amendment ensures that potential developers of elderly housing are not deterred from developing in the future. At the same time, this avoids legal challenges to the admission practices of existing housing for the elderly.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1667 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 106                    Ocean Recreation and Marine Resources on H.B. No. 1670**

The purpose of this measure is to provide additional protection for Hawaii's valuable and unique aquarium fish resources by clarifying and strengthening the permitting process.

Your Committee on Ocean Recreation and Marine Resources finds that while the Department of Land and Natural Resources may issue aquarium fish permits, the present statute, Section 188-31, Hawaii Revised Statutes, is unclear as to its application, and that no fees are assessed to cover costs of processing applications for permits and inspecting equipment used for fishing.

Your Committee further finds that requiring an aquarium fish permit for fishing for aquarium fish for commercial purpose will enable the Department of Land and Natural Resources to regulate this industry better, and that the assessment of fees for permits will help to cover administrative and equipment inspection costs.

Your Committee heard supportive testimony from the Department of Land and Natural Resources for this administrative bill. The Environmental Center, University of Hawaii, took no position on the substance of the bill in its written testimony, but suggested changes in the language.

Testimonies in opposition to the bill were received from the Hawaii Tropical Fish Association, and from several people in the industry whose livelihood depends on obtaining aquarium fish to sell. Their objections were based on the inclusion of prohibitions against damaging, breaking, injuring, or killing of any rock, coral, or aquatic life while fishing under an aquarium fish permit, and the lack of involvement of the industry in drafting appropriate legislation.

Your Committee has amended this bill by clarifying that the requirement for an aquarium fish permit applies only to those fishing for aquarium fish for commercial purpose. Your Committee further amended this bill by specifying that gear being used in fishing for aquarium fish be legal gear. Your Committee limited the bill to "permits to fish for aquarium fish," deleting provisions about damaging marine habitat.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1670, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1670, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 107                      Water and Land Use Planning on H.B. No. 888**

The purpose of this Act is to restrict the availability of appraisals of real property done for the State in connection with the proposed acquisition of the property by declaring them not to be public records until the acquisition is completed or is abandoned; and to clearly distinguish and separately categorize appraisals done for land management from those done for acquisitions.

H.B. No. 888 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 in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the action to report out H.B. No. 888, as amended herein, and recommends that it be recommitted to the Committee on Water and Land Use Planning, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 888, H.D. 1.

Signed by all members of the Committee except Representative Tajiri.

**SCRep. 108                      Water and Land Use Planning on H.B. No. 1994**

The purpose of this Act is appropriates funds to conduct a comprehensive analysis of the various legal, social, economic, and cultural issues that impact territorial homestead lessees.

H.B. No. 1994 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 in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1994, as amended herein, and recommends that it be recommitted to the Committee on Water and Land Use Planning, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1994, H.D. 1.

Signed by all members of the Committee except Representative Tajiri.

**SCRep. 109                      Housing on H.B. No. 1312**

The purpose of this bill is to clarify the definition of "nonprofit organization" to include entities, which, among other things, are qualified for exemption under section 501(c)(3), 501 (c)(4), or portions of 501(c)(2) which apply to title-holding corporations turning over income to 501(c)(3) or 501(c)(4) exempt organizations. This bill also allows the commission to use for administrative expenses, an amount from the trust fund set by the commission and authorized by the Legislature. This bill also clarifies provisions pertaining to the composition and selection of Rental Housing Trust Fund commissioners.

Representatives from the Rental Housing Trust Fund and the Honolulu Neighborhood Housing Services submitted testimony in favor of the bill.

Accordingly, your Committee has amended the bill by:

- (1) Clarifying that public members of the Rental Housing Trust Fund commission shall be representative of organizations of real estate brokers and rental property managers, nonprofit housing developers and rental advocacy organizations, and architects and planners; and
- (2) Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1312, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1312, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Pepper and Peters.



**SCRep. 110      Public Safety and Corrections and Judiciary on H.B. No. 2047**

The purpose of this bill is to establish a corrections population management commission, which shall develop mechanisms to prevent inmate population from exceeding the capacity of the correctional facilities.

For many years, the State of Hawaii has had difficulty in managing the size of its correctional population. There have been more persons committed or detained in correctional facilities than there is bedspace to accommodate them.

Prison overcrowding was a major cause of the 1985 American Civil Liberties Union's (ACLU) lawsuit which resulted in a consent decree governing conditions at the Oahu Community Correctional Center (OCCC) and the Women's Community Correctional Center (WCCC). Continued overcrowding is the primary reason that the State is unable to satisfy the requirements of the consent decree, and is the most significant obstacle to resolution of the litigation.

A permanent solution to overcrowding requires the participation, cooperation, and commitment of all three branches of government, and of all criminal justice agencies in the State. The Commission proposed by this bill will bring representatives of all these agencies together in an effort to develop strategies to control the population of all of the State's correctional facilities. This will also help the State avoid additional litigation by making it easier for the Department of Public Safety to comply with the consent decree.

Testimony in support of this measure was submitted by the Department of Public Safety and the American Civil Liberties Union of Hawaii.

Your Committees have amended this bill by inserting \$83,882 and \$72,782 for fiscal years 1993-1994 and 1994-1995 respectively as the sums to be appropriated and also provided that a member of the Parole Board be included as a member of the commission. Additionally, amendments proposed by the ACLU were incorporated.

Technical, non-substantive amendments were also made for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Public Safety and Corrections and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2047, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2047, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.  
(Representative Amaral voted no.)

**SCRep. 111      Public Safety and Corrections on H.B. No. 1771**

The purpose of this bill is to increase the percentage of funds deducted from wages of correctional inmates and to deposit the deductions into the Correctional Industries Revolving Fund.

The Department of Public Safety testified in support of the bill. The Office of the Public Defender raised some concerns with respect to raising the amount of the deduction from inmates' wages from twenty percent to forty percent, because this may affect the inmates' motivation to work. The Office of the Public Defender also stated that the Department of Public Safety may be tempted to use the inmates' wages to fund the Department's own programs to the detriment of the inmates' other responsibilities and needs.

Your Committee amended this bill by:

- (1) Clarifying that the reimbursement of incarceration costs of the contributing inmates relate to the inmates' participation in correctional industries;
- (2) Deleting the forty percent increase proposed for the amount of deduction from inmates' wages; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Public Safety and Corrections that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1771, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 112      Public Safety and Corrections on H.B. No. 2078**

The purpose of this bill is to amend Act 151, Session Laws of Hawaii (SLH) 1992, by extending its effective period from July 1, 1994, to July 1, 1995.

By way of a brief background, Act 151, SLH 1992, exempts the Department of Public Safety (Department) and the Office of Youth Services (OYS) from state and county requirements relating to planning, land use, and construction for the renovation or expansion of existing facilities or construction of new facilities on real property located in Kailua, Oahu. This Act enabled the Department to expedite the rebuilding of the Women's Community Correctional Center (WCCC). Such construction is necessary for compliance with the requirements of the Spear v. Waihee Consent Decree. Under the

Department's plan, WCCC will occupy the buildings which now house the Hawaii Youth Correctional Facility (HYCF), and OYS will build a new facility for HYCF on that part of the property where WCCC is located.

Since the enactment of Act 151, SLH 1992, the Department has commenced with the renovation of the existing HYCF buildings. However, OYS has fallen behind schedule, and the HYCF project is now projected to be completed after October 1, 1994. Because HYCF now occupies one of the cottages which will subsequently become part of WCCC, the Department will not be able to commence with the final stage of the WCCC renovation until after January 1, 1995. Such a delay will mean that the Department will have to go through the time consuming process of obtaining permits and conducting environmental impact studies. This will make compliance with the Consent Decree much more difficult.

If enacted, this bill would allow the Department to expedite the renovation of the final stage of the WCCC, which will bring the Department in compliance with that aspect of the Consent Decree.

Testimony in support of this measure was submitted by the Department of Public Safety.

As affirmed by the record of votes of the members of your Committee on Public Safety and Corrections that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2078 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 113                      Public Safety and Corrections on H.B. No. 400**

The purpose of this bill is to appropriate funds to implement community-based alternatives to the imprisonment of women.

Your Committee received supporting testimony from the Department of Public Safety and the American Civil Liberties Union of Hawaii.

Upon consideration, your Committee has amended the bill by:

- (1)        Deleting reference in section 2 of the bill that the appropriation is also for the hiring of a community custody specialist and clerical support to develop and monitor community-based incarceration alternative programs; and
- (2)        Inserting the appropriation sum of \$1 for the purposes of continued discussion.

As affirmed by the record of votes of the members of your Committee on Public Safety and Corrections that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 400, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 114                      Tourism on H.B. No. 1047**

The purpose of this bill is to extend the existence of the Convention Center Authority from 6/30/94 to an unspecified date and appropriate funds for the operation of the authority.

Your Committee received testimony in support of this bill from the Convention Center Authority, the Hawaii Hotel Association and the Chamber of Commerce of Hawaii.

Your Committee finds that Hawaii's lack of a world-class convention center will continue to hinder efforts to induce a recovery of the economy. National organizations such as the American Bar Association, the American Dental Association and the National Association of Realtors have stated that they will not choose Hawaii again as a location for their national convention without adequate facilities.

Your Committee revised the bill by:

1.        Setting the expiration date of the authority at June 30, 1998;
2.        Removing the appropriation provisions; and
3.        Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1047, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1047, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 115                      Tourism on H.B. No. 1934**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the promotion of the 1994 PGA Grand Slam of Golf.

Your Committee received testimony in support of this bill from the Hawaii Hotel Association and Kauai Lagoons, and in support of the intent of this bill from the Department of Business, Economic Development and Tourism.

Your Committee finds that the event itself provides considerable economic benefit to Hawaii and also gives Hawaii tremendous television exposure that promotes Hawaii as a visitor destination.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill; and
2. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1934, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1934, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 116                      Tourism on H.B. No. 2103**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the Aloha Festivals.

Your Committee received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the City Council of the City and County of Honolulu, Aloha Festivals, Aloha Airlines, Bank of Hawaii, KITV-4, KCCN, Outrigger Prince Kuhio, Keauhou Shopping Village, Aloha Tower Associates, Capital Investment of Hawaii, Honolulu Publishing Company, The Lodge at Koele, Kaahumanu Center, Royal Hawaiian Shopping Center, Hilton Hawaiian Village, the Hawaii Hotel Association, Starr-Seigle-McCombs, and Outrigger Hotels.

Your Committee finds that the Aloha Festivals, formerly known as "Aloha Week," has become an enduring celebration of Hawaii's unique cultural diversity and that expansion of the festivals would bring considerable economic benefit from the increased number of visitors attracted to Hawaii and by enhancing the cultural experience for the visitors.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2103 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 117                      Tourism on H.B. No. 1953**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the Oahu Attractions Association to promote tourism on Oahu.

Your Committee received testimony in support of this bill from Hilo Hattie Fashion Centers, Aikane Catamarans, Polynesian Cultural Center, Hawaii Maritime Center, Budget Rent A Car, Castle and Cooke Retail; testimony in support of the intent of this bill from the Department of Business, Economic Development and Tourism, the Hawaii Hotel Association; and testimony in opposition from the Waikiki/Oahu Visitors Association, Outrigger Hotels and ITT Sheraton.

Your Committee finds that increased patronage of attractions on Oahu would lead to longer stays by visitors and would bring considerable economic benefit to Hawaii.

Your Committee also finds, however, that considerable concern was raised about the fragmentation of visitor marketing efforts that would be caused by independent promotional campaigns such as the one funded by this bill.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
2. Adding a requirement that the Department of Business, Economic Development and Tourism, with the Hawaii Visitors Bureau, develop a coordinated strategy for promotion of Oahu attractions; and
3. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1953, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1953, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representative Ishii-Morikami voted no.)

**SCRep. 118                      Tourism on H.B. No. 1705**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for the continuation of the Aloha State Games.

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

Your Committee finds that the Aloha State Games provides considerable economic benefit to Hawaii.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill; and
2. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1705, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1705, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 119                      Tourism on H.B. No. 1530**

The purpose of this bill is to appropriate funds to the Department of Business, Economic Development and Tourism for an international promotion campaign of Hawaii as a premier golf destination.

Your Committee received testimony in support of this bill from the Professional Golfers' Association, Hawaii's Premier Golf Resorts, Aston Hotels and Resorts, Poipu Bay Resort, Makena Resort, Wailea Resort, Kaluakoi Golf Resort, Hawaii Prince Golf Club, Alii Country Club, Richard M. Sato & Associates, Starr-Seigle-McCombs, Media Five Ltd., Hawaiian Capital Securities, Mauna Kea Beach Hotel, Waikoloa Golf Club, and Peck Sims Mueller Advertising; testimony in support of the intent of this bill from the Department of Business, Economic Development and Tourism, the Hawaii Hotel Association; and testimony in opposition from Hilton Hawaiian Village, Outrigger Hotels, ITT Sheraton, and the Waikiki/Oahu Visitors Association.

Your Committee finds that a considerable number of visitors to Hawaii include golf in their activities. Hawaii is already in a favorable position to capture a large segment of the lucrative golf market because of its existing golf facilities.

Your Committee also finds, however, that considerable concern was raised about the fragmentation of visitor marketing efforts that would be caused by independent promotional campaigns such as the one funded by this bill.

Your Committee revised the bill by:

1. Changing the appropriation amount to \$1 for the purpose of continuing discussion of the bill;
2. Adding a requirement that the Department of Business, Economic Development and Tourism, with the Hawaii Visitors Bureau, develop a coordinated strategy for golf promotion;
3. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1530, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1530, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representatives Chumbley and Lee voted no.)

**SCRep. 120                      Energy and Environmental Protection on H.B. No. 2041**

The purpose of this bill is to enable the hazardous waste program to establish and collect fees to pay for the costs of operating the program.

Strong support for this bill was presented by the Department of Health and the Sierra Club, Hawaii Chapter. Both testifiers emphasized the need for the continuation of this program which:

- (1) Puts Hawaii in a positive place in regard to complying with EPA regulations; and
- (2) Presents the DOH as being pro-active and receptive to the public need to be protected from hazardous substances.
- (3) Collecting fees from the generators and processors of hazardous waste materials is an appropriate way to handle the costs of their disposal.

Your Committee is in agreement with the amendment proposed by the Sierra Club to the effect that court costs or any other costs associated with formal enforcement action should NOT be excluded from coverage by this fund.

While the Chair and Committee members are concerned over passing out bills which create special funds in this time of limited state revenues, but have decided in view of the vital environmental considerations in this fund to defer to the Committee on Finance.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2041, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 121                      Energy and Environmental Protection on H.B. No. 2028**

The purpose of this bill is to stimulate the recovery of used motor vehicle tires by prohibiting their disposal in landfills or any municipal solid waste incinerator. Instead the bill mandates that motor vehicle tires shall be collected by the retailer and the wholesaler for delivery to an authorized motor vehicle waste tire collection facility or recycler.

Testimony generally in favor of this bill was presented by: the Department of Health, the Department of Public Works, City and County of Honolulu, the Secretary/Treasurer of Hawaii Automotive and Retail Gasoline Dealers Association and the University of Hawaii's Environmental Center. Their main points included:

- (1) This bill would mitigate the serious problem of tires in landfills where they are very difficult to decompose.
- (2) It is appropriate for the burden of proper disposal of tires be placed on the business involved in the sale and distribution of tires rather than on the government.
- (3) New ways of using recycled tires would greatly benefit the incentive for tire recovery and economic benefits.

Committee discussion generated the need for "up front" tire costs to be made clear. Accordingly the bill has been amended by:

- (1) Stipulating that the sign posted in tire retailer shops shall include the language that the price of new tires includes disposal of your old tires; and
- (2) Including in any advertising the statement that the price of new tires includes disposal of the old tires

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee 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 referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 122                      Energy and Environmental Protection on H.B. No. 1423**

The purpose of this bill is to preserve the sand dunes along the southern coast of Maui by appropriating funds to the County of Maui.

Your Committee finds that the waters off of the sand dunes in the south Kihei region have ideal wind and surf conditions for windsurfers. Because there are inadequate parking areas for windsurfing participants and spectators, these individuals oftentimes park their vehicles and picnic on the fragile sand dunes. As a result, the dunes have eroded, and vegetation is being destroyed.

According to the Tri-Isle Resource Conservation and Development Council, Inc., the affected area is located on a 3.5 mile stretch between the Maui Lu Resorts and the Kealia Pond outlet. Remedial work could include the construction of walkways, sand fence traps, and barriers, and the planting of new vegetation.

Upon further consideration, the \$120,000 appropriation in Section 2 was reduced to \$1 to provide the Committee on Finance with the option of funding this program should funds become available.

Because ownership of this coastal stretch is split between the State and Alexander and Baldwin, it would be in the best interests of both parties to work together to find and to fund long-term solutions to this erosion problem.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1423, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1423, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 123                      Water and Land Use Planning and Energy and Environmental Protection on H.B. No. 1536**

The purpose of this bill is to reduce the threat of wildfires and flooding on the island of Kauai during the aftermath of Hurricane Iniki. This bill provides the State's twenty per cent share of funds needed for watershed rehabilitation and the removal of wildfire and flooding threats. The U.S. Soil and Water Conservation Service would provide the remaining eighty per cent balance through its Emergency Watershed Program.

While the Department of Land and Natural Resources supported the intent of the bill, it could not support this measure due to the anticipated shortfall of revenues in the State. Currently, the State is already receiving Federal assistance from the U.S. Forest Service, the Soil Conservation Service, and FEMA.

Although your Committee received no favorable testimony on this measure, two compelling factors dictate further discussion on this bill:

- (1)        The commitment of the House majority to help Hurricane Iniki victims rebuild their homes, businesses, and lives; and
- (2)        The fact that the Federal government has now agreed to increase its share of funding to ninety per cent of the total cost of the effort.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1536 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kanoho, Tajiri and Thielen.

**SCRep. 124                      Water and Land Use Planning on H.B. No. 40**

The purpose of this bill is to expand recreational facilities at Duke Kahanamoku beach by appropriating funds for park facilities, and establishing a panel of beach users to advise the Department of Land and Natural Resources on the location, design, and construction of those facilities.

The area generally known as Duke Kahanamoku beach is located near the Ilikai Hotel at the seaward end of the Ala Wai boat harbor. Its primary feature is a crescent beach which faces an unobstructed view of Diamond Head and which is extended at its makai end by a seawall. Located ewa of the beach is a lagoon, and offshore are the surfing spots Kaisers, Rockpiles, and Ala Moana Bowls. The area was the birthplace and boyhood home of Duke Kahanamoku, who swam, fished and surfed there. Presently, these activities as well as sailing and canoeing are enjoyed at the beach by tourists and residents, alike. In addition, the area has been a favorite of the movie industry. Various state and city agencies share jurisdiction over the property, there are no state or city shower or restroom facilities, and citizens and businesses are currently maintaining the area on an ad-hoc basis.

Your Committee agrees with the general intent of H.B. No. 40, but finds that the appropriation of general funds for the planning, design, and construction of park facilities is premature at this time because questions regarding the exact boundaries of the recreational area, the scope of state and county authority over, and responsibility for that area, and the effect of the "no building" covenant in the deed conveying the parcel to the Territory of Hawaii remain to be determined. Accordingly, your Committee has determined that establishment of an advisory panel to the Board of Land and Natural Resources would be an appropriate first step toward achieving the goals of H.B. No. 40.

This bill, as amended herein, creates a citizens advisory panel which shall advise the Department of Land and Natural Resources on preservation and expansion of the recreational values of the Duke Kahanamoku beach area.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 40, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 40, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.

**SCRep. 125                      Water and Land Use Planning on H.B. No. 1505**

The purpose of this bill is to provide the Department of Land and Natural Resources (DLNR) the necessary time to construct a subdivision and issue the appropriate leases to Kalapana residents of Hawaiian ancestry who were dispossessed or displaced from recent volcanic eruptions. This bill extends the expiration date for completing lease arrangements from January 1, 1994 to July 1, 1994.

DLNR testified that it's recently completed assessment of the proposed subdivision area indicated the presence of wildlife that may require re-designing the subdivision. As a result, DLNR plans to prepare an environmental assessment. The addition of this extra task means that DLNR would need an additional extension of the expiration date to December 31, 1994.

The Hawaii County Economic Opportunity Council also supported this measure.

Your Committee has extended the deadline by replacing the phrase "July 1" with the phrase "December 31" on line 12 of the bill. Your Committee has further amended this bill to correct a technical drafting error.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1505, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1505, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kanoho, Tajiri and Thielen.

**SCRep. 126                      Water and Land Use Planning on H.B. No. 1603**

The purpose of this bill is to strengthen compliance of the Hawaii Community Development Authority's (HCDA) regulations within the Kakaako Community Development District. This bill authorizes HCDA to impose administrative penalties up to \$500 a day for land use, zoning, and other violations.

Currently, HCDA is only authorized to pursue criminal prosecution of any person who violates its regulations. Such a limited course of action is not cost effective and may not be appropriate in all situations. If HCDA were to be granted the authority to enforce its regulation through an administrative procedure, it would provide a more efficient alternative to criminal prosecution.

HCDA testified in support of this bill.

Your Committee discussed the appropriateness of setting the fine at \$500. It learned that the Department of Land Utilization of the City and County of Honolulu is authorized to impose an administrative penalty up to \$1000. In the end, your Committee believed that HCDA can always propose an adjustment in the fine in the future should the \$500 amount prove inappropriate.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1603 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, Tajiri and Thielen.

**SCRep. 127                      Human Services and Health on H.B. No. 238**

The purpose of this bill is to require the Department of Health to notify the operators of adult residential care homes ("ARCH") of the week in which an annual inspection is to be held. In addition, this measure clarifies that the notification requirement shall not restrict in any way the Department's authority to hold unscheduled inspections at adult residential care home facilities pursuant to statute or administrative rule.

Testimony from the Department of Health, the Hawaii Long Term Care Association, the Adult Residential Care Administrators, the United Group of Home Operators, and the Kokua Council of Senior Citizens was received in support of the intent of this measure. The Executive Office on Aging expressed reservations with regard to this measure.

Upon further consideration, your Committees have amended this measure to address concerns raised about the notification requirement. This measure has been amended to allow unscheduled inspections of ARCH facilities when the home operator has been cited by the Department in either or both of the two prior years for a major violation with regard to operating the facility.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 238, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 238, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Peters and Santiago.

**SCRep. 128                      Human Services and Health on H.B. No. 239**

The purpose of this bill is to appropriate funds for the special needs reimbursement program of the department of human services for reimbursements to adult residential care home operators, who provide direct daily resident care services to residents who are waitlisted for intermediate care facilities and skilled nursing facilities.

Your Committees received testimony in favor of this bill from the Hawaii Long Term Care Association, National Association of Retired Federal Employees, United Group of Home Operators (UGHO), and Adult Residential Care Home (ARCH) providers. The Department of Human Services expressed concern about being able to support funding that would exceed the Executive biennium budget.

It is noted that there are adult residential care home operators with residents whose medical condition qualifies them for intermediate care facility levels of care. Due to a lack of beds, these patients are waitlisted for nursing homes.

Upon further consideration, this bill is amended to appropriate one dollar for the special needs reimbursement program for the purposes of continued discussion.



As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 239, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 239, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Peters and Santiago.

**SCRep. 129                      Human Services and Health on H.B. No. 241**

The purpose of this bill is to establish the adult residential care home respite care special fund, to develop respite care services for residential care home operators, and maintain a pool of persons qualified to provide such services.

Testimony was received by the United Group of Home Operators (UGHO) and the Adult Residential Care Home (ARCH) providers in full support of this measure. Testimony was also received by the Commission on Persons with Disabilities and the Hawaii Long Term Care Association in support of the intent of this bill. Your Committees received testimony from the Department of Health expressing concern over being able to support added funding proposals.

Your Committees are in support of the intent of this measure, and have amended the bill to appropriate one dollar for the adult residential care home respite care special fund for the purposes of further discussion.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 241, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 241, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Peters and Santiago.

**SCRep. 130                      Human Services and Health on H.B. No. 242**

The purpose of this bill is to expand the provision of health and human services to Hawaii's elderly by furnishing financial compensation to those adult residential care home operators who furnish special meals to patients as prescribed by a physician or other appropriate health care professional.

Your Committees received testimony in support of this measure from the Hawaii Long Term Care Association, United Group of Home Operators (UGHO), and the Adult Residential Care Home (ARCH) providers. The Department of Human Services expressed concern about being able to support funding that would exceed the Executive biennium budget.

Upon further consideration, your Committees have amended this bill to appropriate one dollar to assist adult residential care home operators in providing special dietary services to residents; and for the purposes of further discussion.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 242, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 242, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Peters and Santiago.

**SCRep. 131                      Human Services and Health on H.B. No. 243**

The purpose of this bill is to provide for level of care increases in payments to persons in adult residential care homes ("ARCHs") based on increases in the consumer price index.

Your Committees received testimony from the Commission on Persons with Disabilities, the Hawaii Long Term Care Association, the Adult Residential Care Administrators, the United Group of Home Operators, and the Kokua Council for Senior Citizens in support of this measure. The Department of Health expressed concern about the ability to fund consumer price index increases.

Upon further consideration, your Committees have amended this measure by:

- (1) Clarifying that the rate of payment at which level a recipient enters an ARCH remain the same for as long as the the recipient resides in that ARCH, except when there are consumer price index adjustments or when the level of care increases; and
- (2) Appropriating the sum of \$1 to provide the consumer price index increases for the purposes of continued discussion.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 243, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Peters and Santiago.

**SCRep. 132 Human Services and Health on H.B. No. 244**

The purpose of this bill is to establish a Bill of Rights for adult residential care home operators in the Hawaii Revised Statutes.

Testimony from the United Group of Home Operators (UGHO) and Adult Residential Care Home (ARCH) operators was received in support of this measure. The Department of Health and the Hawaii Long Term Care Association submitted testimony supporting the intent of this measure.

Two major concerns were raised regarding this measure. There must be some parity for the adult residential care home operators in terms of their rights for timely reimbursement for expenses, access to a grievance procedure, receipt of information about residents prior to admission into the residential care home, access to respite from workload, access to educational training that will enhance the operator's ability to provide care, and the ability to discharge or transfer a resident. However, establishing a Bill of Rights in the Hawaii Revised Statutes may create a conflict of interest for the Department of Health in terms of enforcement. The department would be in the position of protecting the client as well as the provider.

Upon further consideration, your Committees believe that this issue merits further discussion.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 244 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representative Peters.

**SCRep. 133 Human Services and Health on H.B. No. 1332**

The purpose of this bill is to require the Department of Health to adopt rules to: (1) establish a level of care IV (LOC IV) for adult residential care homes; (2) establish LOC IV eligibility; and (3) define LOC IV standards of care. This measure also requires for eligibility: (1) a Department of Health finding of need exceeding LOC III care; and (2) at least one condition qualifying a person for residence in an intermediate care facility.

Testimony from the United Group of Home Operators, Adult Residential Care Home providers, Kokua Council for Senior Citizens, and the National Association of Retired Federal Employees was received in support of this measure. The Department of Health is in support of the intent of this measure, while the Department of Human Services and the Long Term Care Association oppose this measure. The Commission on Persons with Disabilities deferred to the Department of Health regarding this issue.

It is noted that concern was raised about residential care home operators being qualified to provide LOC IV care, which has traditionally been in the institutional setting. However, there is a shortage of beds at such facilities. It was recommended that only qualified care facilities be licensed, or patients be placed only in homes with licensed, full-time nurses. There was also concern raised as to the availability of funds to finance the additional expenses incurred in rulemaking, licensing, and monitoring of this new level of care.

Upon further consideration, your committees have amended this measure by:

- (1) Deleting the appropriation section of the bill; and
- (2) Delaying the effective date of the bill.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1332, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1332, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Kawakami.

**SCRep. 134 Agriculture and Water and Land Use Planning on H.B. No. 357**

The purpose of this bill is to appropriate funds for:

- (1) Maintenance of the irrigation system on state lands formerly leased by Lihue Plantation in Kealia, Kauai, for sugar production; and
- (2) A study of the Kealia irrigation systems and the East Kauai irrigation system to:
  - (a) Determine which portions of the system are to be kept in operation;
  - (b) Analyze flood liability problems; and
  - (c) Determine water rights and ownerships.

Your Committees recognize the importance of maintaining the irrigation system in Kealia, Kauai to the farmers in the Kealia area, the agricultural industry on Kauai, and to others who rely on this irrigation system.

The Department of Agriculture, the Department of Hawaiian Home Lands, and Lihue Plantation Company testified in support of the intent of the measure. Your Committees also received testimony from a concerned citizen.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 357 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Tam.

**SCRep. 135                    Agriculture on H.B. No. 1209**

The purpose of this bill is to appropriate funds for construction of Panaewa marshalling and processing facility.

Your Committee maintains that prior to commencing construction on the Panaewa facility, the Department of Agriculture (DOA) should negotiate and come to some kind of agreement with the future lessees of the facility regarding the rents and other associated fees lessees should pay to occupy and utilize the facility.

Your Committee received supporting testimony from the Hilo Farmers Cooperative Exchange and the Hawaii Farm Bureau Federation. Testimony was also received from the DOA.

Upon consideration, your Committee has amended this bill by inserting the appropriation sum of \$1,000,000 for fiscal year 1993-1994 for construction of Panaewa marshalling and processing facility.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1209, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tam.

**SCRep. 136                    Agriculture on H.B. No. 915**

The purpose of this bill is to authorize the Director of Finance to issue the sum of \$5,000,000 for fiscal year 1993-1994 in general obligation bonds for the design and construction of a cattle slaughterhouse on the island of Oahu.

Your Committee believes that the general obligation bonds should be expended only if the private industry is not able to come up with a viable alternative to design and construct a cattle slaughterhouse on the island of Oahu.

Your Committee received supporting testimony from the Hawaii Pork Industry and testimony supporting the intent of the bill from the Hawaii Farm Bureau Federation and Kahua Meat Company, Ltd. However, the Department of Agriculture (DOA) and two concerned citizens testified in opposition to the measure. In its testimony, the DOA stated it has been working with the private sector to maintain slaughtering and related operations on Oahu, as the livestock industry prefers that such facilities be developed and operated by the private sector and not by government. The DOA also testified that the primary way government can assist the private sector to maintain slaughterhouse operations is to make public lands available for such facilities.

Accordingly, your Committee has amended the bill by:

- (1) Changing the sum of the general obligation bonds from \$5,000,000 to \$1 for the purposes of continued discussion; and
- (2) Specifying that the general obligation bonds also be utilized to acquire land for a cattle slaughterhouse on the island of Oahu.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 915, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 915, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ishii-Morikami and Tam.

**SCRep. 137                    Human Services and Health on H.B. No. 539**

The purpose of this bill is to require the Department of Human Services to establish a standard admission policy and procedure for patient's that are referred to adult residential care homes. The procedure would include the provision that appropriate medical and personal history of the patient, as well as the level of care needed by the patient, be submitted to the operators of residential care homes prior to referral and admission.

Testimony in support of this measure was received by the United Group of Home Operators (UGHO) and the Adult Residential Care Home (ARCH) providers. The Department of Human Services and the Hawaii Long Term Care Association support the intent of this measure.

It is noted that concern was raised regarding the patients that are placed by agencies other than the Department of Human Services into adult residential care homes. The department is attempting to amend administrative rules to authorize other agencies to determine the level of care for a patient, but it is not known whether these agencies are willing to assume this additional responsibility.

Upon further consideration, your Committees are in full support of this measure.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 539 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Kawakami.

**SCRep. 138                      Finance on H.B. No. 1692**

The purpose of this bill is to require a taxpayer to report any changes, corrections, adjustments, or recomputations to the taxpayer's taxable income for federal purposes in the form of an amendment to the taxpayer's state income tax return, accompanied by a copy of the document issued by the Internal Revenue Service.

In addition, this bill retains the ninety-day reporting requirement to the Department of Taxation while repealing the requirement of reporting the changes with the filing of the taxpayer's next income tax return if the ninety-day period has not passed or if the changes have not been finally determined at the time of filing the taxpayer's next income tax return.

The Department of Taxation testified in support of this bill, noting that the changes in this measure will reduce the taxpayer's and the Department's workload. Comments on the bill also were submitted by the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1692 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 Alcon and Santiago.

**SCRep. 139                      Finance on H.B. No. 1693**

The purpose of this bill is to require a taxpayer to report any changes, corrections, adjustments, and recomputations of gross income, gross proceeds of sale, gross rental, or gross rental proceeds for federal purposes in the form of an amended state tax return, accompanied by a copy of the document issued by the Internal Revenue Service.

In addition, this bill allows for a one-year statutory period from the time the Department of Taxation is notified of the change to make additional assessments or refunds.

Testimony in support of this bill was submitted by the Department of Taxation. Comments on the bill were submitted by the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1693 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 Alcon and Santiago.

**SCRep. 140                      Finance on H.B. No. 1695**

The purpose of this bill is to require motor vehicle dealers to report courtesy deliveries of motor vehicles purchased directly from an out-of-state manufacturer or dealer for use in the State and registered by a local dealer for the buyer.

The Department of Taxation testified in favor of this bill to enhance the assessment and collection of the use tax. The information required under this bill will be used to assess the use tax on the importer or purchaser of the vehicle.

Also testifying in support of the bill, the Hawaii Automobile Dealers' Association noted that since a voluntary courtesy delivery reporting program began in September 1991, the Department of Taxation has collected over \$75,000. The Tax Foundation of Hawaii also submitted comments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1695 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanohe.

**SCRep. 141                      Finance on H.B. No. 1696**

The purpose of this bill is to impose a tax of 2.75 percent on the consideration received by insurance companies from the sale of annuity contracts.

In supporting this measure, the Department of Taxation testified that the annuity contracts sold by insurance companies are part of the insurance business and earnings from annuity products should be taxed like earnings from other insurance products. The Department also cited a 1991 survey that indicated that eighteen states are taxing the consideration received from annuity contracts at rates ranging from 1 to 3.5 percent.

The Tax Foundation of Hawaii also submitted comments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1696 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho and Tam.  
(Representative Pepper voted no.)

**SCRep. 142                      Finance on H.B. No. 1699**

The purpose of this bill is to clarify that taxpayers, subject to the general excise tax, transient accommodations tax, use tax, or rental motor vehicle and tour vehicle surcharge tax, may file quarterly or semi-annual returns on a fiscal year basis.

The Department of Taxation testified in support of this bill. Comments on the bill were also submitted by the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1699 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 Alcon and Santiago.

**SCRep. 143                      Finance on H.B. No. 1700**

The purpose of this bill is simplify and streamline all references to the tax chapters administered by the Department of Taxation.

Specifically, this measure replaces all references to the individual tax chapters administered by the Department of Taxation with the common reference "title 14".

Testifying in support of this bill, the Department of Taxation stated that this bill would eliminate the need to continually update specific references to tax chapters in the future, thus simplifying the administration and compliance of Hawaii's tax laws. Comments on the bill were submitted by the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1700 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 Alcon, Santiago and Tajiri.

**SCRep. 144                      Finance on H.B. No. 2049**

The purpose of this bill is to reappropriate an unexpended or unencumbered appropriation in the sum of \$1,600,000 to be used to administer the tax relief provisions of the Natural Disaster Losses Law.

Testifying in support of this measure, the Department of Taxation stated that the moneys are needed to continue providing tax relief for the victims of Hurricane Iniki into the next fiscal year. Without the reappropriation, the moneys, originally appropriated to the Department pursuant to Act 300, Session Laws of Hawaii 1992, will lapse into the general fund on June 30, 1993.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2049 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 Alcon, Santiago and Tajiri.

**SCRep. 145                      Finance on H.B. No. 1460**

The purpose of this bill is to establish a special fund for the deposit of up to \$1,000,000 of moneys collected from delinquent taxes per fiscal year to defray administrative and personnel expenses of the Department of Taxation.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii also submitted comments.

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

- (1) Limiting the amount to be deposited into the special fund to \$500,000 instead of \$1,000,000;
- (2) Providing that this measure be repealed on June 30, 1997; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1460, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1460, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Alcon and Santiago.  
(Representative Ward voted no.)

**SCRep. 146                      Judiciary on H.B. No. 143**

The purpose of this bill is to provide additional investigator positions for the Hawaii Civil Rights Commission (Commission).

Testimony in support of this measure was submitted by the Commission, the Commission on Persons with Disabilities, Hawaii Women Lawyers, the Hawaii Women's Political Caucus, the Hawaii State Commission on the Status of Women, and Na Loio No Na Kanaka.

For the past few years, the Commission has encountered difficulty in processing an extremely large number of cases in a timely fashion. In 1989, the Office of the Legislative Auditor issued a report entitled, "A Study on Implementation of the Civil Rights Commission of the State of Hawaii." As of 1989, the report cited that the Commission's current workload was approximately 350 cases per year and that the investigators at the Commission averaged a caseload of 50 to 75 cases. The report recommended that the investigators should average a caseload of 25 to 35 to be most effective.

At the hearing, the Commission reported that 788 cases were under investigation or in litigation from July 1, 1991 to June 30, 1992. As of September 30, 1992, the Commission reported that 641 cases were still pending investigation or in litigation. Currently, the Commission receives a filing of approximately 42 new complaints each month but can only close an average of 32 cases each month. The average caseload for each investigator has not declined since 1989 and the Commission has estimated the number of open cases will again increase to approximately 711 by July 1, 1993. Additional investigators are necessary to assist the Commission in reducing the caseload, increase staff morale, and ensure that the rights of those discriminated against are preserved and protected.

Your Committee, then, has amended this measure by:

- (1) Changing the purpose of the Act to provide funds for the provision of two additional investigator IV positions to assist the Commission;
- (2) Appropriating \$62,592 for each year of the 1993-1995 fiscal biennium;
- (3) Deleting the reference that this measure is in response to a resolution adopted at the 1992 State Democratic Convention; and
- (4) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 143, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 143, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 147                      Judiciary on H.B. No. 924**

The purpose of this bill is to appropriate funds to the Department of the Attorney General for the development and implementation of a juvenile justice information system.

The Judiciary, the Department of the Attorney General, the Board of Senior Family Court Judges, the Juvenile Justice Information Committee, the Juvenile Justice Interagency Committee, the Prosecuting Attorneys for the Counties of Hawaii, Kauai, and Maui, and the Police Departments for Hawaii, Kauai, and Maui submitted testimony strongly supporting this measure.

Your Committee finds that this project will provide governmental agencies with around-the-clock access to statewide information on juveniles. It will promote the timely exchange of information so as to allow continuity in the arrest, adjudication, treatment, and sanctioning of juveniles who are involved with law violations or status offenses. Finally, this program will permit governmental agencies to track individual juvenile offenders throughout the state criminal justice system.

Your Committee strongly supports the implementation of this program.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 924 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

**SCRep. 148                      Judiciary on H.B. No. 741**

The purpose of this bill is to appropriate funds for a comprehensive review of the penal code. The Legislature is requesting the Judicial Council of Hawaii to appoint an advisory committee again to assist it with a study of the penal code. This study is to be concluded and a final report submitted to the Legislature no later than twenty days prior to the convening of the 1995 Regular Session of the Legislature.

The Judiciary, the Department of the Attorney General, the Department of Public Safety, and a member of the prior Advisory Committee on Penal Code Revision and Reform of the Judicial Council testified in support of this measure. The Office of the Public Defender took no position on this bill.

Your Committee finds that it has been almost ten years since there has been a thorough and comprehensive review of the Hawaii penal code. The Legislature previously appropriated funds in Act 291, section 10, Session Laws of Hawaii 1983, for a study of the penal code by the Judicial Council's Advisory Committee on Penal Code Revision and Reform. That committee did an admirable job and its study proved to be extremely helpful to the Legislature. Many of the Advisory Committee's recommendations were subsequently enacted in 1986.

The penal code controls how matters affecting crime and punishment in Hawaii are determined. Year after year the Legislature is presented with numerous bills that purport to affect individual penal code sections in a piecemeal fashion. Your Committee is keenly aware of penal code issues, such as the backlog of cases in the court system, mandatory versus alternative sentencing, determinant versus non-determinant sentencing, the existence of prison overcrowding, the adoption of a single sentencing entity, insanity procedures, and other important penal code matters. Although the individual changes sought through the introduction of bills appear to be prudent, they invariably affect multiple provisions of the penal code. It is unwise to continually make changes to the penal code without periodically conducting a comprehensive review to determine whether the changes made are appropriate and to evaluate whether further changes are necessary.

Your Committee desires a penal code that keeps abreast with the present times and addresses the issues of the day. Thus, your Committee finds that it is imperative that a comprehensive penal code review be performed.

Your Committee has amended the bill as follows:

1. Added to the advisory committee, mentioned in section 3 of the bill, representatives of the Department of the Attorney General, the Judiciary; Hawaii attorneys in private practice who handle criminal cases, and private citizens who are interested in criminal law. Your Committee has broadened the scope of the members of the committee on penal code revision and reform to assure that the rights of all those involved in the penal code process are represented and to take advantage of the divergent interests, expertise and backgrounds of the committee members;
2. Added to section 3 of the bill a requirement that each of the neighbor islands have a member on the committee;
3. Inserted into section 5 of the bill the sum of \$50,000 as the amount of the appropriation for the fiscal years 1993-1994 and 1994-1995; and
4. Made technical and non-substantive changes to the bill for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 741, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 741, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 149                      Judiciary on H.B. No. 1773**

The purpose of this bill is to amend chapter 706, Hawaii Revised Statutes (HRS), by adding a new section dealing with regimental discipline.

Your Committee finds that a regimental discipline program will promote the rehabilitation of offenders, increase deterrence, and reduce recidivism by providing an unpleasant experience of confinement through rigorous physical training. This program will assist in reducing prison overcrowding by placing certain youthful and first-time offenders in short-term shock incarceration.

Your Committee has amended the bill as follows:

1. Deleted the present sections 3 and 4 relating to appropriations. It is the Committee's understanding that the Governor has already requested an appropriation for this program;
2. Deleted the reference to males in section 2 of the bill so as to make the program gender neutral;



3. Renumbered the existing sections 5 and 6 to sections 3 and 4, respectively; and
4. Made technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1773, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1773, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Bunda.

**SCRep. 150                    Judiciary on H.B. No. 76**

The purpose of this bill is to amend section 652-13, Hawaii Revised Statutes, to change the court fees and costs in garnishment proceedings and to clarify the language.

The Judiciary submitted testimony in support of the intent of this bill. However, the Judiciary suggested eliminating the fees for district court.

Your Committee finds that the present fees charged in circuit and district court do not serve the purpose of compelling parties to file a return or to make an appearance in court. Your Committee believes that the fees should be increased. Also, the present fees and costs are not cost effective for the Judiciary in terms of recordkeeping and collection procedures.

Accordingly, your Committee has amended this measure as follows:

1. Increased the amount of garnishment fees to ten dollars in both the circuit and district courts;
2. Deleted the one dollar cost for each copy of the summons and the one dollar cost for each service of the summons for garnishments; and
3. Made other technical and non-substantive changes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your committee is in accord with the intent and purpose of H.B. No. 76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 76, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 151                    Higher Education and the Arts on H.B. No. 830**

The purpose of this bill is to provide an appropriation for the Hale Kuamo'o Hawaiian Language Center and the Hawaiian Studies Department, located at the University of Hawaii-Hilo.

Testimony on this bill was heard from the Chancellor of the University of Hawaii-Hilo, and from faculty members from both programs. The testimony revealed that the appropriation was being sought to alleviate the Hale Kuamo'o Language Center's and the Hawaiian Studies Department's severely overcrowded conditions. Faculty members stressed the urgency of the problem and the need for timely remediation. The Chancellor acknowledged the space problem, but could not support the funding request because of current State budget constraints.

Your Committee shares the concerns of program faculty that severe space limitations may adversely affect the Hale Kuamo'o Language Center and the Hawaiian Studies Department, but cannot support the amount requested at this time. Accordingly, your Committee has amended the bill by:

- (1) Changing the appropriation from \$295,000 to \$1; and
- (2) Including language in the bill specifying that the appropriation is to be used for temporary, portable facilities.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 830, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 830, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, D. Ige, M. Ige, Taniguchi and Yonamine.

**SCRep. 152                    Higher Education and the Arts on H.B. No. 192**

The purpose of this bill is to ensure that the University of Hawaii has adequate funding to reimburse the Research Corporation of the University of Hawaii (RCUH) for yearly management fees.

Your Committee finds that it is vital for both the reputation and standing of the University of Hawaii and the well-being of the community that innovative research projects continue to be funded. In addition, money for projects already funded and contracted for with the RCUH must be paid in a timely manner to ensure that the federal share of any matching grants will not be lost.

Testimony on this bill was heard from the Vice President for Research and Graduate Education at the University of Hawaii, the Chairman, Finance & Personnel Committee of the RCUH, the Executive Director of the RCUH, and a group of principal investigators of research at the University. The testimony stressed the importance of maintaining research activities at the University, and supported the general intent of the bill, with some suggested clarifications.

Based on the testimony received, your Committee has amended the bill by:

- (1) Clarifying that the management fee is to be determined each year; and
- (2) Maintaining the University Board of Regents as the authorized expending entity.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 192, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, M. Ige, Taniguchi and Yonamine.

#### **SCRep. 153 Hawaiian Affairs on H.B. No. 2018**

The purpose of this bill is to authorize the Department of Hawaiian Home Lands (DHHL), with the approval of the Governor, to establish up to forty additional permanent positions, and to allow DHHL to fill the positions with temporary personnel now employed by DHHL.

Your Committee finds that due to insufficient permanent positions DHHL has had to hire temporary personnel exempt from civil service, as authorized by section 202(b) of the Hawaiian Homes Commission Act. Your Committee recognizes that this bill will enable DHHL to cope with future workload requirements, to reduce high turnover in temporary position, and to avoid costs associated with recruiting and training new workers to replace experienced personnel.

Favorable testimony on this bill was received from DHHL and the Hawaiian Home Lands Action Network. DHHL also testified that establishing these new permanent positions will have no impact on the State General Fund as salaries and fringe benefits will be paid from DHHL funds.

Your Committee remains concerned, however, that authorizing forty permanent positions could bind future Legislatures to fund these positions through general funds. Therefore, this bill has been amended to authorize DHHL to establish and fill ten permanent positions.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2018, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2018, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo and Beirne.

#### **SCRep. 154 Agriculture on H.B. No. 1360**

The purpose of this bill is to establish an agricultural emergency response fund within the Department of Agriculture (DOA) to correct actual or potentially-destructive emergency-related situations that pose the possibility of causing damage to agricultural property.

The Hawaii Farm Bureau Federation and the president of Koolau Agricultural Co., Ltd. testified in support of the measure; however, the DOA testified in opposition to the measure.

Upon consideration, your Committee has amended the bill by:

- (1) Establishing that the agricultural emergency response fund be used to correct actual or potentially-destructive emergency-related situations occurring on public property which pose the possibility of causing damage to agricultural property by amending the definition of "corrective or mitigative action"; and
- (2) Clarifying that the agricultural emergency or event must be on public property.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1360, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1360, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ishii-Morikami and Tam.

#### **SCRep. 155 Agriculture on H.B. No. 1427**

The purpose of this bill is to appropriate funds for:

- (1) Construction of loading and unloading chutes, shade, and water for livestock;
- (2) Acquisition of land for a staging area for livestock on the island of Hawaii; and
- (3) Acquisition of land for a staging area for livestock on the island of Maui.

Your Committee would like to note its request to the Department of Agriculture (DOA) that the DOA:

- (1) Look into the feasibility of establishing a quarantine facility for livestock with potential for expansion; and
- (2) Develop a long-range plan for the development of a quarantine facility for livestock on the island of Maui.

Your Committee received testimony supporting the intent of the bill from the DOA. Testimony was also received from the Hawaii Cattlemen's Council, Inc.

Upon consideration, your Committee has amended the bill by changing the appropriation request and the sum of the appropriations as follows:

- (1) Appropriates \$75,000 for fiscal year 1993-1994 for construction of a staging area area in Panaewa, Hawaii, for livestock;
- (2) Appropriates the following sums for fiscal year 1993-1994 for land acquisition, planning, design, and construction of a staging area on the island of Maui for livestock:
  - (a) \$1 for land acquisition;
  - (b) \$1 for planning;
  - (c) \$1 for design; and
  - (d) \$75,000 for construction.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1427, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1427, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ishii-Morikami.

**SCRep. 156                    Agriculture on H.B. No. 388**

The purpose of this bill is to establish the Department of Agriculture (DOA) as the lead agency of the State responsible for the promotion and coordination of all programs and policies relating to agriculture.

The DOA testified in support of the general intent of the bill. The Hawaii Farm Bureau Federation, MacFarms of Hawaii, and the Hawaii Macadamia Nut Association testified in opposition to the bill. Your Committee also received testimony from the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources, the Vice President of the Hawaii State Guava Association, the President of the Hawaii Avocado Association, Kahua Meat Company, Ltd., and several interested citizens.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 388 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 157                    Energy and Environmental Protection on H.B. No. 1208**

The purpose of this bill is to appropriate \$238,520 to continue biomass research for energy and alternate uses.

Testimony in support of this bill was presented by the County of Hawaii; the Department of Research & Development, County of Hawaii; the University of Hawaii Institute of Tropical Agriculture and Human Resources; BioEnergy Development Corporation a subsidiary of C. Brewer and Co., Ltd., and the ILWU. The Department of Business Economic Development and Tourism supported the concept of the bill but at the present time could not support any expenditures outside of the DBEDT budget.

Points in support of this bill include:

- (1) it would make Hawaii less dependent on imported fossil fuel;
- (2) this would be another means of diversifying the State's economy;

- (3) the growing of trees for biomass would be a good substitute for sugar plantation lands that are inactive and also maintain an enhancing scenic value for these areas;
- (4) the providing of economic opportunities;

Your Committee is in basic agreement with the points raised and feels that the purpose of the bill is within its purview of promoting diversified, sustainable, alternative energy sources while at the same time protecting the environment. However it has amended to one dollar the funds allocated to the program to give maximum flexibility to the Finance Committee in further consideration of this bill.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1208, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1208, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hirono and Nekoba.

**SCRep. 158                      Energy and Environmental Protection on H.B. No. 2037**

The purpose of this bill is to allow the Department of Health (DOH), as of June 30, 1994 to annually deduct \$400,000 from the Department of Business and Economic Development and Tourism's (DBEDT) Capitol Loan Revolving fund, to support the operation of the Underground Storage Tank (UST) Program.

The DOH strongly supported this bill as a viable funding alternative to support the operation of its UST program in FY 1995. They proposed some technical and substantive changes that had been brought to their attention by the Office of the Attorney General which were accepted as amendments to the bill by the Committee.

During discussions the point was made that this money was originally intended for small business loans to clean up contaminated areas from leaking oil tanks. The Committee has concerns over using this money for other purposes but in view of assurances from the DOH that should funds be needed by small businesses they would return the money to DBEDT for loan purposes.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2037, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 159                      Energy and Environmental Protection on H.B. No. 2036**

The purpose of this bill is to make the Department of Solid Waste Management self supporting by:

- (1) Developing a direct funding mechanism for the operations of the Office of Solid Waste Management as more stringent federal regulations mandate land fills.
- (2) Providing a stable funding source enabling the Office of Solid Waste Management to meet the waste reduction and diversion mandates of the Integrated Solid Waste Management Act.
- (3) Providing a stable funding source for the management of Household Hazardous Waste by the counties and the State.
- (4) Providing a source of funds for the implementation of County recycling and composting programs.
- (5) Implementing a glass container assessment at the point of importation into the state or at manufacture in the state to promote glass recovery efforts throughout all the counties in Hawaii.

Testimony in favor of the bill was presented by the Department of Health, the Sierra Club, Hawaii Chapter; the Hawaii Food Industry Association, C.Brewer and Co. and the Environmental Center at the University of Hawaii at Manoa. The Department of Business, Economic Development and Tourism supported the concepts of the bill but deferred to the Department of Health as regards implementation of legislation. The Department of Public Works, City and County of Honolulu supported all sections of the bill except that which provided for a surcharge of \$.75 per ton for solid waste. They felt proper funding for disposal costs should be placed upon the generators rather than the receivers of waste and come out of the State's general fund.

General points in common made by the testifiers included:

- (1) The cost of disposal services and operations should be shared by trash generators;
- (2) The more markets are established for recycled materials, the less waste will have to be dealt with;

Issues raised concerning the bottle deposit included:

- (1) This is successfully implemented in many other states.

- (2) Using glass in road resurfacing is a valuable economic incentive for recycling.
- (3) Should the deposit be increased to .05 a container, which according to some reports has reduced waste by 90%.

Discussions between Committee members and testifiers also touched on the problems of bringing the neighboring islands into partnership with the counties in glass recycling and getting a mechanism in place in Hawaii country for estimating the amount of solid waste deposited in land fills.

The amendments proposed by the Environmental Center were approved of by the Committee as reflecting a general policy towards responsible environmental protection and have been incorporated into the bill.

Your Committee has reservations about passing out special fund bills, and is not optimistic that the Department of Health will be able to establish rules and regulations in place within two years, but will defer to the Committee on Finance for further consideration.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2036, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2036 H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 160                      Energy and Environmental Protection on H.B. No. 1335**

The purpose of this bill is to appropriate \$105,000 for the development of a comprehensive, multi-agency alien species action plan to prevent introduction of and control non-native species of plants and animals.

Testimony in strong support of this bill was presented by: the Department of Agriculture; the Department of Land and Natural Resources; the Environmental Center at the University of Hawaii at Manoa; a faculty member of U.H.; the Department of Urban and Regional Planning at U.H. (provided it did not displace other University budget priorities); the Natural Area Reserves System Commission; the Nature Conservancy of Hawaii and the Hawaii Farm Bureau Federation.

All testifiers emphasized the importance of acting NOW to prevent further invasion of alien species and the necessity of a multi-agency, private and government effort to coordinate efforts to stop further admission of and control pests already present.

Your Committee is in full agreement with the need for a strong concerted effort to protect Hawaii's unique and valued native ecosystems, our agriculture industry and even people's back yards. Note was also taken of the excellent report by the Nature Conservancy of Hawaii and the Natural Resources Defense Council pointing out the gaps and leaks for pest entry and the urgent need for a coordinated approach among the 17 or more agencies dealing with this very serious problem. The Committee feels this bill will help implement some of the recommendations in the report and is also in agreement with the proposed amendments to make the Governor's Agriculture Coordinating Committee the expending agency. The appropriation amount has been changed to \$1 to give the Finance Committee flexibility in establishing its priorities.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1335, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 161                      Human Services and Judiciary on H.B. No. 576**

The purpose of this bill is to appropriate funds for the Hawaii supreme court permanent committee on gender and other fairness to conduct a study on the economic impact of divorce, and to use this study as an essential step in establishing a system that treats the parties of divorce in a more equitable manner. The results of the study will be used to develop educational programs for judges, attorneys, and legislators to increase awareness.

Testimony from the Judiciary (Committee on Gender and Other Fairness), Hawaii Women Lawyers, Hawaii State Commission on the Status of Women, and a private lawyer was received in strong support of this measure.

Your Committees have amended this measure by:

- (1) including a deadline for the submission of the final report of the Committee on Gender and Other Fairness; and
- (2) appropriating one dollar for the completion of a study on the economic impact of divorce on spouses in Hawaii; and
- (3) making technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 576, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 576, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Duldulao and O'Kieffe.

**SCRep. 162 Human Services and Judiciary on H.B. No. 1119**

The purpose of this Act is to amend the law relating to the expenditure of public money and public contracts by incorporating through reference, the accessibility guidelines established in the Code of Federal Regulations pursuant to the Americans with Disabilities Act (ADA).

Testimony from the Commission on Persons with Disabilities, the Architectural Access Committee, and the Protection and Advocacy Agency of Hawaii was received in strong support of this measure.

Upon further consideration, your Committees have amended this bill by:

- (1) deleting section 2, subsection (c), which would have required compliance with the Americans with Disabilities Act Accessibility guidelines, only with regard to plans and specifications for construction contract awards made on or after January 1, 1994;
- (2) including an appropriation of one dollar for fiscal year 1994-1995; and
- (3) inserting a new effective date of January 1, 1994 for the Act, to correct for the effective date deleted in (1).

As affirmed by the records of votes of the members of your Committees on Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1119, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1119, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Duldulao and O'Kieffe.

**SCRep. 163 Human Services and Health on H.B. No. 1357**

The purpose of this bill is to appropriate funds for the medicaid patient delivery supplement demonstration project; extend the perinatal care demonstration project; and repeal provisions that directed the demonstration project to supplement the federally funded WIC program.

Testimony from Healthy Mothers, Healthy Babies Coalition of Hawaii, Social and Employment Services Incubator Project (SESIP), Imua Rehab, MothersCare for Tomorrow's Children, Single Parent Advocacy Network, and the Kapiolani Medical Center for Women and Children was received in support of this measure. The Department of Human Services is in support of the intent of the measure, but could not support funding that would exceed the Executive biennium budget request.

Upon further consideration, your committees have amended this bill to clarify section 1, item (4), page 3, which addresses the maintenance of medicaid reimbursement for deliveries to encourage physicians and certified nurse-midwives to promote early pregnancy care. Your committees have also made technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1357, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1357, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Peters and O'Kieffe.

**SCRep. 164 Human Services and Health on H.B. No. 1206**

The purpose of this bill is to provide for an income tax credit of \$1,000 to any taxpayer who cares for a relative, who is certified by the department of human services as requiring care in an intermediate care or skilled nursing facility, if the elderly relative has been receiving such home care for at least 6 months. The Act would apply to taxable years beginning after 12/31/92.

Testimony from the National Association of Retired Federal Employees and Kokua Council for Senior Citizens was received in support of this measure. The Department of Human Services deferred to the State Department of Taxation, which submitted testimony in opposition to this measure. The Tax Foundation was also opposed to this measure.

It is noted that Hawaii's Income Tax Law currently allows for a personal exemption, deductions for medical expenses, and tax credits for a taxpayer with a dependent relative. Concern was raised regarding the ability of the Department of Human Services to certify the eligibility of an individual for whom the tax credit is being claimed. Concern was also raised that the tax department is not equipped with the technical expertise to determine validity of the claims that would be made. It is also noted that caregivers save the State considerable money by taking care of dependent people in their

homes rather than institutionalizing them under the state. These caregivers make considerable personal sacrifices to care for their dependents. Many do not have wage-earning jobs, yet they work 24 hour days, and seven day weeks. Thus, burnout becomes a critical issue for these people.

Upon further consideration, your committees are in support of this measure.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1206 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Pepper and Peters.

**SCRep. 165                      Human Services and Health on H.B. No. 1207**

The purpose of this bill is to provide a tax credit of \$1,000 to families for each dependent adult family member using adult day care services.

Testimony from the National Association of Retired Federal Employees and the Kokua Council for Senior Citizens was received in support of this measure. The Department of Taxation and the Tax Foundation submitted testimony in opposition to this bill.

It is noted that Hawaii's Income Tax Law currently allows for a personal exemption, deductions for medical expenses, and tax credits for a taxpayer with a dependent relative. It is also noted that the utilization of adult day care services allows other household members to be gainfully employed, thus supporting themselves as well as their dependents. This in turn reduces expensive institutionalization.

Upon further consideration, your Committees are in support of this measure.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1207 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara and Peters.

**SCRep. 166                      Human Services on H.B. No. 142**

The purpose of this bill is to appropriate funds for the expansion of the Open Doors Program.

Testimony from People Attentive to Children (PATCH), Seagull Schools, Inc., Maui Community College, and various citizens was received in strong support of this measure. The Office of Children and Youth have requested funding amounts to continue operating the Open Doors Program at the current level.

It is noted that concern was raised regarding the increase in applications to the Open Doors Program, and the inability to accept all new applicants. Funding of the program at current levels will serve approximately 85% of the needy population. It was also suggested that the program expand to include children of younger ages than currently accepted.

Upon further consideration, your committee has amended this bill to appropriate one dollar for the expansion of the Open Doors Program; and for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 142, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 142, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 167                      Human Services on H.B. No. 270**

The purpose of this bill is to appropriate funds for the establishment of a pilot project for a youth services corp.

Testimony from the Office of Youth Services was received in support of the intent of this measure. However, due to financial constraints, the office was unable to support additional programs.

Your committee is in support of this measure, and urges the Office of Youth Services to explore the possibility of obtaining federal money to assist in the financing of a youth services corp. Your Committee has amended this measure to appropriate one dollar for the establishment of a pilot project for a youth services corp; and for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 270, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 270, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.



**SCRep. 168 Human Services on H.B. No. 193**

The purpose of this bill is to express strong legislative support, and provide continuing funding so that this newly-established autism project will continue to support and assist families, professionals, and persons with autism.

Testimony from the State Planning Council on Developmental Disabilities, the Autism Project Advisory Committee, the Autism Society of Hawaii, the ALOHA Special Technology Access Center, Inc., and various citizens was received in strong support of this measure. The University of Hawaii supported the intent of the bill, but could not support the bill due to fiscal constraints.

Without early diagnosis and intervention, autism has the potential of requiring total institutional costs of approximately \$125,000 per year for the lifetime of the child. Due to the lack of consistently available and appropriate services, Hawaii has spent over \$500,000 a year in 1990 and 1991 on just four adolescents with autism.

Your Committee has amended this bill to appropriate \$1 to provide continuing funding for the resource and technical assistance project; and for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 193, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 193, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

**SCRep. 169 Human Services on H.B. No. 1017**

The purpose of this bill is to appropriate monies to establish a one-year pilot program, which would provide outreach assistance to the Honolulu Police Department to help police officers in dealing with problems of the homeless population.

Testimony from the Honolulu Police Department, Kalihi-Palama Health Clinic, the Hawaii State Alliance for the Mentally Ill, Hawaii Lawyers Care, Institute for Human Services, Inc., the Protection and Advocacy Agency of Hawaii, and numerous citizens was received in strong support of this measure.

It is noted that Project Outreach was initiated on November 2, 1992 through a supplementary budget for the Honolulu Police Department. Since the implementation of this program, about 130 registered contacts have been made. Approximately 88 of these individuals were referred to appropriate agencies rather than being arrested, and 79 of the 88 have been successfully placed in programs, and continue to do well. This program offers an alternative to arrest and incarceration before such action takes place. The funds requested would enable the project to cover longer hours and greater areas of the island.

Your Committee is in full support of this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1017 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

**SCRep. 170 Human Services on H.B. No. 396**

The purpose of this bill is to continue the public awareness and education initiatives which are aimed at increasing the reporting of elder abuse or neglect so that, ultimately, the incidence of abuse and neglect will be reduced.

Testimony from the Executive Office on Aging was received in support of the intent of this measure. However, due to fiscal restraints, the office was unable to support funding of additional programs.

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

- (1) appropriating \$ 1 for the purposes of further discussion; and
- (2) delaying the effective date of this measure in order to give the Executive Office on Aging time to update their SAGELINE capability, and report back to the Legislature.  
(SAGELINE is an automated, multilingual telephone system that offers information to caregivers. It is still in the demonstration stage.)

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 396, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 396, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

**SCRep. 171 Human Services on H.B. No. 401**

The purpose of this bill is to:

- (1) Present a cash bonus to veterans who saw active duty during World War II, the Korean conflict, the Vietnam conflict, and Operation Desert Storm; and
- (2) Require the Office of Veterans' Services to provide comprehensive services to residents who are veterans who served in the Philippine armed forces during World War II.

Your Committee received testimony from the Office of Veterans' Services and the Filipino-American Veterans on this measure.

To address concerns raised about the need for the proposed statutory changes and the ability of the State to pay cash bonuses, your Committee has amended this measure by deleting references to the cash bonus.

This measure now requires the Office of Veterans' Services to provide comprehensive information, counseling, and referral services to residents who are veterans who served in the armed forces of the Philippine Commonwealth or the USAFFE during World War II by making an appropriation for this purpose.

At the same time, your Committee has appropriated the sum of \$1, for the purposes of continued discussion, to enable the Office of Veterans' Services to carry out this mandate.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 401, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 401, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

**SCRep. 172                      Health and Human Services on H.B. No. 1189**

The purpose of this bill is to create the Hawaii self-sufficiency trust fund to hold moneys from private funds for the benefit of disabled persons to provide care and treatment for them. The bill also creates the residual trust fund to perform the same function for low-income disabled persons.

Testimonies received by the State Planning Council on Developmental Disabilities, the Department of Health and the Hawaii State Alliance for the Mentally Ill strongly support this bill. Your Committees recognize that there is a need to provide a life-care planning option designed to meet the supplemental service needs of individuals with disabilities. Your Committees also note that with this bill parents and families would be able to plan a secure future for their disabled family member without fear of loss of government benefits or invasion of their trust principal.

For purposes of continued discussion, your Committees have amended this bill by inserting the sum of \$0 for the appropriated amount. Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1189, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1189, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara, Pepper and Peters.

**SCRep. 173                      Health and Education on H.B. No. 2090**

The purpose of this bill is to clarify the roles, mission, fiscal priorities, and responsibilities of the Department of Health (DOH) and the Department of Education (DOE) to facilitate the coordinated provision of mental health services to children and youths. This bill also requires the foregoing departments to draw up a new memorandum of agreement reflecting their clarified responsibilities.

Testimonies received by the DOE, the DOH, the Mental Health Association, the Protection and Advocacy Agency of Hawaii, as well as several other groups strongly support this bill. Your Committees note that lack of coordination in the provision of mental health services to the children and youth of our State is a serious problem. The first step towards improved coordination is a clear defining of the roles and mission, target populations, fiscal priorities, and responsibilities of each department.

After careful consideration, your Committees have amended the bill by:

- (1) Requiring that the memorandum of agreement entered into by the DOH and DOE define the mission, fiscal priorities, funding sources, service delivery responsibilities, target clientele, and data collection, monitoring, and evaluation responsibilities, of each department;
- (2) Requiring the new memorandum of agreement to be completed for implementation by September 1, 1993;
- (3) Deleting the requirement for status and final reports; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Health and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2090, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2090, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Chun, Hagino, M. Ige, Kawakami and Taniguchi.

**SCRep. 174                      Health and Education on H.B. No. 384**

The purpose of this bill is to establish a three-year postpone sexual involvement pilot program for young teenagers within the Department of Health.

Testimonies received by Hawaii Right to Life, the Governor's Committee on AIDS/HIV, the American Parents Association of Hawaii as well as several other groups strongly support this bill. Your Committees realize that sexual activity is occurring at an early age. This not only increases the incidence of teenage pregnancies, but increases a teenager's risk of contracting a sexually transmitted disease. Your Committees also note that the only "safe sex" is abstinence.

After careful consideration, your Committees have amended the bill by:

- (1) Directing the Peer Education Program of the Department of Health to include a three-year pilot project to provide intermediate school teenagers with education focussing on abstinence from sexual activity;
- (2) Inserting the sum of \$1 for the appropriated amount for the purposes of further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

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

Signed by all members of the Committees except Representatives Chun, Hagino, M. Ige, Kawakami and Taniguchi.  
(Representative O'Kieffe voted no.)

**SCRep. 175                      Health on H.B. No. 453**

The purpose of this bill is to require the Department of Health to establish guidelines on the use of private water catchment systems.

Testimonies received by the Honorable Stephen Yamashiro, Mayor of the County of Hawaii, the Realty Investment Company, Limited, Dr. Yu Si Fok, along with numerous other citizens strenuously support this bill. Your Committee understands that regulation of water catchment systems by the Department of Health is not the intent of this bill. Instead, the bill seeks the development of guidelines for use as a reference by water catchment users. Testimony presented at the hearing indicated that some time would be needed to collect the information and statistics required to develop the guidelines.

Accordingly, your Committee has amended the bill by deleting Section 1 which would have required the Department of Health to regulate water catchment systems. The bill has also been amended by giving the Department of Health an extension of one year, i.e., until January 1, 1995, to submit the guidelines and other required information to the counties. Additionally, technical, nonsubstantive amendments have been made to the bill for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 453, H.D. 1, and be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee.

**SCRep. 176                      Health on H.B. No. 1647**

The purpose of this bill is to allow laboratories certified by the National Institute on Drug Abuse (NIDA) to perform substance abuse testing on Hawaii samples, either in state or out-of-state.

Testimony received by the Department of Health urges passage of this bill. Your Committee notes that although samples currently can be tested by local laboratories licensed for that purpose, many businesses prefer to send their samples to an NIDA- certified laboratory on the mainland. Your Committee also realizes that current statutes allow only those out-of-state laboratories which are specifically licensed by their respective states to test samples from Hawaii.

After careful consideration, an amendment has been added to replace all references to NIDA with Substance Abuse and Mental Health Services Administration, which is the correct name of the certifying entity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1647, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1647, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative O'Kieffe.

**SCRep. 177 Ocean Recreation and Marine Resources on H.B. No. 1831**

The purpose of this bill is to appropriate funds for the research on and control of sharks.

Your Committee of Ocean Recreation and Marine Resources finds that more information is needed on the movement and activity of sharks to enable the community to respond to the number of shark-human encounters in Hawaii's waters. A comprehensive study of sharks, for which funds are appropriated in this measure, will provide researchers, response teams, and the community with a better understanding of these ocean inhabitants.

Your Committee further finds that the study would include the tagging of tiger sharks and other shark species to provide information on the long-term migration and movement patterns of sharks, and research on the reproductive and biological patterns of sharks.

Your Committee received supportive testimony from divisions of the University of Hawaii, including the Waikiki Aquarium, faculty and graduate students of the zoology department, and the Institute of Marine Biology. However, the University of Hawaii testified that it could not support the proposed appropriation due to the anticipated revenue shortfall. Additional supportive testimony was heard from Sea Life Park and concerned citizens. The Department of Land and Natural Resources testified that it has sufficient funds earmarked for shark research, education programs, and limited hunting for large, aggressive tiger sharks.

It was widely accepted that more research was needed to further the knowledge of shark behavior, but concerns were raised about the desirability of measures for shark control. Studies throughout the world (Australia, South Africa, and Florida) have shown that shark hunting does not necessarily result in safer waters. It was pointed out that shark hunting "treats only the symptom and not the disease."

While your Committee feels that the proposed appropriation of \$100,000 will meet the needs of the State Shark Task Force research projects, the bill has been amended to make an appropriation of \$1 in light of limited resources and uncertainties about State priorities, thereby enabling your Committee on Finance to determine the availability of funds for this deserving expenditure. Your Committee recognizes the need for full funding of this bill and urges that this measure be seriously considered as a top priority for funding.

Your Committee on Ocean Recreation and Marine Resources has amended this bill as follows:

- (1) Page 2, line 2: delete "and control";
- (2) Page 2, line 4: \$100,000 changed to \$1;
- (3) Page 2, lines 6 - 8: add ", which scope shall be developed with consultation with the State Shark Task Force, shall include but not be limited to:"
- (4) Page 2, lines 9 - 12: add "Acoustic Telemetry Study, Dart Tag Study, Reproductive Biology Study, and Genetic Population Study."
- (5) Delete Section 3 in its entirety.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1831, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1831, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.  
(Representative Amaral voted no.)

**SCRep. 178 Ocean Recreation and Marine Resources and Agriculture on H.B. No. 1915**

The purpose of this measure is to transfer aquaculture programs, which are now under the Department of Land and Natural Resources, to the Department of Agriculture.

Your Committees on Ocean Recreation and Marine Resources and Agriculture find that responsibilities for aquaculture programs are presently divided between the Department of Land and Natural Resources and the Department of Agriculture.

An aquaculture program was established in the Department of Land and Natural Resources, Section 187-3, Hawaii Revised Statutes. Section 187A-4, Hawaii Revised Statutes, authorized the Board of the Department of Land and Natural Resources to appoint an administrator of aquatic resources "who shall have charge, direction, and control of all matters relating to aquatic resources management, conservation, and development activities under this title (aquaculture program), and such other matters as the Board may direct."

A special agriculture revolving loan fund was established in the Department of Agriculture, Section 219-4, Hawaii Revised Statutes, for providing low interest loans for aquaculture farms.

This bill proposes to transfer all aquaculture programs now in the Department of Land and Natural Resources to the Department of Agriculture.

Testimonies from the Department of Agriculture and Land and Natural Resources expressed opposition to the transfer. The Department of Agriculture testified that further organizational and functional review would be needed before consideration of the transfer be given.

The Hawaii Aquaculture Association, Cyanotech Corporation, the Keahole Point Association, International Aqua Farms, Inc., and Hawaiian Marine Enterprises were in opposition to the transfer or were skeptical as to its benefits.

Despite these testimonies, it is the feeling of your Committees that existing programs in aquaculture are less than satisfactory and can be improved. This could be accomplished by expanding aquaculture activities through more emphasis on rural and agricultural area cottage industry development and support. This would balance the effort initiated by large-scale State-funded investment activities that has often resulted in closure or debt retirement legislation.

Your Committees find that the Department of Land and Natural Resources is a resource management organization, not designed as an agency to house economic development projects.

Your Committees further find that aquaculture is "legally" defined as an agricultural activity, and that the bulk of the resources available for the development and promotion of all State agricultural activities is within the Department of Agriculture. These activities include marketing programs as well as capabilities to measure program effectiveness in agricultural and applied economics.

Your Committees conclude that the development of aquaculture objectives can be better achieved if they are assumed by the Department of Agriculture.

To facilitate the effectiveness of this transfer, your Committees make a strong recommendation that personnel who are now assigned to aquaculture, but are now located in the Department of Land and Natural Resources, be transferred to the Department of Agriculture, lest valuable expertise be lost.

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1915 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Hirono, Tajiri and Tam.  
(Representative Marumoto voted no.)

#### **SCRep. 179                      Hawaiian Affairs on H.B. No. 2020**

The purpose of this bill is to amend Section 209(a) of the Hawaiian Homes Commission Act to:

- (1) Authorize a homestead lessee to designate a native Hawaiian father or mother, or both, to succeed to the leasehold interest, in addition to other relatives specified in Section 209(a); and
- (2) Authorize the Hawaiian Homes Commission to designate a native Hawaiian relative of a deceased lessee to succeed to the homestead lease if the lessee dies without designating a successor and does not leave a surviving qualified spouse or child.

Favorable testimony was submitted by the Department of Hawaiian Home Lands and the Ahupua'a O O'ahu.

Your Committee finds that a homestead lessee may designate certain relatives to succeed to the leasehold interest in the event of the lessee's death. The relatives specified are the spouse or children who are at least one-quarter Hawaiian; or various other relatives who must be at least one-half Hawaiian. Parents, however, have been excluded from this list of eligible relatives. Your Committee learned that situations have occurred in which parents have been displaced from a home due to the death of a homestead lessee. Therefore, your Committee agrees that parents should be included on the list.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2020 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Apo, Beirne and Lee.

#### **SCRep. 180                      Higher Education and the Arts on H.B. No. 828**

The purpose of this bill is to ensure that University athletic coaches have an adequate retirement plan by amending Hawaii Revised Statutes to allow the Department of Education and the University of Hawaii to purchase annuity contracts for coaches.

Testimony was received from the University of Hawaii Director of Personnel Management and Interim Athletics Director supporting the intent of the bill. The testimony indicated that athletic coaches tend to change jobs frequently, making it difficult for them to become vested in a retirement system. An alternate retirement plan for these employees would help solve this problem.

Testimony was also received from the Secretary of the Employees' Retirement System, and the State Department of Budget and Finance, who supported the aims of the bill but pointed out that the current provision of the Internal Revenue Code which allows such special retirement plans applies only to University football coaches. Your committee has amended the bill accordingly by:

- (1) Adding a new section allowing the University of Hawaii to enter into a written agreement with any association of football coaches with a qualified coaches' plan, as defined in the Employee Retirement Income Security Act of 1974;
- (2) Changing section 2 to specify that the contract for purchasing an annuity applies only to football coaches; and
- (3) Making other technical and nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 828, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 828, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Apo, Chumbley, D. Ige, M. Ige, Takumi and Yonamine.

**SCRep. 181                    Higher Education and the Arts on H.B. No. 793**

The purpose of this bill is to grant first-year tuition waivers based on merit to one female and one male graduate from each public high school in the State.

The University of Hawaii testified in favor of the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 793 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Chumbley, D. Ige, M. Ige, Takumi and Yonamine.

**SCRep. 182                    Higher Education and the Arts on H.B. No. 320**

The purpose of this bill is to appropriate funds to continue the pre-freshman enrichment program for ethnic minority children at the University of Hawaii.

Testimony was received from the University of Hawaii and several student participants in the pre-freshman enrichment program.

Your Committee finds the aims of this bill worthwhile, but recognizes the need for budgetary restraint. Accordingly, your Committee has amended the bill by appropriating the sum of \$1 for the fiscal year 1993-94.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 320, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 320, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Chumbley, D. Ige, M. Ige, Takumi and Yonamine.

**SCRep. 183                    Higher Education and the Arts on H.B. No. 565**

The purpose of this bill is to appropriate funds for teacher education and graduate level outreach programs on Kauai.

Testimony was received from the University of Hawaii, the Department of Education and the Hawaii State Teachers Association.

Your committee finds the aims of this bill worthwhile, but recognizes the need for budgetary restraint. Accordingly, your Committee has amended the bill by appropriating the sum of \$1 for the fiscal year 1993-1994 and \$1 for the fiscal year 1994-1995.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 565, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 565, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Chumbley, D. Ige, M. Ige, Takumi and Yonamine.

**SCRep. 184                      Judiciary on H.B. No. 1598**

The purpose of this bill is to make technical changes to sections 576E-1, 576E-2, 576E-5, 576E-10, and 576E-16, Hawaii Revised Statutes, in order to comply with federal law. The federal mandate is found at Title 42, United States Code, sections 654(5) and 654(6), whereby the State Child Support Enforcement Agency is required to collect spousal support from obligors, who have been ordered to pay both child and spousal support to an obligee who is living with the dependent child.

The Office of the Attorney General testified in support of this measure.

Your Committee finds that this bill clarifies the existing child support enforcement statute by implementing and harmonizing the federal mandate.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1598 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

**SCRep. 185                      Judiciary on H.B. No. 214**

The purpose of this bill is to amend section 704-406, Hawaii Revised Statutes, to permit the court to appoint a panel of three qualified examiners to report on whether a defendant, who has been conditionally released, presents a substantial likelihood of becoming fit to proceed in the future. Additionally, this measure allows the court to dismiss the charge against the defendant or to civilly commit the defendant, if the court determines that the defendant will probably remain unfit to proceed. Technical, nonsubstantive amendments have been made for purposes of style, clarity and consistency.

The Judiciary and the Office of the Public Defender testified in support of this bill.

Your Committee finds that this measure corrects an oversight in section 704-406, Hawaii Revised Statutes. Presently, there is a lack of statutory authority in this section to allow the court to rule on a defendant's fitness to proceed in the future if the defendant has been conditionally released. This bill rectifies that oversight.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 214 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 and Takamine.

**SCRep. 186                      Judiciary on H.B. No. 1075**

The purpose of this bill is to amend Section 708-830.5, Hawaii Revised Statutes (HRS), by providing that theft in the first degree shall include theft of services in which the value exceeds \$20,000.

In 1986, Act 314, SLH, added a new section to the Hawaii Penal Code which provided that theft in the first degree shall include the theft of property in which the value exceeds \$20,000. The new section did not include theft of services in which the value exceeds \$20,000 as theft in the first degree. At the same time, however, Act 314 also amended Section 708-831, HRS, by changing the original theft in the first degree to theft in the second degree. Theft of the second degree, notably, retained most the original language of theft in the first degree which included theft of property or services.

A review of the legislative history gives no indication that the Legislature purposely omitted theft of services in which the value exceeds \$20,000 from the offense of theft in the first degree. Moreover, it appears that theft of services in which the value exceeds \$20,000 should be included under the offense of theft in the first degree to provide consistency within a statutory scheme which defines the offense and the penalty by the dollar amount involved. Your Committee, therefore, finds that this measure is necessary to restore legislative intent and provide consistency within Hawaii's penal code.

Testimony in support of this measure was submitted by the Department of the Prosecuting Attorney of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1075 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 Bunda, Cachola, Hirono, Peters and Takamine.



**SCRep. 187                      Judiciary on H.B. No. 1070**

The purpose of this bill is to require an expedited trial for children who are victims of or witnesses to a crime.

Although children have been found to be competent witnesses, trial delays may fade a child's memory of the crime, discourage a child's willingness to testify, and aggravate the psychological and emotional impact of the incident. Moreover, the anticipated required courtroom appearance may also aggravate a child's healing process. Research has indicated that one way to reduce the psychological and emotional trauma of a child victim or witness is to complete all court proceedings as soon as possible. By granting child victims or witnesses a right to an expedited trial, the Hawaii State Legislature will be joining Congress as well as other numerous state Legislatures in recognizing the importance of preserving the overall well-being of children, especially children that, unfortunately, become the victims or witnesses of a crime.

Testimony in support of this measure was submitted by the Department of the Prosecuting Attorney of the City and County of Honolulu, the Sex Abuse Treatment Center, and the Friends of the Children's Advocacy Centers of Hawaii.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1070 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 Bunda, Peters and Takamine.

**SCRep. 188                      Judiciary on H.B. No. 115**

The purpose of this bill is to require that:

- (1) A notice of a review hearing be served upon the present foster parents no later than 48 hours before the hearing; and
- (2) A review hearing may not begin until the foster parents are served notice.

Generally, by virtue of their daily care of a child, foster parents know the child better than anyone else. Often, foster parents can provide critical information at review hearings with regards to the overall emotional, social, and physical disposition of the child, as well as the services currently being provided or needed. By encouraging foster parents to participate at review hearings, this measure will facilitate teamwork among foster parents, the Department of Human Services, guardians ad litem, and the courts to work towards the best interests of the child.

Testimony in support of this measure was submitted by several private citizens.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 115 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 Bunda, Peters and Takamine.

**SCRep. 189                      Judiciary on H.B. No. 1090**

The purpose of this bill is to change the maximum amount in controversy for all civil actions brought in district court from \$10,000 to \$25,000, as well as to change the maximum amount in controversy in which the district court has exclusive jurisdiction from \$5,000 to \$10,000.

Your Committee received favorable testimony on the bill from a representative of the Judiciary, a representative of the Hawaii State Bar Association and a private attorney.

A concern was expressed that since the Constitution of the State of Hawaii preserves the right to jury trial if the amount in question exceeds \$5,000, there may be some question as to the propriety of providing exclusive jurisdiction up to \$10,000 in the District Court. Your Committee finds that subsection (b) of the current law adequately addresses the problem, as that section will control when there is a currently pending demand for jury trial. Absent a demand, or upon withdrawal of the demand, the matter will remain, or be re-referred, as the case may be, to the District Court.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1090 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 Bunda, Hirono and Takamine.

**SCRep. 190                      Judiciary on H.B. No. 1073**

The purpose of this bill is to amend Section 707-766, Hawaii Revised Statutes (HRS), to clarify what constitutes extortion in the second degree.

In 1979, H.B. No. 1386 was enacted as Act 106, SLH, with the intent of effectuating a comprehensive improvement to Hawaii's laws by unifying the criminal provisions related to theft by extortion and criminal coercion. When H.B. No.

1386 crossed over and was passed out by the Senate, Senate Standing Committee Report No. 860 attached Exhibit A which provided that a person commits extortion of property or services the value of which exceeds \$50 during any 12-month period; OR as set forth in Section 707-764 (2). For housekeeping purposes, this measure would restore the "or" to Section 707-766, HRS, and clarify the intent of the Legislature in 1979.

Testimony in support of the measure was submitted by the Department of Prosecuting Attorney of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1073 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 Bunda, Cachola, Hirono, Peters and Takamine.

**SCRep. 191                      Judiciary on H.B. No. 1343**

The purpose of this bill adds Aminorex and Methcathinone to the Schedule I controlled substances list.

In 1992, the Federal Register published that the Federal Drug Administration intended to emergency schedule both Aminorex and Methcathinone as Schedule I controlled substances. Both Aminorex and Methcathinone are considered "designer drugs" or amphetamine analogs that have a high potential for abuse. Moreover, there is currently no accepted medical use or treatment for these substances in the United States. This measure would make State law consistent with the changes in Federal law.

Testimony in support of this measure was submitted by the Department of Public Safety.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1343 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 Bunda, Hirono and Takamine.

**SCRep. 192                      Judiciary on H.B. No. 361**

The purpose of this bill is to:

- (1) Combine provisions regulating precursors to controlled substances with provisions regulating precursors to the manufacture of methamphetamine; and
- (2) Allow disclosure of precursor chemical records and information to authorized county agencies.

Currently, the statutory provisions for regulating precursors to controlled substances as well as the statutory provisions regulating precursors to the manufacture of methamphetamine are identical except for the list of precursor chemicals contained in each part. For housekeeping purposes, this measure combines both statutory provisions to eliminate repetition and provide clarity to the statutes.

This measure also allows the disclosure of precursor chemical records and information to authorized county agencies. This amendment would allow county police departments access to information necessary for the efficient administration of their functions and duties.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 361 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 Bunda, Hirono and Takamine.

**SCRep. 193                      Judiciary on H.B. No. 1344**

The purpose of this bill is to add Carisoprodol as a Schedule IV controlled substance.

Generally, Carisoprodol is used as a relief for discomfort associated with musculoskeletal conditions and is prescribed under the brand name Soma. However, there has been a demonstrated increase in the abusive use of Carisoprodol, or Soma, by persons exhibiting drug-seeking behavior or are known to be drug addicts. Moreover, drug users will use Soma in combination with other drugs which has, on occasion, resulted in death. Consequently, the placement of Carisoprodol on the Schedule IV controlled substance list will provide for tighter controls with regards to record keeping or dispensing as well as informing prescribers about the potential abuse of the drug.

Testimony in support of this measure was submitted by the Department of Public Safety, the Hawaii Pharmaceutical Association, and a private citizen.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1344 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 Hirono and Takamine.

**SCRep. 194                      Judiciary on H.B. No. 1089**

The purpose of this bill is to change the manner in which attorneys' fees are determined in assumpsit actions so that the court may determine a reasonable amount not in excess of 25 percent of the judgment.

The Judiciary took no position on the bill. Favorable testimony from a representative of the Hawaii State Bar Association and from several private attorneys was received by the Committee.

Your Committee finds that attorneys' fees in assumpsit actions are often based on a percentage as opposed to an hourly rate, and that the current law does not fairly compensate the creditor for the expense of retaining an attorney to prosecute its claim, nor does it fairly compensate the defendant who prevails against an creditor's faulty claim.

Your Committee has amended the bill by providing explicitly that attorneys' fees shall be taxed even if a default is entered, and providing that if the fees are based on something other than an hourly rate, the proposed affidavit from the attorney should set forth the amount of the agreed upon fee so that the Court can determine a reasonable fee.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1089, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, Hirono and Takamine.

**SCRep. 195                      Judiciary on H.B. No. 788**

The purposes of this bill are to amend Sections 560:3-801 and 560:3-803, Hawaii Revised Statutes (HRS), by requiring the personal representative to take measures to identify creditors of the estate and to give notice by mail or other delivery to each known creditor. Additionally, this measure proposes to protect the personal representative from liability for defective notice by creditors and successors of the decedent. Also, it provides that the current limitation on the presentation of claims shall not apply to the compensation and reimbursement of the personal representative, of the personal representative's attorney or of the personal representative's accountant. Finally, the bill makes other technical changes to the statute for the purposes of style and clarity.

Hawaii attorneys specializing in probate testified at the Committee's hearing and offered suggestions for changes to this measure.

Your Committee finds that the changes are needed, in part, to comply with Tulsa Professional Collection Services v. Pope, (hereinafter "Tulsa"), 485 U.S. 478, 108 S. Ct. 1340, 99 L. Ed. 2d 565 (1988), which held that giving published notice alone to creditors, who are known or whose identity is reasonably ascertainable, violates due process. Our statute presently provides for published notice only.

Additionally, your Committee has made the following changes:

1. Changed the phrase "within four months" in the bill's subsections (a) and (b) of Section 560:3-801, and subsection (a) of 560:3-803, HRS to "no later than four months." Your Committee is aware of arguments made by attorneys that a creditor who presents a claim before the notice is published has not presented a proper notice and is barred if the claim is not presented again within the four month period. Your Committee finds that presentation of a claim, made any time before the four month period, should be sufficient for the purposes of this statute;
2. Changed the phrase "within sixty days" in the bill's subsection (b) of Section 560:3-801 and the bill's subsection (a)(2) of Section 560:3-803, HRS, to "no later than sixty days." The rationale for this change is the same as the rationale for the foregoing change. Your Committee finds that presentation of a claim, made any time before the sixty day period after the mailing, should be sufficient for the purposes of the statute;
3. Deleted the phrase "if published as provided in subsection (a)" from the bill's subsection 560:3-801(b), HRS. Your Committee finds that this is superfluous, since published notice is required under subsection (a);
4. Changed the phrase "whichever is later" in the bill's subsection 560:3-801(b), and the bill's paragraph 560:3-803(a)(2), HRS, to "whichever period expires later." The present phrase is ambiguous, since it refers to "mailing or other delivery," when it should refer logically to the four month or sixty day periods;
5. Changed the last sentence of the bill's subsection 560:3-801(b), HRS, which reads "Written notice must be in the same form as the notice described in subsection (a), or a similar notice" to "Written notice must contain the same information required for the notice described in subsection (a)." The sentence is presently ambiguous because subsection (a) does not prescribe a form of notice, just the content, and read literally, it would require the personal representative to send out copies of the published notice;

6. Inserted into the bill a new subsection 560:3-801(c), HRS, and changed the existing subsections (c) and (d) of the bill to subsections (d) and (e), respectively. The new subsection 560:3-801(c), HRS, shall read as follows: "The personal representative shall take reasonable actions to ascertain the decedent's creditors." This language is needed to comply with the Tulsa case, supra;
7. Changed the bill's subsection 560:3-801(c), HRS, to subsection 560:3-801(d), HRS, as aforementioned. Also, your Committee decided to protect the personal representative from liability for defective notice by creditors, but it deleted the words "or to a successor" from this subsection in order to permit actions by a successor against the personal representative. According to the testimony presented, a personal representative is not presently liable to a creditor for failing to give proper notice. If a personal representative fails to give proper notice to a creditor, the creditor's remedy is to proceed against the decedent's successor to the property. Should this happen, the decedent's successor would be allowed to proceed with an action against the personal representative based upon the defective notice. Thus, since there may be instances where a successor of the decedent might be able to proceed against the personal representative for failing to give proper notice, your Committee has deleted the words "or to a successor" from this subsection;
8. Deleted the phrase "If the application or petition is denied" from the statute's subsection (b), which is the new subsection 560:3-801(e), and substituted in its place "If a person other than the original nominee is appointed special administrator or personal representative." The present statute is vague in referring to the denial of the application or the petition, because the pleadings request more than just the appointment of a personal representative. This change helps to clarify the statute;
9. Deleted the phrase "provided claims barred by the nonclaim statute at the decedent's domicile before the first publication for claims in this State are also barred in this State" from paragraph 560:3-803(a)(1), HRS. This language is redundant as a result of the new subsection 560:3-801(b), HRS;
10. Changed the phrase "unless presented as follows" in subsection 560:3-803(a), HRS, to "unless presented no later than" to clarify that the deadline for claims is the later of the published notice period or the written notice period or, if the notice has not been published, no later than three years after the decedent's death;
11. Combined paragraphs (1) and (2) of the bill's Section 560:3-803(a), HRS, into paragraph (1) and renumbered paragraph (3) of the bill to paragraph (2). This was done to clarify that the deadline is the later of the published notice period or the written notice period; and
12. Made other technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 788, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 788, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bunda, Oshiro, Peters and Takamine.

#### **SCRep. 196                      Judiciary on H.B. No. 790**

The purpose of this bill is to amend Section 560:3-1201, Hawaii Revised Statutes, to increase the value of personal property, that may be kept out of probate and that may be collected by the family or beneficiaries of a decedent, from a net value of \$5,000 to a gross value of \$20,000.

The Judiciary and Hawaii attorneys specializing in probate submitted testimony supporting this measure.

Your Committee finds that the proposed changes would simplify the transfer of assets upon death. Furthermore, it would lessen the circuit court's administrative burden in handling small estates.

Additionally, your Committee has decided to amend this bill by excluding motor vehicles from the gross value of a decedent's estate. Many cases go through probate merely because the decedent has a car in the estate. Your Committee finds that it is a waste of time and money to require probate for a decedent's estate merely on account of the existence of a car.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 790, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 790, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bunda, Oshiro, Peters and Takamine.

#### **SCRep. 197                      Judiciary on H.B. No. 568**

The purpose of this bill is to amend Section 571-46(9), Hawaii Revised Statutes (HRS), to create a rebuttable presumption that it is not in the best interests of a child to be in the custody of a parent, who has a history of being an abusive spouse or parent. A judge who deviates from this rebuttable presumption would be required to issue a written opinion stating the reason for the deviation.

The Honolulu City and County Prosecutor's Office, the Hawaii State Commission on the Status of Women, the Domestic Violence Clearinghouse and Legal Hotline, the Child and Family Service Shelter for Abused Spouses and Children, a member of the State Domestic Violence Task Force, Friends of the Children's Advocacy Centers of Hawaii, and community members testified in support of this measure.

The Judiciary, although expressing no position on the merits of this bill, testified that it had the following concerns regarding the bill:

1. The phrase "history of being an abusive spouse or parent" is ambiguous. The court may be unsure as to what standards to consider when assessing this history;
2. There may be instances where the granting of custody to the "non-abusing" party may be contrary to the best interests of the child, such as when the other spouse has a history of mental illness or substance abuse;
3. Difficulties in awarding the custody of a child may arise in instances where both of the parents have a history of being an abusive spouse or parent; and
4. The requirement of "a written opinion" may cause delays in the court's disposing of cases.

Your Committee finds that a person with a history of being abusive to that person's children and/or spouse is likely to continue with that abuse. Your Committee believes that, by creating a rebuttable presumption that it is not in the best interests of a child for the court to award custody of that child to an abusive spouse or parent, this presumption is an important and innovative way to assure that children will be protected from potential physical and emotional harm.

Your Committee's comments on the Judiciary's concerns are as follows:

1. The phrase "history of being an abusive spouse or parent" includes but is not limited to that spouse's prior convictions and/or arrests for abusing the spouse or child, any acts of violence by that spouse against the spouse or child, medical records demonstrating injuries sustained by a spouse or child purportedly caused by that spouse, etc. We include prior arrests rather than just convictions within the history because your Committee is aware that there is a tremendous backlog of cases involving spousal abuse and child abuse and the dispositions have not been swift. To limit the history to convictions only would be to severely limit the court's ability to consider relevant information. Because a list as to what may be included within that history cannot be exhaustive, your Committee has retained the phrase "history of being an abusive spouse or parent" so that the court may exercise reasonable discretion in determining what additional information may come within the meaning of this phrase;
2. Your Committee admits that a non-abusive parent may have problems, such as mental illness or substance abuse, that may not make that parent the best custodian for the child. However, that is no reason for the court to disregard the rebuttable presumption that it is not in the child's best interests to award custody to an abusive spouse or parent. It is incumbent upon the court to weigh the merits of each parent and thereupon award custody according to the best interests of the child. Should the court find that, based upon the rebuttable presumption, it cannot award custody to the abusive parent, and that, because of mental illness or substance abuse, it cannot award custody to the other parent, it may still award custody to persons other than the parents, in accordance with Section 571-46(2), HRS, whenever the award serves the best interest of the child. Your Committee believes that the protection of the child and the best interests of the child are of paramount importance and that these concerns take precedence over awarding custody of the child to a parent;
3. Your Committee next addresses the situation where the presumption applies to both parents and the court finds that both parents have a history of being abusive. If both parents have histories of being abusive and if neither parent is able to overcome the presumption that it is not in the best interests of a child to be in the custody of such a parent, then it is probably appropriate for the court to consider awarding custody to a person other than the parents. Your Committee believes that it is better for the court to rule on the side of caution and to give custody of the child to a non-parent, than to deliver a child to the custody of an abusive parent; and
4. Your Committee believes that there is merit in the Judiciary's assertion that a requirement that the court issue a written opinion may result in delays in disposing of cases. The Judiciary has advised the Committee that its proceedings are recorded on tape and that written transcripts of the proceedings can be made available to the parties. Accordingly, your Committee has decided to amend both section 1 of the bill and Section 571-46(9), HRS of the bill by substituting the words "an oral order" for the words "a written opinion."

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 568, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 568, H.D. 1, and be placed on the calendar for Third Reading.

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

The purpose of this bill is to increase the penalty for failing to comply with conservation district and subzone land use restrictions, from \$500 to \$2,000.

Favorable testimony from a representative of the Sierra Club, Hawai'i Chapter, was received by the Committee. A representative from the Department of Land and Natural Resources supported the increase in possible fines from \$500 to \$2,000, but opposed the elimination of the written notification requirement from the statute.

Your Committee finds that an increase in the amount of the possible fine is appropriate, but that an elimination of the written notification requirement would raise due process concerns and would render enforcement activity by the Department of Land and Natural Resources more difficult.

Your Committee adopted the recommendation of the Department of Land and Natural Resources and has amended the bill by eliminating references to "separate offenses" and by restoring the requirement of written notification.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 892, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 892, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, Hirono, Oshiro and Takamine.

**SCRep. 199                      Judiciary on H.B. No. 920**

The purpose of this bill is to amend section 574-1, Hawaii Revised Statutes, by allowing a person upon marriage to retain his or her own last name, or to adopt the spouse's last name as a middle or last name, without adding a hyphen.

The Hawaii State Commission on the Status of Women (Commission) and a community member submitted testimony supporting this measure. Both recommended further changes to this bill.

Your Committee finds that both the present law and the present bill restrict a woman's options as to how her family name may be included into her name upon marriage. Accordingly, your Committee has decided to include several options for name changes and it has amended this bill by:

1.        Inserting language that allows a person upon marriage to adopt the spouse's last name as a middle or last name with or without a hyphen;
2.        Inserting language that allows a person, whose last name consists of the parents' last names that are not separated by a hyphen, to choose either:
  - (a)       the last name of either of that person's parents;
  - (b)       the last name of the person's spouse alone; or
  - (c)       the last name of the person's spouse placed before or after the person's own last name, which may be done with or without a hyphen; and
3.        Making other technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 920, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 920, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bunda, Oshiro, Peters and Takamine.

**SCRep. 200                      Finance on H.B. No. 1697**

The purpose of this bill is to impose a use tax surcharge at the rate of one-half per cent of the landed value of capital goods imported into the State for rental or lease to others by the leasing company.

In supporting this bill, the Department of Taxation testified that this measure will eliminate a tax inequity and provide additional revenues. This measure will equalize the amount of taxes paid by licensed leasing companies irrespective of whether the capital goods are purchased from a dealer located in the State or a source outside the State.

Your Committee also received favorable testimony from the Hawaii Automobile Dealers' Association and explanatory comments from the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1697 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanoho.

**SCRep. 201                      Finance on H.B. No. 1694**

The purpose of this bill is to require claims for credits or refunds for overpayment of income taxes to be filed within three years of the date the return was originally filed or from the due date prescribed for the filing of the return, or within two years of the date of tax payment, whichever is later.

Testifying in favor of this measure, the Department of Taxation explained that this bill adopts federal provisions relating to time limits for claiming tax refunds and will provide a definite time period during which a taxpayer may request and receive, or the Department may apply or issue, a credit or refund of overpaid income taxes.

The Tax Foundation of Hawaii also submitted comments on this bill.

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

- (1) Correcting statutory references in sections 237-40, 237D-9, 243-14 and 251-8, Hawaii Revised Statutes, to conform to changes proposed in this bill; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1694, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1694, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Alcon and Santiago.

**SCRep. 202                      Labor and Public Employment and Intergovernmental Relations and International Affairs on H.B. No. 1372**

The purpose of this bill is to allow benefits for personal injuries for off-duty police officers. During the 1989 legislative session, Chapter 52 of the Hawaii Revised Statutes was repealed and replaced with Chapter 52D. However, the section covering "off-duty police officers; benefits for personal injuries" was deleted from Chapter 52D.

Your Committees find that coverage for off-duty police officers should be reinstated since the deletion of this coverage also impacts the employees' rights under Chapters 88 (retirement benefits) and 386 (workers' compensation). In addition, even though the officers are in an "off-duty" status, they are still subject to all department rules, and are routinely disciplined for special duty infractions. The officer is readily identifiable as a police officer and is required to perform extended police services in uniform and wear all insignia of their respective departments.

The State of Hawaii Organization of Police Officers testified in support of this measure.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1372 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 Alcon and Hagino.

**SCRep. 203                      Labor and Public Employment on H.B. No. 1459**

The purpose of this bill is to add two retirees to the Employees' Retirement System Board of Trustees, thus increasing the number of the members on the Board to nine. The bill proposes that one of the retirees be elected by the membership and the other be appointed by the Governor.

The secretary of the Employees' Retirement System testified that merely increasing the number of Trustees would not assure improved operations or higher investment returns. The Coalition of Hawaii State-Counties Retirees Association testified in support of the measure, stating that with nearly 22,000 retirants currently receiving benefits, it is time for these members to have direct representation on the Board.

Your Committee adopted the recommendation of the Coalition of Hawaii State-Counties Retirees Association by amending section 1 of the bill by adding the phrase "and retirants" to line 10.

Your Committee also made technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1459, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 204                      Labor and Public Employment on H.B. No. 1666**

The purpose of this bill is to permit: (1) recovery of overpayment of benefits paid to any individual under state and federal unemployment compensation (UC) laws; and (2) the deduction of overpayments from any future benefits payable to the individual under a state law or federal UC program.



Your Committee finds that Public Law 99-272, Consolidated Omnibus Reconciliation Act of 1985, amended Section 303 of the Social Security Act to permit upon written agreement with the Secretary of Labor:

- (1) The withholding of unemployment benefits payable to an individual under a state UC program to offset overpayments made under any other state or federal program; and
- (2) The withholding of federal UC benefits payable to an individual to offset overpayments made under any other state or federal program.

Participation in the offset program will increase the recoupment of benefits erroneously paid under the Hawaii UC law and thereby increase the integrity of the State UI Trust Fund.

The Department of Labor and Industrial Relations testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1666 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Alcon.

**SCRep. 205 Intergovernmental Relations and International Affairs on H.B. No. 1356**

The purpose of this bill is to include in the duties of the Office of International Relations the responsibility of providing Hawaii officials with in-depth briefings prior to taking international trips.

Your Committee received testimony in favor of this measure from the Director of the Office of International Relations, who testified that the Office is currently in a position to provide in-depth briefings to include guidance and counsel on protocol and business practices.

Your Committee has amended the bill to clarify the role of the Office with regard to economic development. By limiting the Office to advising and assisting other State agencies that have program responsibilities with regard to international trade, business, and investment, there will be less duplication between the Office and other State agencies.

In addition, your Committee has also amended the bill to include language clarifying the Office's ability to interact with international organizations and funding agencies to better promote, foster, and fund international activities of the State.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1356, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1356, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.  
(Representative Alcon voted no.)

**SCRep. 206 Housing and Water and Land Use Planning on H.B. No. 1841**

The purpose of this bill is to prohibit the sale of public trust lands for housing purposes and allow the lease of these lands for these purposes.

Testimony was received from the Office of Hawaiian Affairs in support of the intent of this bill.

Upon careful consideration, your Committees have amended the bill by:

- (1) Inserting blank percentages in the lease rent formula; established therein, for the purpose of further discussion; and
- (2) Providing that the prohibition on the sale of public trust lands shall not apply to the following:
  - (a) The Housing Finance and Development Corporation's developments known as the Kealakehe and Lahaina master planned communities which are the subject of Act 318 and Act 317, Session Laws of Hawaii 1992; and
  - (b) Any other public trust land utilized for housing purposes for which, prior to the effective date of the Act, negotiations have commenced with the State or a state agency for purchase of the fee.

As affirmed by the records of votes of the members of your Committees on Housing and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1841, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1841, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Tajiri and Takamine.

**SCRep. 207                    Housing and Human Services on H.B. No. 2022**

The purpose of this bill is to transfer the administration of the Homeless Families Assistance Act and homeless shelter stipends from the Department of Human Services to the Hawaii Housing Authority (HHA).

Your Committee received testimony in strong support of this bill from HHA.

As affirmed by the records of votes of the members of your Committees on Housing and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2022 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

**SCRep. 208                    Housing and Human Services on H.B. No. 319**

The purpose of this bill is to appropriate funds to the Department of Human Services to establish multi-service outreach homeless centers on all major islands that provide a variety of needed services to the homeless in a convenient and accessible locations.

Your Committees urge the Hawaii Housing Authority to coordinate an interagency council which includes, but is not limited to, representatives from the Department of Human Services, the Department of Labor and Industrial Relations, the Department of Health, and the Department of Transportation, to work on developing the concept of homeless centers which focus on outreach and the coordinated provision of homeless services across agencies.

Upon careful consideration, your Committees have amended the bill by:

- (1)        Inserting \$1 as the appropriated amount for the purpose of further discussion;
- (2)        Changing the number of outreach centers to provide for a pilot project on Oahu only; and
- (3)        Changing the expending authority to the Hawaii Housing Authority.

As affirmed by the records of votes of the members of your Committees on Housing and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 319, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 319, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Peters.

**SCRep. 209                    Housing on H.B. No. 65**

The purpose of this bill is to authorize the Department of Budget and Finance (BNF) to issue revenue bonds to enable the Housing Finance and Development Corporation (HFDC) finance the acquisition of the Queen Emma Gardens Complex. This bill also establishes a revenue bond fund within BNF from which proceeds shall be transferred to the HFDC for the foregoing purpose.

Supporting testimony was submitted by residents of the Queen Emma Gardens. Additionally, a councilmember of the City Council of the City and County of Honolulu confirmed to your Committee that the City had set aside \$32 million for purposes of acquiring the complex.

Your Committee has amended the bill by:

- (1)        Clarifying the definition of director; and
- (2)        Making technical, nonsubstantive amendments for the purposes of style, clarity, and accuracy.

Your Committee requests that the HFDC work with the City and County of Honolulu and necessary state agencies to develop ways to finance the acquisition of Queen Emma Gardens jointly.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 65, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 65, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

**SCRep. 210                    Housing on H.B. No. 1307**

The purpose of this bill is to prohibit the use of the State's condemnation power under Chapter 516, Hawaii Revised Statutes, to convert from leasehold to fee simple, any ceded lands encumbered by residential leases.

Your Committee believes safeguards must be implemented to prevent ceded lands from being sold, as these lands are an integral source of revenue for the benefit of native Hawaiians.

Your Committee received testimony in support of the intent of this bill from the Hawaiian Civic Political Action Committee. The Housing Finance and Development Corporation and the Department of Land and Natural Resources testified in opposition to the measure.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1307 and recommends that it pass Second Reading and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 211                    Housing on H.B. No. 369**

The purpose of this bill is to appropriate moneys for the continuation of the pilot security project at Makua Alii, Paoakalani, and Kalakaua Mid-rise elderly housing projects.

Your Committee strongly believes that the safety and security of our elderly cannot be neglected. It is the concern of this Committee that elderly housing projects are security risks because they are often open and accessible to unwelcome intruders. Of the 1,002 incidents reported to security from November 1990 through May 1992, ten percent were trespassing reports. The Committee urges the Hawaii Housing Authority to make a comprehensive assessment of security risks at all of its special needs projects and implement improvements to ensure the safety and well-being of elderly residents.

Supporting testimony was submitted by the National Association of Retired Federal Employees and residents of the Makua Alii and Kalakaua Mid-rise projects. The testimony indicated that residents of the projects have experienced significant decreases in the numbers of incidents, break-ins, thefts, and general misconduct since the pilot security project was implemented.

Your Committee has amended Section One of this bill by inserting an appropriated amount of \$1 for the purpose of further discussion.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 369, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 369, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 212                    Housing on H.B. No. 291**

The purpose of this bill is to appropriate funds to the Department of Human Services to establish a homeless coordinator position for the County of Kauai to coordinate homeless relief efforts in the aftermath of Hurricane Iniki.

Your Committee recognizes that help is direly needed with regard to providing housing for the victims of Hurricane Iniki. However, at the hearing on this bill, it was not clear whether the County of Kauai required help for the "houseless" population, i.e., residents whose houses were destroyed or damaged by Hurricane Iniki, or the "homeless" population, i.e., persons who were already without shelter prior to Hurricane Iniki.

Accordingly, your Committee feels that further discussion is necessary in order to:

- (1) Clarify and define the exact role of the coordinator, e.g., whether the coordinator should focus on the houseless or homeless population and whether the coordinator's duties should include the compiling of needed statistics and data such as determining who is houseless and who is homeless; and
- (2) Determine what federal and private funds are available and how these funds can be used to help the victims of Hurricane Iniki.

Your Committee hopes that discussions will take place with the County of Kauai to work on the foregoing and clarify the focus of this bill so that housing assistance can be given where it is needed most and in a manner which is the most effective.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 291, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 213                    Energy and Environmental Protection and Water and Land Use Planning on H.B. No. 695**

The purpose of this bill amends Chapters 341 and 343, Hawaii Revised Statutes, to mandate that the Director of Environmental Quality Control shall participate in the Chapter 343 review process and to add other requirements necessary to make the environmental impact statement system more effective.

Supporting testimony was provided by State of Hawaii Department of Health, University of Hawaii at Manoa - Environmental Center, and American Lung Association of Hawaii.

The State of Hawaii Office of Environmental Quality Control supports various aspects of this bill, while opposes others.

Testimony in opposition to the bill was provided by the City and County of Honolulu, and Land Use Research Foundation of Hawaii.

Issues on which opinions were divided included:

- (1) evaluating the cumulative impact as part of the criteria for doing an environmental assessment (although this is valid and consistent with the Federal EIS regulations;)
- (2) having the OEQC review EIS statements with a view to raising issues to be reviewed by other agencies, and monitor the participation of agencies in the review process;
- (3) adding the Shoreline Management Area, and Endangered Species Act to trigger an EIS;

In spite of concerns voiced over the possibility of a Governor's veto if some of these issues were included your Committee decided it is the obligation of the legislative branch of the government to act independently and accordingly agreed to leave in the bill the EIS requirement for special management areas and any use that may adversely affect areas designated as critical habitats of endangered species. However your Committee did amend the bill to delete the requirement for the OEQC to review all EIS documents, raise issues to be reviewed by agencies and monitor the participation of agencies in the review process. Considering the staff and funding of OEQC this is unrealistic at the present time.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 695, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 695, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kanoho and Tajiri.

**SCRep. 214                      Energy and Environmental Protection on H.B. No. 1653**

The purpose of this bill is to establish a Hawaii Emergency Planning and Community Right-to-Know (HEPCRA) Program, and to setup a fund appropriated by filing fees from facilities which store hazardous substances. This fund will be used to support the State responsibilities under the Federal Emergency Planning and Community Right-to-Know Act, including: public outreach and education, chemical emergency planning, training, and response.

The Department of Health and the Sierra Club, Hawaii Chapter both strongly supported this bill but with some differences.

DOH feels this bill will clarify ambiguous aspects of the federal law and establish a fund and fee collection system to support implementation. At the present time the DOH testified that the state was deficient in having a fully trained and equipped local organization to respond to emergency hazardous waste accidents. The fund as set up would remedy this lack.

The Sierra Club had additional recommendations. Your Committee was in agreement with their suggestion to include the directors of the University of Hawaii's Environmental Center and the Office of Environmental Quality Control as members on the State Emergency Response Commission.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1653, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1653, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 215                      Energy and Environmental Protection on H.B. No. 2026**

The purpose of this bill is to make various amendments for clarity, and to make substantive changes to the State Clean Air Act.

The Department of Health strongly supported this bill, the Sierra Club, Hawaii Chapter opposed it and the Hawaii Electric Company, Inc. objected to the deletion of a 4,000 ton per year cap on a covered source's emissions for establishing fees.

Last year Hawaii passed a bill which established the Clean Air Act and put the state in conformity with Federal Regulations on Clean Air. The Committee agreed with the Chair that the basic bill was carefully crafted and wanted at this point to amend the bill as little as possible. Therefore they accepted only the amendments having to do with:

- (1) decreasing the period of time from sixty to forty-five days during which people may comment on the information presented in a public notice - to help streamline the process.
- (2) giving the Director of Health authority to establish a standard of performance for a "covered source"; and

- (3) removing "major" from the definition of "source" in the definition of modification.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee 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 referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hirono.

**SCRep. 216 Energy and Environmental Protection on H.B. No. 1276**

The purpose of this bill is to require lead acid battery wholesalers to accept used batteries collected as part of solid waste management programs. It is aimed primarily at proper disposal of batteries generated by residents who work on cars at their homes or small repair shops who improperly dispose of batteries.

The Department of Health supported the bill while the Department of Public Works, City and County of Honolulu and LISH, Legislative Information Services of Hawaii, Inc., did not.

Points raised by the testifiers and in subsequent Committee discussions included:

- (1) the difficulty of impacting the group of people who work on numerous cars at their home and small repair shops, especially on the outer islands;
- (2) the unenforceability of the present law which already requires retail stores, service stations or auto parts stores to take back old batteries for new;
- (3) the lack of motivation for people to return old batteries, which might be helped by better education and publicity on their harmful environmental effects;

Subsequent discussions prior to decision making with the Committee Chair and representatives of battery wholesalers resulted in agreement on the following bill amendments:

- (1) add "The price of a new battery includes disposal of your old battery." to the written notice required by all retailers; and
- (2) include in any advertising the statement that "The price includes disposal of your old battery."

Discussions also took place regarding a voluntary commitment from wholesale dealers stating by letter their willingness to accept in proportion to the number of batteries they sell, any lead acid batteries collected or dropped off by residents. However, since this letter was not received in time for Committee review, your Committee has decided to include language requiring wholesalers to accept batteries along with the other additions required in retailer signs and advertising as amendments to the bill. However, this could be modified as the bill moves through the legislative process.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1276, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1276, H.D. 1, and be referred to the Committee on Judiciary.

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

**SCRep. 217 Intergovernmental Relations and International Affairs on H.B. No. 1324**

The purpose of this bill is to establish the Pacific Human Resource Development Center (hereafter referred to as the "Center") within the Office of the Governor to assist the commonwealths, republics, federated states, and territories of the Pacific in developing their postsecondary institutions.

Your Committee received testimony in favor of this bill from the Office of International Relations and the University of Hawaii.

Based on the testimony provided, your Committee finds that the University of Hawaii is in a unique position to provide technical assistance in curriculum and program development, faculty and staff training, and facilities planning and design to member colleges of the Pacific Postsecondary Education Council.

Moneys for such undertakings are available through the U.S. Department of the Interior's Office of Territorial and International Affairs, but can only be appropriated to the trust territories or to a center such as the proposed Pacific Human Resource Center. Currently, federal moneys are going to an organization on the East Coast, but your Committee strongly feels that the University of Hawaii is in a better position to provide such services due to Hawaii's geographic proximity to the region and expertise in regional matters.

Your Committee finds that the establishment of the Center is needed in order to attract federal funds for this undertaking, and while the State may need to assist with the initial establishment of the Center, federal funds could be available to maintain the Center and continue services.

Your Committee has amended this bill by:

- (1) Having both the Office of International Relations and the University of Hawaii jointly administer the Center;
- (2) Inserting the sum of \$1 to be appropriated for the Center (GOV 100) for the purposes of continued discussion;
- (3) Providing that the expending agency for the appropriation be the Office of International Relations and the University of Hawaii instead of the Office of the Governor; and
- (4) Making other technical, nonsubstantive amendments to correct typographical and other drafting errors.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1324, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1324, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hagino.  
(Representative Alcon voted no.)

**SCRep. 218 Intergovernmental Relations and International Affairs on H.B. No. 1146**

The purpose of this bill is to make the Office of International Relations a permanent office.

With the rise in the federal deficit, the trend toward a New Federalism, and increased foreign investment in individual states, there has been a need for states to begin managing their own activities in the international arena.

With growing frequency, the individual states are finding themselves taking the responsibility for attracting foreign businesses back home, as well as maintaining increased interaction with these foreign companies and their employees once they have relocated.

Traditionally, first contact between foreign businesses and states had been done on the federal level in the traditional power centers of the United States, but recent trends has these businesses making initial contact with the states themselves.

Here in Hawaii, the Office of International Relations has been charged with directing and coordinating the State's international activities; serving as a networker, catalyst, initiator, and bridge among State agencies, as well as developing recommending, and articulating international policies; promoting internationalism; enhancing international literacy in Hawaii; and providing protocol services, guidance, and counsel.

Your Committee feels that the Office of International Relations is in the process of several important undertakings and has the knowledge and expertise necessary to assist the State of Hawaii in its move into the new arena of closer international relations between states and foreign countries and companies. Your Committee also feels that the office will be able to assist the State's evolution into the era of globalism and international understanding, which is so very important to the future and vitality of our State.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1146 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hagino.  
(Representative Alcon voted no.)

**SCRep. 219 Agriculture and Energy and Environmental Protection on H.B. No. 260**

The purpose of this bill is to exempt odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals from the Air Pollution Control Act, Chapter 342B, Hawaii Revised Statutes (HRS).

Your Committees would like to note the recommendation made by several members that the Department of Agriculture (DOA) and the Department of Health (DOH) work together to study ways to resolve concerns regarding odors emanating from livestock agricultural operations in communities, taking into account the distinction between air pollutants and odors.

Your Committees received supporting testimony from the DOA, the Hawaiian Sugar Planters' Association, and Kahua Meat Company, Ltd. The DOH testified in opposition to the bill.

Upon careful deliberation, your Committees have amended the bill by specifying that the exemption applies to odors emanating from livestock agricultural operations necessary for the raising of fowl or animals, and not to the growth of crops.

As affirmed by the records of votes of the members of your Committees on Agriculture and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 260, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 260, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Herkes, Hirono and Tam.  
(Representatives Hiraki and Thielen voted no.)

**SCRep. 220                    Agriculture and Energy and Environmental Protection on H.B. No. 1587**

The purpose of this bill is to change the means written notices are sent by the Department of Agriculture (DOA) to landowners and the occupiers of private property of its intention to enter the property for control or eradication of pests. The change would be from registered mail to certified mail.

The DOA testified in support of the measure.

As affirmed by the records of votes of the members of your Committees on Agriculture and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1587 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Hirono and Tam.

**SCRep. 221                    Agriculture and Higher Education and the Arts on H.B. No. 2093**

The purpose of this bill is to:

- (1) Establish an agricultural leadership program within the University of Hawaii to enhance the development of effective leaders in agriculture by amending Chapter 304, Hawaii Revised Statutes; and
- (2) Appropriate funds to establish and fund the agricultural leadership program.

The President of Kahua Meat Company, Ltd., an Agricultural Leadership Foundation of Hawaii participant, and several interested citizens testified in support of the measure. Your Committees also received testimony from the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources.

Your Committees note that an appropriation for the purposes stated in the bill has already been requested for in the Executive Budget for the 1993-1995 fiscal biennium.

Accordingly, your Committees have amended the bill by:

- (1) Deleting the appropriation from the bill; and
- (2) Changing the effective date of the bill to conform with the deletion.

As affirmed by the records of votes of the members of your Committees on Agriculture and Higher Education and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2093, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2093, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino, Apo, Arakaki, Duldulao, Shon, Takumi, Tam and Marumoto.

**SCRep. 222                    Agriculture on H.B. No. 422**

The purpose of this bill is to direct the Department of Agriculture (DOA) to utilize available public lands, or to secure through exchange or acquisition, additional property to develop an agricultural park on the island of Oahu to accommodate all cattle care and production facilities currently operating on Oahu. The bill also includes an appropriation for the development of the agricultural park.

Your Committee received testimony in opposition to the bill from the DOA and a concerned citizen. Your Committee notes that several testifiers indicated that their reservations to the bill were due in part because the bill would develop an agricultural park on Oahu to accommodate just cattle care and production facilities, rather than all livestock.

Accordingly, your Committee has amended the bill by:

- (1) Specifying the site where the agricultural park is to be developed by directing the Department of Land and Natural Resources (DLNR) to set aside to the DOA the feedlot parcel of 124.190 acres acquired by the State pursuant to Agreement No. A00789000 of November 29, 1991, at Campbell Industrial Park, Barbers Point, Oahu;
- (2) Directing the DOA to plan, develop, and manage the agricultural park set aside by DLNR;
- (3) Expanding the scope of the agricultural park to encompass all aspects of livestock care and production, as well as slaughtering and appurtenant operations, rather than just cattle care and production; and
- (4) Deleting the appropriation section from the bill.



As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 422, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 422, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ishii-Morikami, Tam and Marumoto.

**SCRep. 223                    Agriculture on H.B. No. 1424**

The purpose of this bill, as received by your Committee, is to conduct animal behavior research on aphids to determine the components of grasses that repel pests from crops.

Your Committee has amended this measure by increasing the total appropriation sum contained in the original bill from \$104,000 for fiscal year 1993-1994 to conduct animal behavior research on aphids, to a total appropriation sum of \$315,000 for fiscal year 1993-1994 by incorporating the following sums for the appropriations contained in H.B. No. 1426, H.B. No. 1428, H.B. No. 1457, and H.B. No. 1508:

- (1)        \$25,000 for foreign exploration for biological control agents to combat and eradicate the yellow sugarcane aphid and webworm;
- (2)        \$52,000 to conduct animal behavior research on aphids to determine the components of grasses that repel pests from crops;
- (3)        \$40,000 for research on the yellow sugarcane aphid and webworm;
- (4)        \$98,000 for the administration, coordination, and research on various fruit fly control and eradication projects; and
- (5)        \$100,000 for university-level research on pineapple pest problems.

Accordingly, your Committee has amended the purpose section of H.B. No. 1424 to reflect the substantive contents contained in the amended measure.

Your Committee would like to note its intent to designate the Department of Agriculture as the expending agency of the appropriations contained in this "omnibus" appropriation measure, as the DOA comes under the purview of the Legislature and this Committee. Your Committee also notes that making the DOA the expending agency of the foregoing appropriations strengthens the expending capabilities and decision making powers of the DOA.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1424, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1424, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 224                    Agriculture on H.B. No. 427**

The purpose of this bill is to authorize the Director of Finance to issue general obligation bonds for plans, design, construction, and equipment for an agriculture deinfestation facility on Kauai, with the provision that operation and maintenance of the facility shall be the responsibility of the Department of Agriculture (DOA).

Your Committee notes that planning and design for a disinfestation facility has been undertaken by the University of Hawaii Office of Technology Transfer and Economic Development (UH-OTTED).

The Hawaii Farm Bureau Federation testified in support of the measure. The DOA testified in support of the measure, provided the expending agency is changed to UH-OTTED.

Upon the recommendation of the DOA, your Committee has amended the bill by changing "deinfestation facility" to "disinfestation facility" to properly reflect the accurate and appropriate term. Your Committee has also changed the expending agency from the Department of Accounting and General Services to the DOA. A technical, nonsubstantive amendment was also made for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 427, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 427, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tam.

**SCRep. 225                    Agriculture on H.B. No. 426**

The purpose of this bill is to:

- (1)        Declare that the applesnail meets the criteria of a deleterious and injurious pest under law; and

- (2) Direct the Department of Agriculture (DOA) to exercise all emergency powers to implement an eradication program to stem the further proliferation of applesnails on the island of Kauai.

Your Committee received supporting testimony from the President of the Kauai Taro Growers Association and several taro farmers representing the island of Kauai. Your Committee also heard oral testimony from the Bishop Museum and the U.S. Department of the Interior regarding the destructive potential and damaging effects of the applesnail not only on Kauai but to the environment statewide. The DOA testified against the measure on grounds that the DOA has already initiated administrative rule-making procedures to obtain emergency powers to implement an eradication program for applesnails.

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

- (1) Expanding the scope of the eradication program to stem the proliferation of applesnails statewide;
- (2) Appropriating the sum of \$100,000 for fiscal year 1993-1994 to:
  - (a) Stem the further proliferation of and eradicate applesnails in the State; and
  - (b) Educate the public about the destructive potential and damaging effects of the applesnail in Hawaii's environment;
- (3) Making the DOA the expending agency of the appropriation;
- (4) Changing the purpose section of the bill to reflect the newly inserted amendments contained in the bill; and
- (5) Making technical, nonsubstantive amendments for the purpose of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 426, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 426, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tam and Marumoto.

#### SCRep. 226

#### Hawaiian Affairs on H.B. No. 2098

The purpose of this bill is to provide funding and resources that will offer the general public educational opportunities to learn and appreciate the historical context of the Hawaiian sovereignty movement and the current dialogue on governance structures being considered.

By way of brief background, during the early 1970's people of the State of Hawaii witnessed the beginning of the "Hawaiian Renaissance" which encouraged Hawaiians to be proud of their culture, history, and identity as native people. Colleges began to offer course work in Hawaiian history, culture, and language. As Hawaiians began to study genealogies and family traditions, many learned that acres of land were taken from their families by the law of adverse possession. Moreover, as they focused on Hawaiian history itself, many began to understand the overthrow of 1893 as illegal, and consequently investigations of legal claims for reparations were undertaken.

Through the "Hawaiian Renaissance," Hawaiian leaders resolved to reveal past injustices and current inadequacies of programs meant to benefit Hawaiians. Hawaiians and Native Hawaiians who may have disagreed on programs and politics, were brought together by the "Hawaiian Renaissance" and their consensus that the overthrow of the Hawaiian monarchy was illegal.

It would benefit all people in Hawaii to learn about and understand the historical events which have shaped modern Hawaii and the current sovereignty movement. It is also imperative that standardized history texts and other learning materials be revised to depict the history of Hawaii's native people more objectively.

This past January, the Onipa'a Commemoration served as a common ground for people of Hawaiian and non-Hawaiian ancestry to come together and share an understanding and remembrance of the overthrow of the Hawaiian monarchy. It is gratifying to see Hawaiian organizations being joined by non-Hawaiian organizations such as the Japanese-American Citizens' League (JACL) in Sovereignty movement efforts.

Your Committee finds that education reforms must continue throughout the State to inform those who are not aware of the significance of the sovereignty movement.

Your Committee has been informed that Hui Na'auao, a not-for-profit consortium of Hawaiian organizations has undertaken a massive education program under the auspices of a federal grant. However grant monies are restricted to use for educational purposes targeting Native Hawaiians. Since the Hui Na'auao presentations and workshops have been extremely well-received by all audiences, your Committee finds that it is in the best interests of the people of Hawaii, Hawaiian and non-Hawaiian alike, to be included in this type of comprehensive educational program.

Favorable testimony on this bill was received from the Office of State Planning (OSP), the Office of Hawaiian Affairs (OHA), Hui Na'auao, the Native Hawaiian Legal Corporation, Hui Kako'o, the Oahu Council of the Association of Hawaiian Civic Clubs, the Aged Hawaiians, and concerned citizens.

The OSP testimony raised a concern regarding the propriety of OSP as the expending agency for this particular appropriation. As a result, your Committee has amended the bill by designating OHA as the expending agency for purposes of continuing discussion as this measure moves through the legislative process.

Your Committee has also amended this bill to appropriate \$1 for each of the two succeeding fiscal years.

As affirmed by the record of votes by the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2098, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2098, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ihara, D. Ige and O'Kieffe.

**SCRep. 227                    Labor and Public Employment on H.B. No. 1660**

The purpose of this bill is to eliminate the option of imposing criminal penalties on employers who fail to report work injuries under Hawaii's workers' compensation law (Chapter 386, Hawaii Revised Statutes).

Under this measure, offenders would be subject to an administrative penalty of not more than \$1,000 only. Your Committee finds that the elimination of the criminal penalty would enable the Department of Labor and Industrial Relations to operate more efficiently in the future.

The Director of the Department of Labor and Industrial Relations testified in support of this measure. The ILWU Local 142 submitted testimony in opposition.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1660 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 228                    Labor and Public Employment on H.B. No. 1661**

The purpose of this bill is to clarify that circuit court may render judgments to enforce workers' compensation decisions made by the Director of Labor and Industrial Relations in awarding compensation, assessing a penalty, or both.

Your Committee finds that existing law may be interpreted to mean that judgments may only be rendered to enforce compensation awards only. This measure corrects this oversight so that judgements may be rendered to enforce penalties, as well as compensation awards.

The Director of the Department of Labor and Industrial Relations testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1661 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 229                    Labor and Public Employment on H.B. No. 1662**

The purpose of this bill is to eliminate the option of imposing criminal penalties under Section 386-94, Hawaii Revised Statutes. Section 386-94 subjects attorneys, physicians, and other health care providers to imprisonment or an administrative penalty, or both, for claiming fees that are not approved by the Director of Labor and Industrial Relations.

Under this measure, offenders would be subject to an administrative penalty of not more than \$10,000 only. Your Committee finds that the elimination of the criminal penalty would enable the Department of Labor and Industrial Relations to operate more efficiently in the future.

The Director of the Department of Labor and Industrial Relations testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1662 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 230                    Labor and Public Employment on H.B. No. 1659**

The purpose of this bill is to make housekeeping amendments to Hawaii's family leave law (Chapter 398, Hawaii Revised Statutes).

Specifically, this measure provides for the filing and investigation of complaints, an appeals process, remedies, penalties, and other provisions to enable the Department of Labor and Industrial Relations to effectively enforce and administer the law. Your Committee finds that this is a good bill and would ensure equitable treatment of both employees and employers under the law.

The Department of Labor and Industrial Relations submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1659 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 231                    Labor and Public Employment on H.B. No. 1895**

The purpose of this bill is to enable the surviving spouse and dependent children of a deceased, noncontributory plan member to qualify for Option B and Health Fund benefits, if the deceased member was eligible for retirement. Under current law, the surviving spouse and dependent children of a noncontributory member who worked for twenty or more years and died in service at age fifty-five or later, would not receive any Health Fund benefits because the member was not "retired" for Health Fund purposes. However, if the decedent were a contributory plan member, Health Fund benefits would be available to the decedent's family.

The Option B benefit in the noncontributory plan is similar to the Option 2 benefit, which is payable to the beneficiary of a deceased contributory plan member. The proposed amendment will make both retirement plans consistent.

The Director of the Department of Budget and Finance testified in support of this measure. The Hawaii Government Employees Association also requested favorable consideration of this bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1895 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 232                    Labor and Public Employment on H.B. No. 1626**

The purpose of this bill is to enable the Employees' Retirement System to conform with the federal law prohibiting the discrimination against older workers in all employee benefit plans by deleting references to age fifty-five.

The Director for the Department of Budget and Finance stated that this is an administration bill and housekeeping measure which will allow the Employees' Retirement System to conform with the new federal law. The Hawaii Government Employees Association testified in support of this measure to give the same ordinary disability retirement benefits to all contributory members.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1626 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 233                    Labor and Public Employment on H.B. No. 1896**

The purpose of this bill is to continue the investment yield rate of eight percent for the actuarial valuations of the State Employees' Retirement System (ERS) for fiscal years ending 1993 and 1994.

This investment yield rate is set by law, and the current investment yield rate of eight percent expired on June 30, 1992. The actuary and the Board of Trustees of the ERS recommended that the investment yield rate continue at eight percent. As a result, this housekeeping measure is necessary to continue the investment yield rate at the same level.

The ERS and the University of Hawaii Professional Assembly submitted testimony supporting the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1896 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 234                    Labor and Public Employment on H.B. No. 183**

The purpose of this bill is to include lifeguards within the provision of Chapter 88, thereby allowing them to enjoy a higher retirement benefit.

Your Committee finds that this legislation will:

- (1) Increase the annual retirement credit from 1.25% or 2% a year, to 2.5% for each year of lifeguard service;
- (2) Allow retirement after twenty-five years of service as a lifeguard, at any age;
- (3) Increase the employees' contributions from 7.8% to 12.2%;
- (4) Require current noncontributory class C members to become contributory class A members;
- (5) Require future lifeguards entering government service to become contributory class A members; and
- (6) Require lifeguards who elected to join the noncontributory plan in 1984 to repurchase their years of service in the noncontributory plan.

The Employees' Retirement System stated that if this bill is enacted into law, lifeguards would need to contribute almost twenty percent of their gross wages for retirement wages, which may be excessive. The City and County of Honolulu, Department of Parks and Recreation testified in support of this measure. The Hawaiian Lifeguard Association testified in support of this measure. Additionally, lifeguards also testified in support of this measure.

Your Committee has adopted the recommendation of the Employee Retirement System by making the following amendments:

- (1) Deleted the phrase "They shall file a statement with and arrange for additional deductions or lump sum payments to the board of trustees of the employees' retirement system pursuant to sections 88-45 and 88-59, Hawaii Revised Statutes." from Section 2 of the bill.
- (2) Clarified Section 3 of the bill to indicate that those lifeguards who are currently noncontributory class C members must commence payments by December 31, 1993.

As affirmed by the records of votes of the members of your Committee on Labor and Public Employment that are attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 183, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 183, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Alcon.

#### **SCRep. 235      Labor and Public Employment on H.B. No. 1242**

The purpose of this Act is to make permanent the formula for automatically calculating pensioners' bonuses based on years of retirement as established by Act 339, Session Laws of Hawaii 1990 ("Act 339").

Under Hawaii's Collective Bargaining Law (Chapter 89, Hawaii Revised Statutes), it has been the practice of the Legislature to grant retirants the same pay increases as employees in active service. Since the enactment of Chapter 89 until 1990, retirants have had to approach the Legislature to request pension adjustments.

It was the intent of the Legislature to repeal Act 339 after five years to allow the Legislature to review the impact of the automatic bonus provisions.

Testimony in support of the intent of this measure was submitted by the Employees' Retirement System, the State of Hawaii Organization of Police Officers, the Coalition of Hawaii State-Counties Retirees, and HGEA-AFSCME.

Upon further consideration, your Committee has amended this measure by extending the drop dead clause for five years so that Act 339 would be repealed June 30, 2000. This would provide more time for the Legislature to evaluate the impact of Act 339.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1242, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1242, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

#### **SCRep. 236      Labor and Public Employment on H.B. No. 1241**

The purpose of this bill is to allow the University of Hawaii Board of Regents to adopt an optional retirement plan for its employees. This plan will permit portability of benefits from one state or university to another. It will also permit the immediate vesting of benefits.

A representative of the Variable Annuity Life Insurance Company (VALIC) testified in support of this measure. The Employees' Retirement System stated that since the bill does not detail the alternate retirement plan, they are unable to comment on the pros and cons of such a plan.

Your Committee finds that this optional plan will help the University of Hawaii to compete with other universities in recruiting the best possible faculty, thereby providing quality education for the people of Hawaii.

Your Committee has amended Section 4 of this bill by deleting the phrase "upon its approval" and inserting "on July 1, 1994" as the effective date.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1241, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 237                      Labor and Public Employment on H.B. No. 930**

The purpose of this bill is to require the Board of Trustees of the Employees' Retirement System ("System") to establish a department within the System to communicate and provide information to its members.

Testimony in support of the intent of this measure was submitted by the Employees' Retirement System, the University of Hawaii Professional Assembly, the Hawaii State Teachers Association, the State of Hawaii Organization of Police Officers, and the Coalition of Hawaii State-Counties Retirees Association.

Your Committee has amended this measure by appropriating the sum of \$1 to be expended by the Employees' Retirement System, for the purposes of continued discussion, to effectuate the purposes of this bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 930, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 930, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 238                      Labor and Public Employment on H.B. No. 759**

The purpose of this bill is to provide a one-time early retirement incentive for state and county government employees who retire between September 1, 1993 to December 31, 1993. Specifically, this bill would provide a bonus of three years additional service credit to:

- (1) Retiring class A or B contributory members with at least 25 years of service regardless of age; or
- (2) Retiring class C noncontributory members with at least 30 years of service regardless of age.

Your Committee finds that this bill will reduce the current payroll costs of state and county governments by providing an early retirement incentive to affected employees. Specifically, this measure will:

- (1) Reduce, curtail, and limit employee compensation costs without imposing forced reductions in current staffing;
- (2) Maintain or increase the current level of employee productivity with the same or lesser compensation costs; and
- (3) Increase opportunities for lower- and middle-level employees to move upward by filling the vacancies created by senior employees who retire.

Testimony supporting the intent of this measure was submitted by the Employees' Retirement System, the Department of Education, the Hawaii State Teachers Association, the Public Employees Management Association of Hawaii, the University of Hawaii Professional Assembly, and concerned citizens. The Acting Director of Personnel of the City and County of Honolulu testified in opposition to this measure.

Your Committee has amended this measure by:

- (1) Allowing eligible individuals to take advantage of the early retirement incentive from September 1, 1993 to August 30, 1994;
- (2) Deleting the requirement that the member be eligible to retire even without the additional credit provided by the one-time early retirement bonus to clarify who would be eligible to take advantage of the incentive; and
- (3) Appropriating the sum of \$1 to pay for the early retirement incentive for the purposes of continued discussion.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 759, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as H.B. No. 759, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 239            Consumer Protection and Commerce on H.B. No. 1730**

The purpose of this bill is to prepare the State for accreditation by the National Association of Insurance Commissioners (NAIC). Specifically, this bill:

- (1) Conforms Hawaii's insurance laws to minimum financial regulatory standards; and
- (2) Increases annual insurer license fees from \$200 to \$550 (the funds from which are deposited into the Insurance Examiners' Revolving Fund) to provide the Insurance Division of the Department of Commerce and Consumer Affairs with additional resources for examiners, administrative support personnel, and equipment.

Supportive testimony was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs (Insurance Division), the Hawaii Insurers Council, the American Council of Life Insurance, the Hawaii Association of Domestic Life Insurers, and the Hawaii Association of Life Underwriters.

Your Committee notes that by revising Hawaii's insurance laws to meet the accreditation standards of the NAIC, the provisions of this bill will provide enhanced regulatory scrutiny and safeguards to better protect consumers from the financial hardship and trauma of insurer insolvency.

After much discussion and deliberation, your Committee is in accord with the intent of this bill. However, your Committee notes that:

- (1) Six positions for technical staff, and three positions for clerical staff within the Insurance Division were eliminated due to severe departmental fiscal constraints;
- (2) The aforementioned positions were established by the Sixteenth Legislature of 1992 specifically to ensure that the Insurance Division would be able to meet NAIC accreditation standards for the financial surveillance and regulation of insurers;
- (3) Amendments are needed to ensure that the revenues generated from increases in annual insurer license fees will be used to fund the forgoing nine positions;
- (4) Additional revisions are also needed to conform Section 15 of the bill to the Holding Company model law.

In light of this, your Committee has amended this bill as follows:

- (1) Clarified provisions to ensure that revenues generated from increased annual insurer fees will be used for the establishment of six positions for technical staff, and three positions for clerical staff within the Insurance Division;
- (2) Conformed Section 15 to the Holding Company model law; and
- (3) Made technical, nonsubstantive revisions for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1730, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral, Cachola and Oshiro.

**SCRep. 240            Consumer Protection and Commerce on H.B. No. 1884**

The purpose of this bill is to exempt the Chief Engineer and Assistant Chief Engineer positions within the Hawaii Public Broadcasting Authority from civil service requirements.

Supportive testimony was submitted by the Hawaii Public Broadcasting Authority (HPBA).

Your Committee finds that the HPBA functions in a demanding technological environment in which the job requirements of both the Chief and Assistant Chief Engineer positions are continually changing. Because of this, it is vital for the HPBA to have the flexibility to compete for and retain individuals that can keep up with this changing environment. Furthermore, in order to attract and retain qualified individuals, it will be necessary to negotiate pay levels which may exceed those allowed under the civil service system.

The HPBA has also informed your Committee that any increases in salary will be absorbed within the HPBA's current budget allocation.



In light of this, your Committee believes that the provisions of this bill will enhance the performance of the HPBA, and thus ensure the provision of quality television programming services to the people of the State of Hawaii.

While your Committee is in accord with the intent of this bill, upon careful consideration, your Committee has amended this bill by making technical, nonsubstantive revisions for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1884, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1884, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral, Cachola and Oshiro.

**SCRep. 241 Consumer Protection and Commerce on H.B. No. 448**

The purpose of this bill is to evaluate the operations of Hawaii's property insurance laws by appropriating funds for a closed claim study of property damage claims on homeowners' insurance policies settled between September 1992 and September 1993.

Testimony was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs.

Your committee finds that massive property damage claims on homeowners' policies due to Hurricane Iniki have threatened the stability of Hawaii's insurance industry, as well as jeopardized the welfare of the people of the State of Hawaii. While your committee recognizes the need to provide immediate assistance to the victims of Hurricane Iniki, your committee asserts that due to the complexity of issues surrounding property insurance and the magnitude of damage inflicted upon the Island of Kauai, additional information is needed to insure that future legislation will be responsive to the needs of the consuming public.

After much discussion and deliberation, your Committee is in accord with the intent of this bill. However, your Committee notes that:

- (1) Because a credible study would be voluminous and time-consuming, such a study could not be conducted within the limited resources of the Insurance Division and would, therefore, have to be contracted to a consultant for a substantial fee; and
- (2) In order to gain a clearer understanding of the problems associated with property damage claims on the Island of Kauai, additional information regarding building codes, the Federal Emergency Management Administration's (FEMA) role in relief efforts, and the effects of "price gouging" on the number and magnitude of property damage claims is needed;

Accordingly, your Committee has amended this bill by:

- (1) Requiring the Legislative Auditor, in conjunction with the Insurance Commissioner, to conduct the aforementioned study;
- (2) Expanding the scope of the study to include:
  - (A) The collection and analysis of data pertaining to property damage claims filed with the Federal Emergency Management Administration;
  - (B) A determination of whether structural defects in building codes have impacted the ability of insurers to acquire reinsurance coverage; and
  - (C) A determination of whether "price gouging" for construction materials has led to an increase in the number and magnitude of property damage claims;
- (3) Revising the purpose clause in Section 1 to reflect the foregoing amendments; and
- (4) Making technical, nonsubstantive revisions for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 448, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 448, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Oshiro and Takamine.

**SCRep. 242 Consumer Protection and Commerce on H.B. No. 1156**

The purpose of this bill is to amend the Hawaii Revised Statutes to allow Financial Services Loan Companies (FSLCs), insured by the Federal Deposit Insurance Corporation (FDIC), to receive short-term investments, under security repurchase agreements, from the State of Hawaii. It would also permit insurers to deposit its own funds with FSLCs insured by the FDIC, and allow licensed insurance general agents, subagents, solicitors, and adjustors, acting as trustees, to deposit premiums and return premiums funds with federally-insured Financial Services Loan Companies.

Supporting testimony was received from the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs and the Hawaii Financial Services Association, Inc.

Testimony revealed that deposits in FSLCs are insured by the FDIC to the same extent as deposits in bank and savings and loan associations. In addition, Financial Services Loan Companies would enable depositors to obtain the best possible return for their deposited funds.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1156 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor and Takamine.

**SCRep. 243                      Consumer Protection and Commerce and Judiciary on H.B. No. 1885**

The purpose of this bill is to provide for the self-sufficiency of the Department of Commerce and Consumer Affairs' Business Registration Division, Professional and Vocational Licensing Division, and Regulated Industries Complaints Office, as well as the Central Service offices which support these operations. The bill also allows the department to appoint exempt program specialists, appoint advisory committees to assist the boards and commissions attached to the department, and change the title of department hearings officers to administrative law judges. Finally, the bill permits the department to change license renewal dates, and provides that fees and fines collected pursuant to the charitable solicitation laws be deposited in the department's compliance resolution fund.

Testimony in support of the bill was received from the Department of Commerce and Consumer Affairs.

Your Committees understand that this bill would provide the department with the flexibility to rearrange license renewal workloads, permit some of its divisions to become self-supporting through licensee or applicant fees, provide the department with flexibility in the handling of program specialist positions, and allow the department to expand upon the use of advisory committees. However, your Committees expressed concern that changing the title of hearing officers to administrative law judges implies an expanded grant of powers to such persons when no such result is effected by this change, and therefore, could mislead the public.

Accordingly, your Committees have amended this bill by deleting its references to administrative law judges, and retaining the title of hearing officer for those persons appointed to preside over the department's administrative hearings.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1885, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1885, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Cachola, Hiraki and Oshiro.

**SCRep. 244                      Consumer Protection and Commerce and Energy and Environmental Protection on H.B. No. 1029**

The purpose of this bill is establish within the Department of Budget and Finance a pest control education fund to provide educational programs for the pest control industry and the public.

Your Committees are in agreement that new technology and legal requirements in the highly technical area of structural pest control treatment necessitate continuing education for pest control operators. Further, your Committees recognize that education of the general public serves the interests of public safety and consumer awareness.

Supporting testimony for the education fund was received from the Hawaii Pest Control Association. The State Pest Control Board also submitted testimony favoring the establishment of such a fund, but raised concerns that the bill did not clearly provide for the fund's establishment and administration, created confusion by establishing the fund with the Department of Budget and Finance, and contained superfluous language regarding the categories of licensees required to contribute to the fund.

Accordingly, your Committees have amended this bill by:

- (1) Providing that the fund shall be implemented and administered by the State Pest Control Board within the Department of Commerce and Consumer Affairs, in accordance with rules adopted pursuant to Chapter 91 of the Hawaii Revised Statutes;
- (2) Stipulating that the amount of the education fund fee shall be determined jointly by the Pest Control Board and the Director of the Department of Commerce and Consumer Affairs pursuant to administrative rule;
- (3) Clarifying that monies deposited in the fund shall be used to carry out the purposes of the pest control education fund;
- (4) Deleting the phrase "excluding those of responsible managing employee applicants" from the provision defining those licensees required to contribute to the fund;

- (5) Clarifying that the fees required to be paid prior to license restoration shall include, where applicable, the education fund fee; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1029, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1029, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Hiraki, Hirono, Oshiro and Peters.

**SCRep. 245                    Higher Education and the Arts and Education on H.B. No. 2060**

The purpose of this bill is to require the University of Hawaii to transfer land to the Department of Education to provide for a new district library in Manoa.

Your Committees received testimony in favor of this bill from the State Librarian, the District Administrator of the East Oahu Library District, the Branch Manager of the Manoa Public Library, the Principal of the Noelani Elementary School in Manoa, and a number of residents and community leaders in Manoa. The University of Hawaii testified in opposition to the bill.

Based on the public testimony, your Committees believe the Manoa community is in great need of a larger library facility, and that the land currently occupied by the University of Hawaii's fruit fly laboratory is an appropriate location for that facility. Your Committees note that the State Librarian has offered to work with the University of Hawaii in finding a new site for the fruit fly laboratory, possibly at the old library site.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2060 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Duldulao, Shon and Yonamine.  
(Representative Hagino voted no.)

**SCRep. 246                    Higher Education and the Arts and Health on H.B. No. 1025**

The purpose of this bill is to appropriate funds to establish a graduate program in family practice at the John A. Burns School of Medicine.

Testimony was received from the University of Hawaii, Hawaii Medical Association, Wahiawa General Hospital and members of the medical community.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1025 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Shon, Taniguchi and Yonamine.

**SCRep. 247                    Higher Education and the Arts on H.B. No. 1703**

The purpose of this bill is to bring the provisions of the State Higher Education Loan Fund into line with the provisions of the federal Perkins Loan Program by expanding eligibility requirements to include half-time students and by setting lending limits equivalent to the federal limits.

The University of Hawaii testified in favor of the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1703 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Duldulao, M. Ige, Shon and Taniguchi.

**SCRep. 248                    Higher Education and the Arts on H.B. No. 1742**

The purpose of this bill is to make interest rates under the State Higher Education Loan Fund equal to the interest rates charged by the federal Perkins Loan Program and to permit the university to charge late fees and reasonable collection costs on delinquent loans.

The University of Hawaii testified in favor of the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1742 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Duldulao, M. Ige, Shon and Taniguchi.

**SCRep. 249 Higher Education and the Arts on H.B. No. 1920**

The purpose of this bill is to permit the University of Hawaii to draw cash advances from the State Treasury in order to meet working capital requirements.

The University of Hawaii testified in favor of the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1920 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Duldulao, M. Ige, Shon and Taniguchi.

**SCRep. 250 Higher Education and the Arts on H.B. No. 1930**

The purpose of this bill is to exempt certain alumni affairs activities from the statutory competitive bidding requirements.

Testimony was received from the University of Hawaii and members of the community.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1930 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Duldulao, M. Ige, Shon and Taniguchi.

**SCRep. 251 Higher Education and the Arts on H.B. No. 1204**

The purpose of this bill is to appropriate funds for a shuttle bus service to transport students between the University of Hawaii Manoa campus and the Manoa park-and-ride site.

Testimony was received from the University of Hawaii, The Associated Students of the University of Hawaii at Manoa and the chairperson of the Manoa Neighborhood Board.

Your Committee finds the aims of this bill worthwhile, but recognizes the need for budgetary restraint. Accordingly, your Committee has amended the bill by appropriating the sum of \$1 for the fiscal year 1993-1994.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1204, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chumbley, D. Ige, M. Ige, Takumi and Yonamine.

**SCRep. 252 Higher Education and the Arts on H.B. No. 1818**

The purpose of this bill is to appropriate funds for personnel and operation costs at the Center for Hawaiian Language Curriculum Research and Development at the University of Hawaii at Manoa.

Testimony was received from the University of Hawaii, Office of Hawaiian Affairs and representatives of several community groups.

Your Committee finds the aims of this bill worthwhile, but recognizes the need for budgetary restraint. Accordingly, your Committee has amended the bill by appropriating the sum of \$1 for the fiscal year 1993-1994.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1818, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Duldulao, M. Ige, Taniguchi and Yonamine.

**SCRep. 253 Higher Education and the Arts on H.B. No. 2**

The purpose of this bill is to provide tuition waivers to the spouse and dependents of Hawaii National Guard personnel killed or permanently disabled while on active duty.

The University of Hawaii and members of the Hawaii National Guard testified in favor of the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Shon, Taniguchi and Yonamine.

**SCRep. 254 Higher Education and the Arts on H.B. No. 1364**

The purpose of this bill is to establish a revolving fund for the Conference Center Program at the College of Continuing Education and Community Service at the University of Hawaii at Hilo.

The University of Hawaii testified in favor of the bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1364 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Shon, Taniguchi and Yonamine.

**SCRep. 255 Legislative Management on H.B. No. 772**

The purpose of this bill is to broaden the duties of the State Ethics Commission to include the conducting of annual seminars on statutes and regulations governing the conduct of elected officials, relevant ethical issues, and statutes relating to lobbying.

The State Ethics Commission testified that there is no need to require annual seminars for ethics. However, the State Ethics Commission recommended that it would support an amendment allowing it to initiate and maintain an educational program for lobbyists.

The League of Women Voters of Hawaii, the Eagleton Institute of Politics, and the Josephson Institute of Ethics submitted testimony supporting the intent of this bill. The Aloha Society Association of Executives submitted testimony in opposition.

Upon further consideration, your Committee has amended this measure to delete the substance thereof and instead adopt the recommendations of the State Ethics Commission to allow the State Ethics Commission to initiate and maintain an educational program on matters of ethics for lobbyists.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 772, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 772, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Okamura, Souki and O'Kieffe.

**SCRep. 256 Legislative Management on H.B. No. 1384**

The purpose of this bill is to require the State Auditor to perform a comprehensive audit of each grant recipient and purchase of service provider under Chapter 42D, Hawaii Revised Statutes, at least once every five years.

Although the State Auditor supported the intent of this measure, the Auditor testified that this office would be unable to comply because of inadequate staff and resources. Instead, the Auditor recommended that it may be appropriate for the Legislature to review the functions and tasks assigned to that office to determine whether legislative needs have changed sufficiently to merit adjusting the State Auditor's existing responsibilities.

Several public citizens also voiced concerns about this measure.

Based on the recommendations of the State Auditor, your Committee has amended this measure so that the State Auditor may conduct sunset evaluations, instead of being required to conduct such evaluations by law.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1384, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1384, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Okamura, Souki and O'Kieffe.

**SCRep. 257                    Legislative Management on H.B. No. 2074**

The purpose of this bill is to update the maximum per diem allowance, for State officials or representatives traveling abroad on official State business, so that the maximum per diem for out-of-State travel would be \$130 per day and \$80 per day, for interisland travel.

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

- (1)        Allowing a State official or representative, who receives the approval of a department head, the Comptroller, a presiding officer of the Legislature, or the Governor, to travel abroad for State official business, to receive a per diem allowance to cover all personal expenses, excluding transportation expenses; provided that the per diem allowance does not exceed the maximum allowance payable to any public officer or employee pursuant to any other law, rule, or collective bargaining agreement in effect at the time of travel; and
- (2)        Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2074, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki and O'Kieffe.

**SCRep. 258                    Human Services and Health on H.B. No. 657**

The purpose of this bill is to appropriate funds for the establishment of a family center in the Hauula area on the island of Oahu, based on the family center demonstration project concept.

Testimony from Kahuku Hospital, Hauula Community Association, Ko'olauloa Community Council, Hawai'i Community Services Council, and numerous individuals from Kahuku High and Intermediate School was received in strong support of this measure. The Department of Human Services submitted testimony in support of the intent of this measure, but could not support the bill as written.

Concern was raised that a bill may not be the proper vehicle to establish family centers for a particular site. It is noted that due to the geographical location of Hauula, and the lack of health and human services to the residents of the area, a community-based family center is urgently needed. The residents have an earnest desire to help themselves in the way that the Family Center Project has already helped citizens of the State.

Your Committee is in full support of the intent of this measure, and has amended it to appropriate one dollar for the purposes of further discussion.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 657, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 657, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ihara and Peters.

**SCRep. 259                    Human Services on H.B. No. 62**

The purpose of this bill is to establish the offense of unlawful entry upon the premises of a facility utilized as a sex abuse, child abuse, or spouse abuse shelter. It prohibits any person to knowingly enter or unlawfully remain upon the premises of a facility after reasonable warning, or request to leave by a facility staff member. This measure makes violations a misdemeanor.

Testimony from the Department of the Prosecuting Attorney, of the City and County of Honolulu was received in full support of this measure.

Your Committee is in full support of this measure, which would provide more legal protection to keep the shelters a safe place for those who seek personal safety.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 62 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 260                    Human Services on H.B. No. 151**

The purpose of this bill is to appropriate monies to provide counseling services to victims of family violence; including sexual assault, domestic violence, and child abuse. This measure is in response to a resolution adopted at the 1992 State Democratic Convention.

Testimony from the Honolulu Police Department and various individuals was received in strong support of this measure. The Department of Human Services support the intent of this measure, but could not support funding that would exceed the Executive biennium budget request.

It is noted that domestic abuse is a problem in Hawai'i that needs immediate attention. It is a crime with serious consequences for the entire family, thus making adequate counseling services a necessity. These services play a vital role in reducing the subsequent emotional and psychological trauma experienced by victims. If left untreated, this trauma may result in life long problems.

Upon further consideration, your Committee has amended this bill by appropriating one dollar for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 151, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 261                      Human Services on H.B. No. 1322**

The purpose of this bill is to statutorily establish multidisciplinary teams statewide, and provide for the development and implementation of mandatory teaming.

Testimony from the Kapiolani Medical Center for Women and Children, American Academy of Pediatrics, Child Protection Team of West Hawaii, and the Hawaii Psychological Association was received in strong support of this measure. The Department of Human Services submitted testimony in opposition to this measure.

It is noted that there is a possibility to accomplish the intent of this bill through amendments in the child protective services rules of the Department of Human Services. It is also noted that cases of child abuse and neglect have increased significantly in recent years, as did the demand for social workers to develop a combination of experience and education that would qualify them to make life and death decisions. Thus, a multidisciplinary approach has become essential in dealing with the complexity of certain cases of abuse and neglect in order to effectively protect the children of the State of Hawaii.

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

- (1) redefining the purpose of this Act to establish multidisciplinary teams statewide and provide for the development and implementation of mandatory teaming;
- (2) deleting references to specific types of cases that would be referred to the multidisciplinary teams, due to the fact that a myriad of scenarios is possible, and limiting the jurisdiction of the teams may be harmful to abused and neglected children;
- (3) describing the composition of the multidisciplinary teams; and
- (4) designating the department of human services as having monitoring power over the multidisciplinary teams.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1322, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1322, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 262                      Human Services on H.B. No. 2024**

The purpose of this bill is to eliminate the Board of Vocational Rehabilitation Services currently constituted as specified in section 26-14, Hawaii Revised Statutes, and to set up councils as required under the Federal Rehabilitation Act Amendments of 1992.

Testimony from the Department of Human Services and the Commission on Persons with Disabilities was received in strong support of this measure.

It is noted that currently, the Board of Vocational Rehabilitation does not meet the requirements of federal law.

Your Committee is in full support of the purpose and intent of this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2024 and recommends that it pass Second Reading and be referred to the Committee on Finance.



Signed by all members of the Committee except Representatives Ihara and Peters.

**SCRep. 263                    Human Services on H.B. No. 1646**

The purpose of this bill is to provide for the establishment of an imprest fund, effective July 1, 1993. This fund is designed to provide eligible applicants and recipients of the education, training, and employment programs with work related or emergency cash assistance. This method is used where usual methods of assistance are not viable.

Testimony from the Department of Human Services and the Committee on Welfare Concerns was received in strong support of this measure.

It is noted that the establishment of an imprest fund would provide the JOBS Program with needed flexibility in meeting the needs of the participants and their families. Also, the inclusion of work-related expenses is important in assuring that individuals in the JOBS and other work programs begin, or continue, any job training or placement as part of the road to economic self-sufficiency.

Your Committee is in full support of this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1646 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 264                    Human Services on H.B. No. 1095**

The purpose of this bill is to appropriate funds to continue personal care services for disabled individuals who need assistance with bathing, grooming, and other personal activities.

Testimony from the Kokua Council for Senior Citizens and Hawaii Centers for Independent Living was received in strong support of this measure. The Department of Human Services submitted testimony in favor of the intent of this measure, but was unable to support funding that would exceed the Executive biennium budget request.

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

- (1) changing the eligibility level to qualify for aid from 120% of the federal poverty level in Hawaii to 300% of the federal poverty level in Hawaii; and
- (2) appropriating one dollar for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1095, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1095, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 265                    Human Services on H.B. No. 1758**

The purpose of this bill is to extend the family center demonstration project until June 30, 1995. It directs the Family Center Council to develop a plan for making the project permanent. It also requires the evaluation component of the project to include information about lessons learned from the family center concept, and an assessment on how the project has changed the human services system.

Testimony from the Department of Human Services, and numerous other agencies and individuals was received in overwhelmingly strong support of this measure.

Your Committee is in full support of this measure.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1758 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters and O'Kieffe.

**SCRep. 266                    Energy and Environmental Protection and Intergovernmental Relations and International Affairs on H.B. No. 1951**

The purpose of this bill is to declare the State's commitment to a policy of rigorous environmental protection and enforcement of Hawaii's environmental laws by establishing a new Department of Environmental Protection. This bill would transfer the major environmental management programs currently administered by the Department of Health. The

transfer would be accomplished by July 1, 1995, thereby allowing adequate time to work out the functional problems which may arise with such a move.

Your Committees find that past objections to the establishment of such a department was the added required cost. Such concerns are legitimate, especially this session due to the gloomy forecast for the State's overall economy. At the same time, your Committees further find that the Department of Health is proposing separate user legislation to raise additional funds through a package of user fees. If approved, these fees would go a long way in making both the Department of Health and the Department of Environmental Protection self-sufficient and having to rely less on the general fund. Accordingly, your Committees find that the creation of a new Department of Environmental Protection need not necessarily require a significant increase in general fund appropriations.

The Department of Health and the Hawaii Sugar Planters' Association both supported this bill with suggested amendments. Upon further consideration, your Committees have amended this bill as follows:

- (1) Requiring the Department to coordinate, rather than define, the roles and responsibilities of all affected agencies in carrying out environmental quality goals and objectives (page five);
- (2) Deleting the requirement that the Department undertake various scientific investigation and research on environmental issues; instead, the Department would encourage such activities (page six);
- (3) Deleting the requirement that the Department of Health regulate sources of nonionizing radiation as well as fumigation (page 19 and 20);
- (4) Requiring the Department of Health to regulate sources of noise pollution (page 20);
- (5) Inserting additional sections of the Hawaii Revised Statutes to Section 11 relating to the replacement of references to the Director of Health with the Director of Environmental Protection (page 25); and
- (6) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1951, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1951, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Alcon, Hirono, Shon, Takamine and Ward.

**SCRep. 267      Agriculture; Energy and Environmental Protection; and Intergovernmental Relations and International Affairs on H.B. No. 563**

The purpose of this bill is to direct the Department of Agriculture (DOA) to convene a conference between the State and the appropriate federal agencies to negotiate and arrange for the development of a pest control and research and development center (center) of the Pacific on the island of Hawaii. The center would be developed with federal funds to house State and federal agricultural agencies involved in conducting research on alternatives to pesticide use of agricultural products. The bill also appropriates funds to assist the DOA in negotiating and arranging for the development of the center.

Your Committees received testimony in support of the bill from the Council of the County of Hawaii and testimony in support of the concept of the center from the DOA. Your Committees also received testimony from the Dean of University of Hawaii's College of Tropical Agriculture and Human Resources.

Upon consideration, your Committees have amended the bill by:

- (1) Directing the DOA to develop a pest control and research and development center of the Pacific, rather than directing the DOA to negotiate the development of the center;
- (2) Specifying that the development of the center shall be with federal and state funds;
- (3) Deleting references that directs the DOA to convene a conference between the State and the appropriate federal agencies to negotiate and arrange for the development of the center;
- (4) Requiring the DOA to submit:
  - (a) A summary report on the progress and status of the efforts taken to develop the center no later than twenty days before the convening of the Regular Session of 1994; and
  - (b) Subsequent status reports on a regular basis on the progress to develop the center;
- (5) Authorizing the Department of Finance to issue \$3,000,000 in general obligation bonds for land acquisition, plans, design, and construction for the development of the center; provided that the federal government provides a dollar for dollar match of funds for the purpose of which the sum is authorized;

- (6) Appropriating the sum of \$1 for continued discussion regarding funding to acquire a linear accelerator for disinfection purposes; provided that the federal government provides a dollar for dollar match of funds for the purpose of which the sum is appropriated; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Agriculture and Energy and Environmental Protection and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 563, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 563, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino, Ishii-Morikami, Shon, Takamine, Tam, Thielen and Ward.

**SCRep. 268                      Economic Development and Business Concerns on H.B. No. 635**

The purpose of this bill is to amend the general excise tax law to provide that where the taxable transaction occurred in more than one taxation district, returns are to be filed in the district for the City and County of Honolulu.

Your Committee on Economic Development and Business Concerns finds that because there is no longer a mechanism for each county to enact a variable general excise tax, the added burden of reporting by districts is unnecessary and should be eliminated. This measure would simplify record-keeping and reporting of the general excise tax, as well as simplify the record-keeping of the State Tax Department.

Favorable testimony about this bill was received from the Department of Taxation, the Chamber of Commerce of Hawaii, and the Tax Foundation of Hawaii.

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

Signed by all members of the Committee except Representatives Cachola, D. Ige and M. Ige.

**SCRep. 269                      Economic Development and Business Concerns on H.B. No. 1605**

The purpose of this bill is to grant the Director of the Department of Business, Economic Development, and Tourism (DBEDT) the authority to appoint three necessary staff persons to properly administer the Community-Based Development Program and fund.

Favorable testimony on this measure was received from DBEDT.

Your Committee finds that the authority to appoint necessary staff was not provided in the enabling legislation. However, the program needs to appoint three staff members to administer the program because of the strong interest shown by community groups. Your Committee also finds that the language of the added paragraph may imply that the persons appointed could be regarded as permanent staff positions.

Accordingly, your Committee has amended this measure to emphasize the Legislature's intent that those three persons shall be employed only so long as the Community-Based Development Program shall continue. Your Committee has also amended this measure by deleting the word "economic" from page 3, line 5, of paragraph 12 to correctly designate the program in question.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1605, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1605, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives D. Ige and M. Ige.

**SCRep. 270                      Economic Development and Business Concerns on H.B. No. 1625**

The purpose of this bill is to make technical, nonsubstantive changes to the Hawaii Telecommunications and Information Industries Act by amending sections 206P-1, 206P-2, 206P-4, 206P-5, 206P-6, 206P-7, 206P-8, 206P-9, 206P-10, and 206P-11, Hawaii Revised Statutes (HRS).

Your Committee notes that this bill is intended as a housekeeping measure. The proposed changes include:

- (1) Deleting the definition of "Hawaii business" since it is not used within the chapter;
- (2) Substituting "Hawaii INC" with "HAWAII INC", "data base" with "database", "regulations" with "rules", and "contract" with "contracts"; and
- (3) Naming the special account in Section 206P-7, HRS, as the Hawaii Information Network Special Fund.

HAWAII INC testified in strong support of the measure.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1625 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives D. Ige and M. Ige.

**SCRep. 271                      Economic Development and Business Concerns on H.B. No. 1975**

The purpose of this bill is to appropriate funds to provide information on governmental relief efforts initiated in response to the closure of Hamakua Sugar Company.

Your Committee received testimony from the Department of Business, Economic Development, and Tourism.

Upon consideration, your Committee has amended this bill by:

- (1)        Decreasing the appropriation sum from \$10,000 to \$1 for the purposes of continued discussion to arrive at an appropriate sum to carry out the purposes of the measure; and
- (2)        Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1975, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1975, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives D. Ige, M. Ige and Tam.

**SCRep. 272                      Economic Development and Business Concerns on H.B. No. 1602**

The purpose of this bill is to repeal Chapter 208, Hawaii Revised Statutes, known as the Depressed Areas Redevelopment Act.

Your Committee received favorable testimony on this bill from the Department of Business, Economic Development, and Tourism (DBEDT). DBEDT indicated that Chapter 208 was enacted in 1961 in response to a federal relief program that offered funds to states that declared any district in its jurisdiction as a "depressed area." The federal program mentioned above has since been discontinued. There are adequate existing programs and funding sources in the event that specific areas became economically distressed. This measure is simply a housekeeping measure.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1602 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 D. Ige and M. Ige.

**SCRep. 273                      Energy and Environmental Protection on H.B. No. 1999**

The purpose of this bill as received is to amend the current legislation which took effect in 1978 and is now outdated. This bill incorporated current building efficiencies standards for building design and construction and lighting, promulgated by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) into the law. The bill also striked from the existing list of buildings with low energy use, i.e., residents not centrally air conditioned.

Testimony in favor of this bill was provided by the Department of Business Economic Development and Tourism, the City and County of Honolulu, and the Hawaiian Electric Company, Inc.

The Committee singled out the bills provision to allow home rule for the neighbor islands, which have significant differences in building codes than metropolitan Honolulu. The provision allows the counties latitude and exemptions to the building code in how they can achieve energy savings. The Committee of Energy and Environmental Protection passed this bill with no amendments.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1999, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1999, and be placed on the calendar for Third Reading.

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

**SCRep. 274                      Energy and Environmental Protection on H.B. No. 2040**

The purpose of this bill is to require generators, transporters, and treatment, storage and disposal facilities to notify the Department of Health directly in lieu of the U.S. EPA, of their hazardous waste activities and to receive an EPA Identification Number.

The Department of Health and the Sierra Club, Hawaii Chapter testified in favor of this bill although both suggested amendments.

Your Committee accepted the proposed amendments of DOH which requested additional information on the notification forms used by people handling hazardous wastes. They did not accept the request by the Sierra Club to remove or modify the exclusion of generators of hazardous waste producing less than one hundred kilograms per month.

The Chair recognizes the need to address the problem of smaller generators of hazardous waste but faced with the realities of the DOH's funds and staffing levels feels it is unrealistic for them to enforce this restriction now. As time goes by however, the Committee hopes to revisit this issue for the Committee recognizes smaller generators are also important sources of pollution.

Your Committee believes this is an important bill to help Hawaii achieve delegated status with the EPA. When Hawaii becomes an authorized state the Department of Health will receive direct notification from hazardous waste producers, which will allow them to deal with notification problems on a local level rather than through the EPA.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2040, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2040, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hirono.

**SCRep. 275                      Labor and Public Employment on H.B. No. 1663**

The purpose of this bill is to enable the Department of Labor and Industrial Relations to determine the amount of the Workers' Compensation Special Compensation Fund assessment and receive funds directly from self-insured employers.

Your Committee finds that, currently, these assessments are collected by the Department of Commerce and Consumer Affairs. This bill will streamline the entire collection process.

Your Committee received favorable testimony from the Department of Labor and Industrial Relations.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1663 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 276                      Labor and Public Employment on H.B. No. 1741**

The purpose of this bill is to provide the State's civil service appointing authorities the flexibility to offer experienced professionals or administrators starting salary rates above entry level in recognition of their qualifications.

Your Committee finds that the current civil service system was based on the premise that all employees would be hired at the entry level, continue working for the same employer, and move upward during their careers. In recent years, a lifelong career with a single employer is no longer the preferred or most common practice for professional employees. In addition, with the rapidly changing environment, labor shortage, and skills shortage, appointing authorities have been at a competitive disadvantage with the private sector.

The Department of Personnel Services submitted testimony supporting this measure. The Department of Personnel of the City and County of Honolulu submitted testimony in opposition because it had serious concerns with respect to the major change in proposed government pay policy. According to their testimony, such a qualification-based system would be detrimental to employee morale and difficult to administer.

Your Committee understands the importance of providing appointing authorities increased flexibility in attracting the "best and the brightest" to civil service. At the same time your Committee understands the concerns raised by the City and County of Honolulu.

Consequently, your Committee has amended this measure by providing appointing authorities with additional hiring flexibility for a limited time only. Although this measure would take effect on September 1, 1993, it would be repealed on July 1, 1996.

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

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1741, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1741, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 277 Labor and Public Employment on H.B. No. 1900**

The purpose of this bill is to amend Section 383-65, Hawaii Revised Statutes, to permit non-charging of benefits to an employer reserve account in cases where unemployment is caused by a major disaster declared in accordance with the provisions of the Stafford Disaster Relief and Emergency Assistance Act.

Your Committee finds that the current Hawaii Employment Security Law provides that unemployment benefits paid to individuals will be charged against an employer's reserve account, unless specifically exempted under the statute. As more benefits are charged to the employer's reserve account, the balance is lowered, which increases the employer's tax liability. All non-charged benefits are considered indirect or pooled costs from the unemployment insurance trust fund, which do not affect individual employer reserve accounts until higher tax schedules are triggered by lower fund levels.

Non-charging of benefits is consistent with federal law where the individual worker's unemployment is the result of the worker's own action or of conditions beyond the control of the employer. Non-charging of benefits paid with respect to unemployment directly due to a major disaster is compatible with the United States Department of Labor's position on acceptable non-charging.

Your Committee received favorable testimony on this bill from the Department of Labor and Industrial Relations.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1900 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 278 Labor and Public Employment on H.B. No. 1665**

The purpose of this bill is to amend the Occupational Safety and Health Law under Chapter 396, Hawaii Revised Statutes (HRS), to make it more consistent with federal law.

Your Committee finds that the Occupational Safety and Health Law of 1972 included provisions prohibiting the discharge, suspension, or any other discrimination against an employee for refusing to engage in unsafe work practices. However, due to subsequent amendments, there are shortcomings in the law as presently written that may afford unintended protections.

First, Section 396-8(e)(1)(B), and (C), HRS, does not distinguish between circumstances that may present actual danger to the health or safety of an employee, and minor administrative and technical violations that present no danger to an employee. At present, the possibility exists that an employee could refuse to work whenever a minor recordkeeping, posting, or other administrative rule is violated and still be protected by the law. Your Committee finds that this was not the intent of the Federal OSH Act of 1970, nor the Hawaii law.

Second, the development of case law since the enactment of the OSH Act has not only affirmed that an employee's refusal to engage in unsafe work is protected activity under the law, but has also clarified the limitations, remedies, and types of activity that are protected under the law. As written, the Hawaii law on refusal to work is different than the Federal law upon which case law has developed.

Third, at the direction of the Federal Occupational Safety and Health Administration, the Department of Labor and Industrial Relations must rewrite and expand its administrative rules governing the conduct and investigation procedures for handling discrimination cases. Amending the law to more closely reflect the Federal law would allow the Department to promulgate rules that would place it on a surer legal foundation.

Your Committee received favorable testimony on this bill from the Department of Labor and Industrial Relations.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1665 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 279 Labor and Public Employment on H.B. No. 1664**

The purpose of this bill is to amend Chapter 396, Hawaii Revised Statutes (HRS), by defining wilful violations and serious violations.

Your Committee finds that both the Federal Occupational Safety and Health Act of 1970 and the Hawaii Occupational Safety and Health Law of 1972, lack a clear definition of the term "wilful." This lack of a precise definition makes it difficult for employers to understand the gravity and nature of such violations when they are cited, and creates difficulty for the Department's compliance inspectors when determining whether or not a violation is wilful. This lack of understanding has created a greater administrative burden on the Department of Labor and Industrial Relations.

The definition of wilful included in this bill is grounded in case law that has developed over the past twenty years with regard to wilful violations. The definition of serious violation was formerly found in Section 396-10(k), HRS. It is being moved, word-for-word, into Section 396-3 for clarity.

Your Committee received favorable testimony on this bill from the Department of Labor and Industrial Relations.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1664 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 280                      Ocean Recreation and Marine Resources and Energy and Environmental Protection on H.B. No. 1671**

The purpose of this measure is to prohibit the release of non-native fish or other aquatic life into any waters of the State in order to protect the State's native species.

Your Committees on Ocean Recreation and Marine Resources and Energy and Environmental Protection find that many alien fish and other aquatic life have been released into the State's waters, where they have established thriving populations and are competing with or displacing native species. Your Committees further find that most of the alien species in Hawaii's waters originate from releases of aquarium fish by their owners and from releases of aquatic life used for scientific study, exhibition, display or sale, and that there are no legal restrictions against their releases, nor provisions for the confiscation and destruction of fish or other aquatic life prohibited by the State from importation when found in the State's waters. Your Committees were also concerned about the breaking or damaging of rocks and corals by commercial operators during their acquisition of aquarium fish and other aquatic life, and felt that intentional damaging of these resources should be declared illegal. It was also brought out that commercial and noncommercial aquarium fish collectors should be treated differently.

Supportive testimonies were received from the Department of Land and Natural Resources, the Department of Agriculture, and the Environmental Center of the University of Hawaii. The commercial aquarium fish industry expressed opposition to the bill because it was felt that its general practice of returning salt water fish to marine waters when they were injured, unsaleable, or skinny, so that the fish might return to normal health and size in their natural environment, would become illegal.

This bill, as amended, prohibits the release of non-native fish or other aquatic life being held in an aquarium or other confinement from being released into the State's waters. It also authorizes the Department of Land and Natural Resources to confiscate and destroy any fish or other aquatic life prohibited from importation, but found in the State's waters. Although the commercial operators testified that they were caretakers of the ocean, rather than destroyers, your Committees amended the original bill to make the intentional breaking or damaging of any rock or coral while acquiring aquarium fish and other marine life a petty misdemeanor, punishable as provided by law.

Your Committees amended this bill with the following amendments:

- (1) Added non-native, page 1, line 5, to be more specific about the origin of fish and other aquatic life that shall not be released into the State's waters;
- (2) Added except as provided in section 187A-2(4), Hawaii Revised Statutes, page 1, line 9, to clarify that the Department of Land and Natural Resources reserves the right to make releases of non-native fish and other aquatic life;
- (3) Added and amended section 188-68, Hawaii Revised Statutes, by inserting intentional taking, breaking or damaging with crowbar, chisel, or any other implement of any rock or coral, section 2, page 2, lines 4 - 6, to protect live corals;
- (4) Removed After July 1, 1992, from section 188-68(b) since the date is no longer applicable;
- (5) Added and amended section 188-29, Hawaii Revised Statutes, by changing Aquarium to Commercial aquarium, page 3, Line 5;
- (6) Clarified that commercial operators are not to use thrownets or traps to fish for aquarium fish, page 3, line 5;
- (7) Changed "take" to fish for, page 3, line 6;
- (8) Provided that noncommercial aquarium fish collectors may use nets, other than thrownets, or traps of smaller mesh to fish for aquarium fish and be limited to not more than a total of five fish or aquatic life per person per day, page 3, lines 7 - 11;
- (9) Amended section 188-70, Hawaii Revised Statutes, by adding or rock or coral broken or damaged to page 3, lines 16 and 20, to include these new provisions under the penalties section.

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1671, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1671, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Amaral, Beirne and Takamine.



**SCRep. 281 Ocean Recreation and Marine Resources and Judiciary on H.B. No. 1676**

The purpose of this measure is to establish prohibitions against operating a recreational vessel while under the influence of alcohol.

Your Committees on Ocean Recreation and Marine Resources and Judiciary find that there are no prohibitions against the operation of recreational vessels in the waters of the State by operators under the influence of alcohol. Your Committees recognize that operators of vessels who are under the influence of alcohol have the potential for endangering themselves, crew members or passengers, the occupants of other vessels, and swimmers and surfers, as well as damaging their own property and the property of others.

This bill will help to deter those who have commanding roles in the operation of recreational vessels from their operation while under the influence of intoxicating liquor by applying the same criteria for enforcement of the offense of operating a recreational vessel while under the influence of alcohol that now exist for operating a motor vehicle while under the influence of alcohol.

The National Transportation Safety Board and the U.S. Coast Guard strongly encourage the State to adopt legislation to address the issue of operating recreational vessels while under the influence of alcohol.

Supportive testimonies for this bill were received from the Department of Land and Natural Resources, the Department of Public Safety, and the Office of the Public Defender.

The Department of Land and Natural Resources stated that Hawaii is one of only 13 states which does not have specific legislation in place to address the issue of boating under the influence of alcohol or to establish a legal limit of intoxication by percentage of blood alcohol content. DLNR also stated that funding requirements are not included in this bill due to the fact that equipment costs and training can be funded through the Federal boating safety funds received by the State.

The Department of Public Safety testified that the Maritime Law Enforcement Division has 16 officers throughout Maui, Kauai, the Big Island, and Oahu, who will be qualified to enforce the provisions of this bill, once it is enacted. All of their officers have been trained and certified in the "Mystagmus" (horizontal Gazed Mystagmus), as well as the use of intoximeters by the U.S. Coast Guard at the national safe boating course.

The Office of the Public Defender expressed concerns regarding some structural problems encompassed in the bill. These problems revolved around the clarity and enforcement of the intent of this bill.

Your Committees on Ocean Recreation and Marine Resources and Judiciary believe that the bill can be enforced adequately through the use of Maritime Law Enforcement officers.

Your Committees on Ocean Recreation and Marine Resources and Judiciary have clarified and strengthened this bill with the following amendments:

- (a) To add "recreational" before each occurrence of the word vessel;
- (b) To clarify what constitutes the offense of operating a recreational vessel while under the influence of intoxicating liquor by taking language from HRS§291-4(a)(1) and including it on page 1, lines 13-19;
- (c) To provide for people who need to operate vessels for their livelihood by taking language from HRS§291-4(b)(1)(B) and including it on page 3, lines 1-9;
- (d) To change "essential" to "commanding" on page 2, line 6;
- (e) To define "recreational vessel" on pages 13 & 14, lines 23-24 and lines 1-3 respectively; and
- (f) To add technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Ocean Recreation and Marine Resources and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1676, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1676, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Bunda, Oshiro, Peters and Tajiri.

**SCRep. 282 Public Safety and Corrections on H.B. No. 1003**

The purpose of this bill is to appropriate funds to study the feasibility of developing a correctional community on the Hamakua Coast or in other possible locations in the County of Hawaii.

For many years, the State of Hawaii has had difficulty in managing the size of its correctional population. There have been more persons committed or detained in correctional facilities in Hawaii than there is bedspace to accommodate them.

This bill would be a first step in addressing the problem of prison overcrowding and could help bolster and stimulate the economy of the County of Hawaii which will be negatively impacted by the shutdown of Hamakua Sugar and Hilo Coast Processing.

Testimony in support of this measure was submitted by the Department of Public Safety and the United Public Workers.

As affirmed by the record of votes of the members of your Committee on Public Safety and Corrections that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1003, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ishii-Morikami.

**SCRep. 283                      Energy and Environmental Protection and Judiciary on H.B. No. 525**

The purpose of this bill is to establish a nonpoint source pollution management and control program within the Department of Health.

Supporting testimony was received from the U.S. Department of Agriculture's Soil Conservation Service, Koolau Agricultural Company, Natural Resources Defense Council, Interagency Water Quality Action Program, Sierra Club, University of Hawaii's Water Resources Research Center, and the City and County of Honolulu.

The Hawaii State Department of Health supported the intent of this bill, but is not able to support additional funding requests in this year of fiscal austerity. The Hawaii Chapter of Soil and Water Conservation also supports this bill, but would like the Department of Health to play a larger role in facilitating nonpoint source pollution control. Provisions for this were provided by their testimony and incorporated into the amendments.

Accordingly your Committee favored passage of this bill with the following amendments:

- (1) Comments from the Natural Resources Defense Council included:
  - (A) Insertion of rules stated under chapter 91, including water quality standards for specific areas and types of NPSP discharges in the control of water pollution, allowing for varying local conditions.
  - (B) Addition of the word from after the words point source pollution.
  - (C) Insertion of the word control to read water pollution control system..
  - (D) Changes in wording to include that it is hazardous to consume the water and aquatic or other life forms..."
  - (E) Addition of the words "entrance to and inspection by any duly authorized officer..."
  - (F) The 1992 bill included the word "rules" in the list of items the director should propose to improve state action dealing with NPSP. Urge that the word "rules" be added to the list of possible actions. This would give authority to tailor rules to local conditions.
- (2) The bill will read that this Act take affect 7/1/93, to give the Department of Health enough time for the appropriated funds to be in place.
- (3) Amend HB 525 to put a \$1.00 amount to finance this program, to give maximum flexibility to the Finance Committee.
- (4) In Section 4, maintain that the Director of the Department of Health will maintain the authority to exercise discretion in the dollar amount of the penalty. If the Department of Health finds that the act of polluting was done knowingly or with intent, then the penalty will be a higher amount. The penalty amount shall not be less than \$1.00 or in excess of \$10,000.
- (5) The Water Quality Fund created and operated by the Department of Health, will accumulate all fines collected from nonpoint source water pollution. The Department of Health request that this fund be established by July 1, 1993.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 525, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 525, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bunda, Cachola, Nekoba and Oshiro.

**SCRep. 284                      Energy and Environmental Protection and Water and Land Use Planning on H.B. No. 1965**

The purpose of this bill is to appropriate funds for a non-point water pollution study of the Kaelepulu watershed area of southern Kailua Bay, Oahu, to identify and quantify amounts and sources of pollutants within the drainage system and to identify potential mechanisms to control these pollution sources.

The following testified in support of this bill: the U.S. Soil Conservation Service, the City and County of Honolulu's Department of Public Works, the UH's Water Resources Research Center, the Oahu Soil and Water Conservation Tri-District, the Sierra Club-Hawaii Chapter, and Oceanit Laboratories, Inc. The Department of Health testified that it

lacked sufficient resources to handle this added responsibility. Others opposing the bill were Save Our Bays and Beaches, Hawaii's Thousand Friends, and the Coalition to Save Kaelepulu Wetlands. Their major objections were that:

- (1) Scarce funds should go directly for clean up and/or monitoring and enforcement purposes instead of another study; and
- (2) Non-point sources should not be deemed to be the only polluters of Kailua Bay; instead, what is needed is a comprehensive evaluation of all sources of pollution.

Your Committees agree that the focus of the study should not be limited to only non-point sources. Your Committees also concur that public participation in all phases of the study is a key element that will result in better community support of the study's findings.

Accordingly, your Committees have amended this bill by:

- (1) Deleting language in Section 1 that may inaccurately conclude that non-point sources are the primary contributors to the problem in Kailua, and inserting language that set forth broader parameters for the study;
- (2) Deleting the phrase "non-point source" from Section 2 for consistency purposes;
- (3) Inserting \$1 to Section 2 as well as language that directs the Department of Health to encourage public participation in this study; and
- (4) Correcting certain technical errors.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1965, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1965, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Hirono, Kanoho and Tajiri.

**SCRep. 285      Energy and Environmental Protection and Water and Land Use Planning on H.B. No. 698**

The purpose of this bill is to reduce the accumulation of waste materials and pollution generated in the watersheds of Kapahulu, Makiki, Manoa, and Palolo on Oahu and that is deposited into the Ala Wai Canal. This bill appropriates funds to:

- (1) Implement a community-based public/private program of "wasteshed" management activities; and
- (2) Conduct monitoring and research activities.

In 1990, the Legislature appropriated \$700,000 for the Department of Land and Natural Resources to conduct the appropriate water quality and water circulation studies needed to improve the Ala Wai Canal. One of the resulting reports, Management Plan for the Ala Wai Canal Watershed conducted by the East-West Center's Program on Environment for Edward K. Noda and Associates, Inc., recommended that the State contract a qualified non-profit organization to lead the implementation of a community-based public/private program of watershed management activities. This bill implements this recommendation.

Your Committees received supporting testimony from:

- (1) The Waikiki Improvement Association;
- (2) Three University of Hawaii researchers who were involved with the Young Scholars Program, a two-year effort funded by the National Science Foundation in which 75 Hawaii high school students conducted various pollution studies of the Ala Wai Canal; and
- (3) The Natural Resources Defense Council.

The University of Hawaii Environmental Center and the East-West Center's Program on Environment also commented on this bill. Finally, the Department of Health could not support funding for this project.

Following a review of the testimony, your Committees have amended this bill by:

- (1) Replacing the \$150,000 appropriation on page two with \$1;
- (2) Inserting the following phrase at the end of paragraph 2 on page 3: "as determined by the non-profit organization contracted by the department of health";
- (3) Deleting the sentence in paragraph 2 on page 3 that designates the University of Hawaii as the expending agency for the monitoring and research activities; and
- (4) Making the Department of Health the expending agency for all appropriations.

It is the intent of your Committees that:

- (1) The program proceed through a cooperative effort by government, local community organizations, and the private sector. Your Committees fully recognize that government, alone, cannot do this job of watershed management;
- (2) The non-profit organization be primarily responsible for implementing this program. Accordingly, as far as the expenditure of the appropriations, the Department of Health's role would be to contract with this non-profit organization. Your Committees find that such a strategy will help reduce "red tape" and expedite the expenditure of appropriations;
- (3) The non-profit organization take full advantage of the resources and expertise found in the community in undertaking this program. Such a strategy is consistent with the recommended organizational chart contained in the management plan which displays the relationship between the non-profit organization and:
  - (a) Various State and federal agencies;
  - (b) Federal, State, and other technical/research programs; and
  - (c) Community and private organizations and individuals;
- (4) The program must emphasize education and community outreach activities in order to succeed. The major objective is to change the behavior of those who reside within the watershed. To accomplish this, the program must develop a variety of public education materials (such as leaflets, public service announcements, displays for libraries, etc.) as well as plan for community activities that promote a waste-free watershed (including garbage pick-up days, citizen monitoring of streams, a clean water fair, etc.); and
- (5) The phrase, "monitoring and research activities", is meant to be broadly defined in order to give the non-profit organization the flexibility to conduct a variety of watershed management activities. As such, the non-profit organization must be able to contract with various organizations and agencies.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 698, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 698, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kanoho and Tajiri.  
(Representative Thielen voted no.)

**SCRep. 286                      Energy and Environmental Protection and Water and Land Use Planning on H.B. No. 316**

The purpose of this bill as submitted is to establish a Division of Beach Management within the the Department of Land and Natural Resources.

Testimony in favor of this bill was submitted by Dr. Charles H. Fletcher, a geologist with the University of Hawaii, and Dennis Hwang, a consultant with the Office of State Planning and the Coastal Zone Management Program. Both testified that the State, as a public trustee of the marine coastal zone, has to assume responsibilities for its beaches.

Testimony in opposition to this bill was provided by the Department of Land and Natural Resources. The department testified that the subject of beach management falls within the jurisdiction of division of boating and ocean recreation. The department also testified that necessary funding for the creation of such a new department would be difficult to allocate during this tight fiscal year.

Decision making was deferred to February 18, 1993, in order to provide the authors of the bill time to rework the bill to incorporate several other beach bills. The Committee suggested that the highlights of two other beach bills, H.B. 290 and H.B. 57 be incorporated into a H.D. 1 of H.B. 316.

H.B. 57 requires that the Department of Land and Natural Resources report back to the Legislature, before 1995 on interim budget, staffing and priorities for an Office of Beaches.

H.B. 290 addresses the loss of beach stabilization of shoreline with seawalls, revetments and bulkheads. The bill also addresses options of sand replenishment or offshore structures to protect properties.

The bill was passed as amended.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 316, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 316, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kanoho, Tajiri and Takamine.

**SCRep. 287                      Labor and Public Employment and Education on H.B. No. 2155**

The purpose of this bill is to create a new class of paraprofessional school employees in the Department of Education who will be compensated and employed under a new salary classification system that recognizes levels of developmental training, abilities, skills, and demonstrated instructional competence on the job. Specifically, this bill proposes an employee classification system as contrasted with the current position classification system applied to most other civil service classes.

The Department of Education testified in support of this measure and also proposed some amendments to the language of the bill. The Honolulu Principals testified in support of this measure. The Hawaii Government Employees Association testified in support of this measure, but was concerned as to having the salary ranges designated in the bill. The Educational Assistants Association testified in support of this measure. The Department of Personnel Services testified in support of the intent of the bill. Testimonies from teachers, educational assistants, and communication aides were also in support of this measure.

Your Committees find that this bill would enable the Department of Education to efficiently and effectively expedite personnel actions on behalf of education paraprofessionals. This measure will secure a listing of eligible candidates for vacated educational assistant positions and help to shorten the waiting period for hiring an employee for an advertised vacancy. It will provide tenure to those employees who have had to take annual examinations to qualify for positions and remain in temporary assignments until permanent appointments are available. In addition, this bill will provide the opportunity for upgrading educational assistants into a new class of paraprofessional school employees which will attract and retain skilled and capable employees.

Your Committees have adopted the recommendations of the Department of Education and the Department of Personnel Services by making the following amendments:

- (1) In Section 1 of the bill, deleted the phrase, "remain included in the civil service system where they will retain" and added the phrase, "retain all rights of civil service employees, except as modified by chapter 297,";
- (2) In Section 2 of the bill, line 1, page 5, deleted the word "tenure" and inserted the phrase "regular status", so that the title reads, "**§297- Education paraprofessionals; probation and regular status.**";
- (3) In Section 2 of the bill, added the sentence, "After earning regular status, an education paraprofessional need not serve another probationary period as long as the employee remains under satisfactory and continuous employment in an education paraprofessional class.";
- (4) In Section 3 of the bill, at the end of paragraph (a), added the sentence, "The provisions of this section and actions taken under this section shall not be used as a basis or reference for any action or appeal on positions covered by chapters 76 and 77.";
- (5) Inserted the phrase "or commensurate credits from the department" between "...approved community college program..." and "...or a baccalaureate degree..." in Section 3 of the bill;
- (6) In Section 3 of the bill, changed the classifications for both Educational Assistants and Counseling Assistant;
- (7) In Section 3 of the bill, at the end of subsection (a) regarding salary ranges for education paraprofessionals, line 9, page 11, added two new sentences, "The Board of Education's pricing actions will be final and not subject to appeal. No salary range contained in this section or salary range decision taken pursuant to this section shall be referenced or used as a basis for pricing actions or appeals involving classes covered by chapters 76 and 77.";
- (8) In Section 5 of the bill, line 6, page 14, inserted paragraph (8) that states, "Education paraprofessionals with satisfactory job performance who, on the effective date of this Act, are employed as Class III Education Paraprofessionals or higher, shall be allowed to continue their employment in their positions without loss of salary or benefits provided that the positions are not terminated or otherwise imminently obligated to a returning employee. Temporary employees, excluding emergency hires, shall be allowed to serve on probation. Emergency hires shall not serve on probation and may be appropriately released from their employment at any time.";
- (9) In Section 6 of the bill, line 19, page 14, inserted the sentence, "Classification changes authorized by this Act shall be subject to the availability of funds and shall not be implemented prior to the beginning of school year 1994-95."; and
- (10) Made a few technical, nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committees find that for fiscal year 1994, approximately \$270,000 will be required to fund this new system.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2155, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2155, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Arakaki, Hagino, M. Ige, Lee, Taniguchi and Ward.

The purpose of this bill is to permit the temporary suspension of certain eligibility requirements for extended unemployment benefits in accordance with recent changes to federal law.

Your Committee finds that if state law is not amended to conform with recent changes made pursuant to the Unemployment Compensation Amendments of 1992, P.L. 102-318, there will be higher unemployment insurance tax liabilities for employers and no jobless benefits for the unemployed in Hawaii.

The Department of Labor and Industrial Relations submitted testimony supporting the intent of this measure. At the same time, the Department of Labor and Industrial Relations recommended that this bill be amended to conform with another federal requirement. Effective June 1993, dislocated workers under Title III of JTPA (except on-the-job training) must be considered in state-approved training as a matter of state conformity with section 3304(a)(8) of the federal Unemployment Tax Act.

Since funds from Titles I, II, and IV of JTPA are often used to supplement the limited funds available under Title III, the Department of Labor and Industrial Relations also recommended that this measure be amended to permit similar consideration to other JTPA authorized training under Titles I, II, and IV.

Your Committee has amended this measure based on the recommendations of the Department of Labor and Industrial Relations. In addition, several technical, nonsubstantive amendments have been made for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1737, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1737, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 289                    Higher Education and the Arts and Health on H.B. No. 1363**

The purpose of this bill is to:

- (1)        Establish a family practice residency program at the University of Hawaii School of Medicine;
- (2)        Establish a two-year demonstration project to provide training for health care graduates and students; and
- (3)        Appropriate funds to convert and renovate the "old" Hilo Hospital into a family practice ambulatory health center.

Testimony in support of this measure was submitted by the University of Hawaii, the Department of Health, Kahuku Hospital, Hilo Hospital, Wahiawa General Hospital, Hawaii Medical Association, Hawaii Academy of Family Physicians, and other concerned organizations and individuals from the community.

Your Committee has amended this bill by:

- (1)        Deleting reference to an appropriation for renovating the "old" Hilo Hospital contained in Section 4. Hilo Hospital has agreed to perform this renovation itself, within the constraints of its own budget;
- (2)        Changing the appropriation amounts in Sections 3 and 5 to \$1; and
- (3)        Making other technical, non-substantive amendments for the purpose of style and clarity.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1363, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1363, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Shon, Taniguchi and Yonamine.

**SCRep. 290                    Higher Education and the Arts and Hawaiian Affairs on H.B. No. 1765**

The purpose of this bill is to increase the number of teachers of Hawaiian ancestry in the public schools by establishing a special program to be known as "the Native Hawaiian teacher loan program." This program would provide grants or scholarships to native Hawaiians who pursue a degree in the field of education, and commit to a period of post-graduate employment in that field.

Your Committees heard testimony on this bill from the University of Hawaii, the Office of Hawaiian Affairs, representatives from the Association of Hawaiian Civic Clubs, and the Hawaii Chapter of the National Rainbow Coalition.

Based on the testimony presented, your Committees believe that under-representation of Hawaiians in the department of education is part of a larger group of issues relating to Hawaiians and education that should be addressed by this Legislature. In accordance with this belief, your Committees have amended the bill by:



- (1) Adding definitions for "Native Hawaiian" and "Hawaiian;"
- (2) Deleting section 2 establishing the Native Hawaiian Teacher Loan Program;
- (3) Deleting the funding provision contained in section 3;
- (4) Adding a new section 2 amending Chapter 304, Hawaii Revised Statutes, requiring the University of Hawaii to grant 500 tuition waivers to Native Hawaiians and Hawaiians, in addition to any tuition waivers currently granted, in an effort to increase the number of Native Hawaiians and Hawaiians in the University of Hawaii system;
- (5) Specifying that first priority in granting the tuition waivers will be for students enrolled in Hawaiian language courses or who pursue a degree in education; and
- (6) Excluding Native Hawaiians and Hawaiians not currently residing in Hawaii from the non-resident tuition differential.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1765, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1765, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Duldulao, M. Ige and Taniguchi.

**SCRep. 291 Higher Education and the Arts and Hawaiian Affairs on H.B. No. 1932**

The purpose of this bill is to appropriate funds for a Hawaiian studies center at Kauai Community College.

Testimony was received from the Chancellor for Community Colleges, Office of Hawaiian Affairs, members of the faculty of Kauai Community College, students at Kauai Community College and the Chairman of the UH-Hilo Hawaiian Studies program.

Your Committee finds the aims of this bill worthwhile, but recognizes the need for budgetary restraint. Accordingly, your committee has amended the bill by appropriating the sum of \$1 for the fiscal year 1993-1994.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1932, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1932, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Duldulao, M. Ige, Shon and Taniguchi.

**SCRep. 292 Higher Education and the Arts and Labor and Public Employment on H.B. No. 1213**

The purpose of this bill is to establish a separate Board of Regents and president for a new institution of higher education at Hilo to be designated as the "Hawaii State University" which will incorporate the campus, staff and administration of the University of Hawaii-Hilo.

Your Committees received testimony in support of the bill from the Hawaii State AFL-CIO, the Japanese Chamber of Commerce & Industry of Hawaii, the Committee on Finance and Intergovernmental Relations of the Hawaii County Council, several contracting companies from the island of Hawaii, a number of residents of Hilo, and a member of the State House of Representatives. Your Committees received testimony in opposition to the bill from the University of Hawaii, the University of Hawaii Professional Assembly, and a number of faculty members at the University of Hawaii-Hilo.

After hearing the public testimony, your Committee amended the bill by:

- (1) Deleting language in section 2 pertaining to authorization for the Hawaii State University to purchase land, buildings, appliances, and other property;
- (2) Specifying that the Board of Regents for Hawaii State University shall reflect the geographic and population diversity of the State;
- (3) Specifying that that Board of Regents shall be appointed and may be removed by the Governor;
- (4) Deleting section 2 -7 concerning salaries;
- (5) Deleting section 2 -12 concerning expenditure per student;
- (6) Adding a stipulation in section 3 that the salary of the president of Hawaii State University shall not exceed the salary of the Governor of Hawaii; and
- (7) Changing the effective date of the bill from July 1, 1993 to July 1, 1995.



As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1213, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1213, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Duldulao, Nakasone, Suzuki and Taniguchi. (Representatives Hagino, Shon and Taniguchi voted no.)

**SCRep. 293                      Health and Economic Development and Business Concerns on H.B. No. 1655**

The purpose of this bill is to amend Section 328K-1 of the Hawaii Revised Statutes in order to clarify the definition of the term "restaurant".

Testimonies received from the Department of Health, the American Cancer Society and the American Lung Association strongly support this bill. Your Committees realize that smoking is not only a health hazard to the smoker, but also to the nonsmoker nearby exposed to second hand smoke. Your Committees recognize that under current statute, restaurants are a sub-category of the larger class of food service establishments, which are currently authorized by the Department under Chapter 1-A of the Sanitation Code. It is also recognized that by amending Section 328K-1 of the Hawaii Revised Statutes, it would become clearer to the public, and to operators of food service establishments, who is required to comply with the provisions in Section 328K-1 of the Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Health and Economic Development and Business Concerns that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1655 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Arakaki, D. Ige, M. Ige, Kawakami, Marumoto and O'Kieffe.

**SCRep. 294                      Health on H.B. No. 2033**

The purpose of this bill is to grant special provisions to expedite the processing of uncollectible accounts of the community hospitals.

Testimony received from the Department of Health strongly support the bill. Your Committee notes that because of limitations imposed by statute, collections activities at the community hospitals are skewed to low dollar value accounts and accounts more than a year old. It is realized by your Committee that it is more costly to process collection actions on these delinquent accounts than is finally collected. It is also noted by your Committee that by allowing the Director of Health flexibility to write off these small dollar value accounts, collections can be focused on those accounts that are much more lucrative to the State.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2033 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami.

**SCRep. 295                      Health on H.B. No. 1649**

The purpose of this bill is to amend Chapter 333F of the Hawaii Revised Statutes. This would authorize the Department of Health to obtain Federal criminal history checks on applicants and prospective employees of the applicant, and new employees of the provider after certification or licensure, of adult foster homes and developmental disabilities domiciliary homes in order to assure the safety of the vulnerable clients that inhabit these homes.

Testimonies received from the Commission on Persons with Disabilities, the Department of Health, the State Planning Council on Developmental Disabilities and the State Attorney General strenuously support this bill. It is noted by your Committee that, presently, Chapter 333F does not require any type of criminal history record check for developmental disabilities domiciliary care home caregivers or adult foster home caregivers. Your Committee also notes that with a mechanism such as a Federal criminal history records check, residents living in developmental disabilities domiciliary care homes and adult foster homes would obtain additional protection from employees who may pose a significant risk to their health, safety and well-being.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1649 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 296                      Health on H.B. No. 1445**

The purpose of this bill is to establish the drug abuse treatment and prevention special fund in the Department of Health into which thirty percent of the sale proceeds of property forfeited under the Uniform Controlled Substances Law

shall be deposited. This bill also requires that moneys from the foregoing fund be expended for drug abuse treatment and prevention programs.

Your Committee received testimony in support of the intent of this measure from the Hawaii Commission on Drug Abuse and Controlled Substances, the Department of Health, and the Office of the Public Defender, State of Hawaii. The testimony indicated that while the forfeiture law addresses the reduction of the supply of illicit drugs, equally compelling is the need to reduce the demand for such drugs. The "war on drugs" has been fought with about seventy percent of funding going to law enforcement and thirty percent going to prevention and treatment. It is time to work to balance the effort on all fronts.

Upon further consideration, your Committee has amended the bill by inserting the contents of H.B. No. 1012 (1993) which imposes a fine of \$50 against each criminal defendant convicted of an offense under Chapters 705, 707, 708, 709, 710, 711, or 712, Hawaii Revised Statutes. This fine is to be deposited into the substance abuse treatment and prevention special fund established by the bill to provide additional financial support for drug abuse treatment and prevention programs.

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

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1445, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1445, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative O'Kieffe.

**SCRep. 297                      Health on H.B. No. 871**

The purpose of this bill is to require the Legislative Auditor to conduct an audit of the State Health Planning and Development Agency (SHPDA) at least once every three years.

Your Committee received testimony in support of the intent of this bill from SHPDA. Testimony was also received from the Department of Health.

In light of rapidly rising health care costs and the recent Legislative Auditor's report which noted several deficiencies in the operations and programs of SHPDA, your Committee feels that the periodic audit proposed by this bill is warranted.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 871 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 298                      Health on H.B. No. 286**

The purpose of this bill is to appropriate funds increase ambulance service in the Hawaii Kai area from two to three 8-hour shifts a day.

Testimonies received from the Hawaii Kai Neighborhood Board, Hawaii Cardiology Inc., various doctors, and an array of concerned citizens strongly support this bill. Your Committee notes that presently, the Hawaii Kai area does not have 24hr ambulance service. Your Committee also notes that in the event of an emergency, time is of the essence, and having an ambulance stationed in the Hawaii Kai area would greatly reduce the time involved in transporting a victim to the hospital.

After further consideration, your Committee has amended the bill to also include expanded ambulance service on the Leeward Coast of Oahu and the downtown Honolulu area. Your Committee understands that these areas are also suffering a shortage of ambulance service. An appropriated amount of \$1 was added for each fiscal year for discussion purposes.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 286, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 286, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 299                      Health on H.B. No. 1388**

The purpose of this bill is to appropriate moneys to meet the present and anticipated service needs of HIV positive and AIDS clients.

Testimony received from the Department of Health, the Big Island AIDS Project, the Maui AIDS Foundation, the LIFE Foundation, the Aids Community Care Team and other AIDS and HIV client service providers supported the intent of this bill.

After further consideration, a sum of \$1 was appropriated for the purposes of further discussion. In addition, an amendment was also made to correct a technical, drafting error.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1388, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative O'Kieffe.

**SCRep. 300                      Tourism and Intergovernmental Relations and International Affairs on H.B. No. 124**

The purpose of this bill is to change the transient accommodations tax (TAT) rate from five percent to an undesignated rate, and to change the percentage of the TAT revenues kept by the State and distributed among the counties.

Your Committees received testimony in opposition to this bill from the Office of the Mayor of Kauai, the Kauai County Council, the Honolulu City Council, the Honolulu County Department of the Budget, and other testimony from the Department of Taxation, the Tax Foundation and the Chamber of Commerce of Hawaii.

Your Committees find, however, that the testimony in opposition was based on an assumption that the rates that will replace the blanks will be to the detriment of the counties, although this is not necessarily the case. On other related bills, your Committee on Tourism rejected proposals to raise the TAT rate or take 40 percent of the counties' shares of TAT revenue.

Your Committees intend that this bill only serve as a vehicle to give flexibility to the legislature, particularly your Committee on Finance, in order to leave open the broadest possible range of options. Elimination of any available options would not be a prudent action and not in the best interests of the State.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 124 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino and Ishii-Morikami.  
(Representatives Alcon, Lee and Shon voted no.)

**SCRep. 301                      Tourism and Intergovernmental Relations and International Affairs on H.B. No. 1827**

The purpose of this bill is to transfer the International Tourism Consulting Center and Clearinghouse from the Office of International Relations to the Department of Business, Economic Development and Tourism.

Your Committees received testimony in support of this bill from the Department of Business, Economic Development and Tourism, and the Office of International Relations.

Your Committees find that Hawaii should take advantage of its considerable tourism expertise and its knowledge of the Pacific and Asia, regions with increasing global importance, and that a consulting center and clearinghouse to promote and coordinate tourism-related consulting, training and research services would increase Hawaii's international stature, particularly in the important tourism industry, and would help diversify the economy of the state by making Hawaii tourism expertise available to other resort areas.

Furthermore, your Committees find that the center was created and funded in 1989 as part of the then-Department of Business and Economic Development, and transferred to the Office of International Relations in 1991. Since then, the program, under the management of the Office of International Relations, has grown through its initial phase of establishing international contacts and has matured to the point at which it will have greater need for marketing and promotion expertise residing in the Department of Business, Economic Development and Tourism.

In addition, your Committees find that entities in Japan, and the rest of Asia and the Pacific have shown strong interest in using Hawaii tourism consulting services in their own resort developments, that this market involves billions of dollars, and that any delay in implementing the consulting center will result in lost opportunities for Hawaii businesses.

Your Committees revised the bill by:

1. Removing the appropriation section; and
2. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Tourism and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1827, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1827, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino and Ishii-Morikami.  
(Representative Shon voted no.)

**SCRep. 302                      Tourism on H.B. No. 1828**

The purpose of this bill is to designate a convention center site at the current location of Fort DeRussy in Waikiki.

Your Committee received testimony in support of this bill from the Hawaii Hotel Association, the Waikiki Improvement Association, the Waikiki/Oahu Visitors Association, and other testimony from the Convention Center Authority.

Your Committee finds that Hawaii's lack of a world-class convention center will continue to hinder efforts to induce a recovery of the economy. National organizations such as the American Bar Association, the American Dental Association and the National Association of Realtors have stated that they will not choose Hawaii again as a location for their national convention without adequate facilities.

Your Committee revised the bill by:

1. Designating the convention center site at the Ala Wai Gateway or the former Aloha Motors site, in addition to Fort DeRussy.
2. Adding a provision giving the Convention Center Authority the power to review any plans and changes by the developer;
3. Removing the section repealing the revolving fund;
4. Changing the minimum total convention center floor area requirement from 650,000 square feet to an undesignated figure;
5. Adding a requirement that the developer post a \$5,000,000 performance bond to guarantee the beginning of construction by June 30, 1995; and
6. Making technical, non-substantive changes for the purposes of style and clarity.

Your Committee would like to note that at this time, not enough information exists to make possible an informed decision on selection of the convention center site. The information that still needs to be provided includes the cost of the land, the allocation of maintenance costs, the structural evaluation of the underground portions of the proposals, and other matters. Your Committee, therefore, decided to follow the best interest of the State and take the most prudent course of action, by leaving open all three site options.

In addition, your Committee would like to note that the 650,000 square foot convention center space requirement had been set arbitrarily, and that changing it to an undesignated figure simply leaves the matter open for the sake of discussion until a proper figure can be established. Your Committee would like to emphasize the importance of establishing a minimum convention center space requirement after further deliberation.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1828, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1828, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

#### **SCRep. 303                      Tourism on H.B. No. 654**

The purpose of this bill is to give the Office of Tourism greater independence from the Department of Business, Economic Development and Tourism. This bill would create a State Tourism Board and would give the board the duty of overseeing all State tourism functions. The board, through the deputy director of tourism, would control the operations of the Office of Tourism, which would be only administratively attached to the department.

Your Committee received testimony in support of this bill from the Hawaii Hotel Association and Aloha Festivals, and in opposition from the Department of Business, Economic Development and Tourism.

Your Committee finds that the Office of Tourism would be better prepared to handle its tourism promotion duties if it were separated from the Department of Business, Economic Development and Tourism, in order to give it greater independence and focus, better enabling it to keep abreast of developments in the rapidly changing visitor industry.

As the greatest source of private revenue for the State economy, the tourism industry needs an autonomous Office of Tourism, ensuring the wise expenditure of tourism promotion funds.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 654 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ishii-Morikami.  
(Representative Stegmaier voted no.)

#### **SCRep. 304                      Labor and Public Employment on H.B. No. 1566**

The purpose of this bill is to allow qualified nonprofit corporations, whose primary purpose is to advance training and employment of blind or visually handicapped persons, to operate vending facilities and machines in public buildings.

The Commission on Persons with Disabilities, the Aloha Council of the Blind and Visually Impaired, representatives of Makaala, Inc., the Network Enterprises, Inc., KOP Hawaii, and concerned citizens submitted testimony in support of this bill.

The Department of Human Services, the State Attorney General, the Ho'opono Services for the Blind Advisory Board, the Hawaii State Committee of Blind Vendors, the Hawaii Association of the Blind, the Hawaii Blind Vendors Association, and concerned citizens submitted testimony in opposition.

Your Committee finds that Section 102-14, Hawaii Revised Statutes ("Section 102-14"), was enacted in 1937 to give blind and visually impaired persons priority in operating profit-making enterprises on state and county properties. Hawaii's law is consistent with the federal Randolph-Sheppard Act, which gives similar priority to blind and visually impaired persons in federal facilities.

In 1981, the Department of Human Services was given administrative responsibility for adopting rules and implementing the program assuring the blind and visually impaired priority in the allocation of vending facilities in public buildings.

Under this authority, the Department of Human Services adopted rules governing the vending facility program. Specifically, Section 17-402-17, Hawaii Administrative Rules, provides for announcing vacancies to qualified blind persons and for providing such persons the opportunity to apply for such vacancies.

Before 1970, the operations of the vending facilities at the Honolulu International Airport ("HIA") were managed by blind vendors. Since they were unable to provide enough trained vendors, supervision, or capital, to facilitate the expansion of the blind vendor program at HIA, the State established Maka'ala, Inc., a Hawaii nonprofit corporation that hires a variety of persons with disabilities not limited to visual impairments.

Since 1971, the Department of Transportation has leased space at HIA to Maka'ala for a retail concession at the direction of the Department of Human Services. Subsequently, there has been ongoing litigation regarding the propriety of having the State allow Maka'ala, a nonprofit corporation, operate concessions when Section 102-14 requires that only blind or visually handicapped individuals be allowed to operate vending facilities or machines in public buildings in the State.

It is not the intention of your Committee that this measure serve as a legislative mandate to select a particular vendor or qualified nonprofit corporation to operate any vending facility or machine in any public building in the State.

At the same time, your Committee believes that this legal technicality, regarding the selection of vendors by the Department of Human Services under Section 102-14, has been unresolved for too long. Further, your Committee believes that one step toward resolving this long-standing controversy may be the adoption of administrative rules by the Department of Human Services pursuant to Chapter 91, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1566 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 305                      Labor and Public Employment on H.B. No. 1149**

The purpose of this bill is to exclude the following from the definition of "employment" as it applies to worker's compensation coverage:

- (1) Service by an individual for a corporation if the individual is concurrently an employee of a second corporation, and the employee owns at least 51 percent of both corporations; and
- (2) Service by an individual for a corporation if the individual owns at least 51 percent of that corporation and elects to waive coverage.

Your Committee finds that Hawaii's workers' compensation laws were enacted to protect employers and workers from the consequences of workplace accidents. At the same time, your Committee recognizes that workers' compensation insurance has become a significant cost factor for Hawaii's businesses.

This measure would relieve majority owners of corporations from the cost burden of workers' compensation, consistent with the exclusion of other businesses owners, such as sole proprietors and partners. It is not the intent of your Committee to create a loophole for employers to exempt themselves from protecting their employees from work-related injuries and fatalities.

The Department of Labor and Industrial Relations, the Department of Business, Economic Development, and Tourism, the Hawaii State AFL-CIO, the National Federation of Independent Business, the ILWU Local 142, the Hawaii Association of Realtors, the Maui Chamber of Commerce, the Chamber of Commerce of Hawaii, the Hawaii Business League, and the Morihara Store submitted testimony on this measure.

The Department of Labor and Industrial Relations expressed concern that this measure would dilute the intent of the worker's compensation law to provide coverage for all of Hawaii's workers. In addition, allowing an individual who owns

at least 51 percent of the corporation to elect to waive coverage would result in additional administrative costs and the hiring of additional personnel.

Accordingly, your Committee amended this measure by:

- (1) Deleting the exclusion for service performed by an individual for a corporation if the individual is concurrently an employee of a second corporation, and the employee owns at least 51 percent of both corporations; and
- (2) Deleting the election to waive coverage with regard to individuals owning at least 51 percent of the corporation.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1149, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1149, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 306                      Intergovernmental Relations and International Affairs on H.B. No. 1698**

The purpose of this bill is to address the continued need for a statewide policy of taxing public utilities at the state level and to eliminate the ability of the counties to tax the real property of public utilities. Specifically, this measure repeals or amends obsolete provisions of the Hawaii Revised Statutes, which relate to the taxation of real property.

Your Committee received testimony in favor of this bill from the Department of Taxation, GTE Hawaiian Tel, and Hawaiian Electric Company, Inc.

Public utility companies are assessed a public service company (PSC) tax by the State in lieu of general excise and real property taxes. Historically, this method of taxing public utilities was chosen because of the inherent difficulty of taxing the property of public utilities. The practice of not taxing the real property of public utilities has continued even after the counties were given the powers and duties relating to the real property tax in 1989. Currently, all PSC tax revenues are placed in the State general fund.

If the counties maintain their ability to levy real property taxes on the property of public utilities and then levies such a tax, public utilities would be faced with double taxation. Ultimately, it is the consumer and not the public utilities that would bear the burden of such a situation.

For these reasons, your Committee finds that maintaining the statewide PSC tax is in the best interest of the consumer, in addition to being a much simpler method of levying real property taxes on public utilities.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1698 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 307                      Intergovernmental Relations and International Affairs on H.B. No. 228**

The purpose of this bill is to:

- (1) Require county fire chiefs to inspect buildings, structures, premises, and public thoroughfares owned by or under the jurisdiction of the State;
- (2) Require the county fire chiefs to make written reports to authorities responsible for maintenance within seven days of the inspection;
- (3) Require the county fire chiefs to enforce the state fire code; and
- (4) Appropriate funds for the counties to assist in implementation.

Your Committee recognizes the importance of assuring the safety and welfare of those who must utilize buildings that are owned or are under the jurisdiction of the State. And, while this bill does not specify that any penalties or fines be placed upon violators, it does mandate the responsible county fire chief to notify the public through the media of any uncorrected violations.

Testimony in support of the intent of this measure was received from the Department of Accounting and General Services.

Your Committee has amended this bill to require that all reports and written orders of a violation be made available to both the authorities responsible for maintenance and the occupants or appropriate official responsible for the building, structure, premises, or public thoroughfare.

Other technical, nonsubstantive amendments have been made for clarity and to correct drafting inconsistencies throughout the bill.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 228, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 228, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 308                      Intergovernmental Relations and International Affairs on H.B. No. 1405**

The purpose of this bill is to clarify that the counties shall administer the provision of real property tax relief in the event of natural disasters.

The Department of Taxation testified in opposition to this bill. The City and County of Honolulu, Department of Finance, submitted written testimony in support of this measure.

Your Committee finds that in the wake of a natural disaster, both the State and County governments must be responsible for providing assistance to victims in the form of tax relief. In the aftermath of a disaster as large as Hurricane Iniki, the suitability of Chapter 234, Hawaii Revised Statutes, has been called into question. Counties affected by Iniki are faced with potential claims for tax relief that could cost them millions of dollars. Because Chapter 234, was enacted in 1961 before FEMA and many other assistance programs were initiated, your Committee finds that a study is needed to determine whether Chapter 234, is still applicable to Hawaii's current situation.

Your Committee has amended this bill by deleting the body of the bill and inserting appropriate language to allow the Legislative Reference Bureau to study Chapter 234.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1405, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Shon.

**SCRep. 309                      Intergovernmental Relations and International Affairs on H.B. No. 1475**

The purpose of this bill is to transfer proportionately to the counties the amount of public service company (PSC) taxes, paid in the corresponding county tax district, in excess of four percent.

Your Committee received testimony on this measure from the Department of Taxation, the Department of the Budget of the City and County of Honolulu, GTE Hawaiian Tel, the Chamber of Commerce of Hawaii, and Hawaiian Electric Company, Inc.

At the present time, the statewide PSC tax is levied on public utilities in lieu of general excise and real property taxes. This method of taxation was selected for two reasons. First, taxing the real property of utilities is a costly and complex undertaking. Your Committee finds that identifying, tracking, and assessing the real property of public utilities could become burdensome for any county attempting to levy such a tax.

Second, Article VIII, section 6, of the State Constitution grants the Legislature the power to enact laws of statewide concern. Because your Committee believes that the activities of public utilities, including the conveyance of telephone and telegraphic messages and the transmission of light, power, and heat, are matters of statewide concern, it is important for the State to maintain a uniform method of taxation for public utilities.

Your Committee finds that this bill must be taken in tandem with H.B. No. 1698. Taken together, these bills, if passed, would:

- (1) Retain a PSC tax on a statewide basis as the most efficient method of collecting tax revenues from public utilities;
- (2) Prohibit the counties from collecting real property taxes from utilities; and
- (3) Provide the counties with tax revenues in excess of four percent that are collected for the PSC tax in lieu of real property taxes on the utilities.

Your Committee feels that this is an equitable way to proceed.

Implementing this plan would result in a significant reduction in revenues to the state general fund. In these hard economic times, your Committee is deeply concerned about the possible impacts on state programs, particularly in the areas of education and human services. With the continuing discussion of reducing the counties' share of the Transient Accommodations Tax, your Committee feels that transferring part of the PSC tax to the counties would alleviate some of the fiscal anxieties experienced by the counties.



Your Committee finds this bill, as received, inadvertently exempts common carriers by land from the real property tax pursuant to Section 239-5(b), Hawaii Revised Statutes. Since this is not the intent of your Committee to exempt common carriers by land from the real property tax, this measure has been amended to correct this error. Other technical, nonsubstantive changes were also made for the purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1475, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1475, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 310 Higher Education and the Arts and Tourism on H.B. No. 491**

The purpose of this bill is to allocate 10 percent of the State's retained share of the Transient Accommodations Tax to the State of Hawaii Endowment Fund.

Testimony was received from Senator Daniel Inouye, the Executive Director of the Honolulu Symphony, Tax Foundation of Hawaii, members of the symphony and members of the community.

Your committee finds that:

- (1) The Honolulu Symphony provides significant cultural benefits to the State of Hawaii;
- (2) The Symphony requires additional funding in order to maintain current programs;
- (3) State funding for the Symphony should be matched dollar-for-dollar by private funding;
- (4) State funding should be in the form of general fund appropriations to the State of Hawaii Endowment Fund.

Accordingly, your committee has amended the bill to:

- (1) Change the source of funding to general revenues;
- (2) Require matching funds from private sources;
- (3) Require the Honolulu Symphony to report to the Legislature on its efforts to raise private funds.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Tourism that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 491, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 491, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Ishii-Morikami.

**SCRep. 311 Economic Development and Business Concerns and Hawaiian Affairs on H.B. No. 1178**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist native Hawaiian corporations to establish one or more energy facilities in the State. The original bill calls for experienced native Hawaiian-owned Hawaii corporations, or partnerships in which a native Hawaiian-owned corporation incorporated in Hawaii is a general partner, that are actively engaged in the development of energy projects and have developed power plants in the State to be assisted.

Favorable testimony on this bill was received from Kawaihae Cogeneration Partners, a native Hawaiian-owned business.

Your Committees find that this bill is in the public interest as it would serve the State in meeting its power generation needs and it would assist native Hawaiian-owned businesses by providing them with available financing. Your Committees also find that under Article VII, Section 12, Hawaii State Constitution, special purpose revenue bonds must be issued to assist a specified special purpose entity.

Accordingly, your Committees have amended this bill to specifically refer to Waimana Enterprises, Inc., as the special purpose entity to be assisted. Your Committees have further amended this bill to delete lines 16-22 on page 2 in Section 3, and the rest of the sentence that continues on lines 1-2 on page 3. The reference to "one or more energy facilities" on page 3, lines 17-18, has been replaced by the reference "a cogeneration facility on Oahu." Your Committees have also amended this bill by changing the authorization lapsing date for this issuance from "2013" to "2003."

Your Committees have made technical, non-substantive amendments to this bill for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1178, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1178, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Apo and Lee.  
(Representatives Beirne and Marumoto voted no.)

**SCRep. 312                      Economic Development and Business Concerns on H.B. No. 855**

The purpose of this bill is to appropriate funds to continue providing technical assistance to Hawaii's businesses through the University of Hawaii's Office of Technology Transfer and Economic Development (UH-OTTED).

Your Committee received testimony in strong support of the bill from the President of Hawaiian Islands Nursery and Resources and supporting testimony from the Rehabilitation Hospital of the Pacific. Testimony was also received from the Department of Business, Economic Development, and Tourism; the Manager of UH-OTTED's Technical Assistance Program; and the President of Moloaa Farmers Cooperative.

Your Committee has amended this bill by decreasing the appropriation sums to \$1 for each year of the 1993-1995 fiscal biennium to continue dialogue on an appropriate sum to carry out the purpose of this bill.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 855, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 855, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives D. Ige, M. Ige and Tam.

**SCRep. 313                      Economic Development and Business Concerns on H.B. No. 1330**

The purpose of this bill is to extend the Revolving Loan Program for business opportunities on Molokai until June 30, 1995.

Favorable testimony on this bill was received from the Department of Business, Economic Development, and Tourism (DBEDT) and the Molokai Chamber of Commerce.

Your Committee heard testimony that because of the high unemployment rate and depressed economic situation on Molokai, combined with the statewide recession, the Revolving Loan Program is the only remaining source of financial assistance for Molokai businesses which cannot obtain financial assistance through private or conventional sources.

However, in the five years that the Revolving Loan Program has existed, it has made only five loans. Your Committee is concerned that the Revolving Loan Program is either under-utilized or is currently overfunded.

Accordingly, your Committee has amended this bill by amending Act 384, Session Laws of Hawaii 1988, to authorize DBEDT to transfer moneys from the Revolving Loan Program to the general fund. Additionally, this bill has been amended to require DBEDT to develop and adopt an action plan for administering the Revolving Loan Program pursuant to Chapter 91, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1330, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1330, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, D. Ige and M. Ige.

**SCRep. 314                      Labor and Public Employment on H.B. No. 1522**

The purpose of this bill is to promote government and cost savings by allowing State agencies to retain savings from one fiscal year for use during the next fiscal year.

Your Committee finds that today's environment demands institutions that are flexible and adaptable. It demands institutions that deliver high quality goods and services.

State government is not exempt from these changing demands. Your Committee finds that this measure recognizes the need to develop and test new ideas to streamline government operations and improve productivity.

The State Director of Finance ("Director") testified in support of the intent of this measure, acknowledging that it would be consistent with the State's efforts to make government more efficient and effective in the delivery of public services.

At the same time, the Director suggested that amendments were necessary to ensure that this measure would be compatible with other related constitutional and statutory provisions and does not undermine the Governor's ability to effectively manage the operations of government on a day-to-day basis. The Director also recommended that the proposed amendments be adopted on a temporary basis as a pilot program by a single department. The Director recommended the Department of Education (DOE), since DOE is seriously considering lump-sum budgeting.

Your Committee has amended this measure by adopting the recommendations of the Director of Finance. Specifically, this measure was amended to:

- (1) Revised Section 37-41, Hawaii Revised Statutes, to enable the Department of Education to retain savings from one fiscal year for use during the next fiscal year for a two-year period, as part of a pilot program under the direction of the Department of Budget and Finance;
- (2) Require the Director of Finance to report its findings and recommendations with regard to the pilot program to the Legislature before the Regular Session of 1995;
- (3) Reflect that the changes made to Section 37-41 would be temporary; and
- (4) Include technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1522, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasone and Taniguchi.

**SCRep. 315 Labor and Public Employment on H.B. No. 936**

The purpose of this bill is to require the Special Compensation Fund to make payment of benefits within fourteen days of the filing of a request for such payment if the employer is in default.

Favorable testimony on this bill was received from ILWU, Local 142. The Department of Labor and Industrial Relations (Department) testified in opposition to this bill stating that current requirements to investigate a defaulting employer, issue a decision, and make payment are adequate and reasonable.

Your Committee finds that for the purpose of Section 386-56, Hawaii Revised Statutes, an employer is in default if payment of benefits is not made within thirty-one days of a final decision. The Department currently takes approximately forty days to investigate a defaulting employer and issue a decision for payment of benefits by the Special Compensation Fund. Upon issuance of the decision, payment is normally processed within ten days.

Your Committee further finds that procedural requirements necessary for the Special Compensation Fund to make payment can create significant delays in payment of benefits. For example:

- (1) If an employee has not had a claim accepted, he or she must first secure a hearing with the Department to adjudicate the claim;
- (2) After receiving a favorable decision, the employee must await a second hearing and decision determines that the employer of insurer is delinquent and insolvent;
- (3) While the Special Compensation Fund may make payment after the second decision, it will sometimes review the existing record, and if it disputes the necessity of payment it will request further documentation; and
- (4) Should the Special Compensation Fund be dissatisfied with the documentation, it also has the right to appeal to the Labor and Industrial Relations Appeals Board within twenty days.

Payment to disabled workers can be delayed by months or even years through these procedures. If a claim has not been accepted, a wait of six to twelve months for a hearing at the Disability Compensation Division is not uncommon.

This bill clarifies that employees may petition the Special Compensation Fund when they are not paid benefits within the existing time limits contained in the Workers' Compensation law and requires that payment be made within fourteen days of the filing of a request with the Special Compensation Fund. A claimant would still have to prove all of the existing legal requirements for compensation to be made. Also, the Special Compensation Fund maintains the right to seek reimbursement from the delinquent employer of insurer, and would still be permitted to satisfy itself that an employer or insurer is truly insolvent.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 936 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasone and Taniguchi.

**SCRep. 316 Energy and Environmental Protection on H.B. No. 1194**

The purpose of this bill is to establish a five cents per barrel tax to support the Environmental Response Revolving Fund which will support State petroleum release prevention, response and clean-up programs.

This bill generated extensive testimony and discussion. Those speaking in favor of the bill were: The Department of Health who strongly supported the bill but deferred to the Department of Taxation; the University of Hawaii's Sea Grant College Program and Environmental Center, the Sierra Club, Hawaii Chapter; and Chevron U.S.A. Opposition to the bill

was presented by the Department of Taxation. The Tax Foundation Service found it questionable in several areas, as did Petromarine Hawaii, Ltd. Hawaiian Electric and BHP Petroleum acknowledged the intent of the bill but disagreed with its provisions.

A main area of divergence was whether Hawaii is already covered under the Federal OPA Act of 1990. Some testifiers felt this bill would just duplicate that coverage. Others felt the need for immediate accessibility to money even though it might later be paid back by OPA or those responsible for a spill. The need for immediate training in both preventative and actual measures to be taken in the event of a petroleum release on either land or sea was emphasized repeatedly with very effective scenarios of what could happen to the land and economy of Hawaii in the event of such a disaster.

Your Committee had also been discussing bills to deal with the problem of dumped motor oil, primarily by Do-It-Yourself home car mechanics and small auto repair shops. In the interests of efficient legislation and administration, the Committee decided it would be appropriate to incorporate the intent of these bills regarding the recycling of used oil, into H.B. 1194. By increasing the proposed five cent a barrel tax to six cents, a solid waste oil recycling program could also be instituted.

The bill as now structured provides for the creation of an Environmental Response Revolving Fund to support state petroleum spill prevention, response and clean-up programs and the establish of a used motor oil recycling program.

Funds from the six cent a barrel tax will be used only for those projects relating to petroleum releases in the water or on land, the accompanying planning, preparedness, education, research, training and remediation necessary, and the recycling of used motor oil.

The other source of money going into this fund will be the fines and penalties due to violations of the state environmental laws, and possible permit fees collected by the Department of Health. These funds will be used for prevention and clean up of spills or environmental damage caused by non-petroleum substances.

This tax is expected to generate just over three million dollars a year. The exemption for oil subsequently exported from Hawaii, will probably reduce the amount by six hundred thousand dollars. This still leaves a net fund of approximately 2.4 million dollars a year. The numbers will vary slightly based on petroleum consumption and exports.

The Department of Health's Hazard Evaluation and Emergency Response Program will utilize a minimum of six hundred fifty thousand dollars in carrying out its programs.

The Department of Health's Solid Waste Management Program expects to utilize five hundred thousand dollars in its target goal of recycling the 20% of the .8 million gallons of used oil estimated to be illegally dumped from the 1.2 million gallons commercially packaged and sold to Do-It-Yourself home mechanics.

This leaves approximately 1.3 million dollars a year immediately available to the state in the event of a petroleum release.

The bill provides for a cap of seven million dollars on the fund. Under present circumstances this amount will probably not be reached for about 8 years, so there should be minimum administrative work necessary in implementing the program.

Considerable discussion took place over the use of these funds only for petroleum related releases and this restriction was incorporated in the amendments by the Committee. Hazardous and toxic waste clean ups will be funded by moneys from other funds.

One of the most controversial issues was whether this money should be collected at the entry point or passed on to consumers at the gasoline pump. The Committee concurred with the Chairman's belief that assessing the tax on all petroleum coming into the state gave the industry flexibility in spreading out the cost and also makes it much fairer as it will be shared by all users of petroleum, aviation, industry, utilities, truckers and not just automobile motorists.

Although the Committee was not able to reach a consensus on all issues with the parties involved every one did agree that there were no winners in a petroleum release. Accordingly, your Committee is passing out this bill in an attempt to prevent such an occurrence from devastating Hawaii. In summary the amendments are to:

- (1) Raise from five to six cents the tax on crude oil or petroleum products entering the State;
- (2) From these revenues establish a separate account within the Environmental Response Revolving Fund to pay for all costs, including administrative and personnel, for oil release planning, prevention, preparedness, recycling, including establishing accessible oil drop off stations, training, removal, remediation, education and research;
- (3) Institute a solid waste management program designed to recycle used automobile oil;
- (4) Provide various technical definitions; and
- (5) Require an annual report back to the Legislature.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1194, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1194, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hirono.

**SCRep. 317      Energy and Environmental Protection on H.B. No. 2035**

The purpose of this bill is to establish permit and fee requirements for the operation of public water supplies, the review and approval of new sources of potable water, and underground injection control facilities. It also establishes fees for the discharge of wastewater, the plan review and approval and final inspection of individual wastewater systems. It further establishes a water quality special fund into which the collected fees would be deposited.

Testimony in favor of this bill was submitted by the Department of Health and the Natural Resources Defense Council. Testimony in opposition to this bill was submitted the Board of Water Supply, City and County of Honolulu, and County of Hawaii Board of Water Supply.

Supporters of this bill mentioned the need for a fund to enable the Department of Health to continue their efforts in controlling water pollution, providing safe drinking water and underground injection control programs. Additionally, the department is struggling to expand their regulation of more potential contaminants of drinking water as mandated by the U.S. Environmental Protection Agency.

Questions were generated by some testifiers that the additional cost of billing will be burdensome. Who will collect the new fees and what the new fee schedule will be were some of the items of concern. The Committee feels that it would be important to compensate the counties for the administration of the fee collection. All the testifiers acknowledged the value of having the department of health maintain federal clean water approvals, however some of the testifiers strongly resist placing additional tax burden on the user.

Among the many concerns expressed by the Committee, were whether or not fees would be able to be in place by the next fiscal year, when most of the environmental protection program budget has been zeroed out. The committee was offered testimony that indicated some problems might result from placing fees in statute rather than being established by rule making.

The Committee agrees with the concept of generating revenue from those who are responsible for the polluting, however some of the fees contained in this bill do not seem to sustain the "polluter pays" concept.

The Committee does acknowledge that the various parties appear to agree on several issues:

- (1) That the fees covering the permitting and monitoring process, except enforcement, might be charged by the State Department of Health.
- (2) That it is important that the State of Hawaii maintain the U.S. Environmental Protection Agency's approval rating.

The Committee agrees with the intent of the bill while recognizing many issues still remain unresolved. The use of general funds in lieu of these user fees should also be examined. To allow and encourage the dialog between the various parties to continue, the Committee recommends that the bill be passed with a one dollar attachment.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2035, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2035, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hirono.

**SCRep. 318      Health and Energy and Environmental Protection on H.B. No. 1654**

The purpose of this bill is to expand the definition of "employer" in Hawaii's "Smoking in the Workplace" statute to include all private corporations, firms and associations.

Testimonies that were received from the Department of Health, the American Cancer Society, the American Lung Association and various other groups are extremely supportive of this bill. Your Committee realizes that environmental tobacco smoke (ETS) is the third leading cause of death in the United States. Your Committee recognizes that a great deal of this "second hand smoke" is inhaled in the workplace. This bill extends the protection of the health and the rights of nonsmokers in private sector workplaces which your Committee notes.

As affirmed by the records of votes of the members of your Committees on Health and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1654 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kawakami.

**SCRep. 319      Health and Consumer Protection and Commerce on H.B. No. 1755**

The purpose of the bill is to require the Department of Health to provide for immunizations of indigent and medically indigent persons and uninsured children. The bill also amends the law relating to accident and sickness insurance to

require insurance policies issued on or after February 1, 1994 to provide coverage for the immunization of children, except in those insurance policies which are specific or limited in benefit coverage.

Testimonies from the Department of Health and Lederle Laboratories were in support of this bill. Your Committee realizes that immunizations can be very expensive and that many people may not be able to afford such expenses. It is also recognized that child immunizations should be a right rather than a privileged and therefore, all children should be immunized.

Upon further consideration, your Committee has amended the bill by removing the words "underinsured children" whenever they occurred. Other grammatical and nonsubstantive amendments were also approved by your Committee.

As affirmed by the records of votes of the members of your Committees on Health and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1755, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1755, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

**SCRep. 320                    Health; Consumer Protection and Commerce; and Judiciary on H.B. No. 1162**

The purpose of this bill is to establish a peer assistance program and a diversion program as a component thereof, to assist those nurses who are chemically dependent.

Testimonies received from the Department of Health, the Department of Commerce and Consumer Affairs, the Hawaii Nurses Association, the Board of Nursing and various other groups support this bill. It is a known fact that chemical dependency affects about ten-percent of the nursing population. It is recognized by your Committee that this is a percentage similar to that of the general population. Your Committee also realizes that nurses are far more reluctant to seek help for their dependency because of the stigma associated with chemical dependency and the fear of losing their license to practice in the State of Hawaii. It is also noted by your Committee that statistics indicate that the programs that are already in place on the continental United States are eighty-five percent effective.

As affirmed by the records of votes of the members of your Committees on Health and Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1162 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative O'Kieffe.

**SCRep. 321                    Health on H.B. No. 284**

The purpose of this bill is to provide that children born to parents not married to each other are entitled to the same rights as children born to married parents. This bill also deletes the requirement of documents showing the birth registrant has been legitimated to receive a new birth certificate.

The State Department of Health testified in support of this bill, fully supporting the effort to "retire" the outdated terminology regarding the label "legitimate". Your Committee, however, was concerned about the provision of the measure which eliminated the requirement for certain important documents.

Accordingly, your Committee has amended the bill to identify the documents required to support the issuance of a new certificate of birth.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 284, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 284, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 322                    Health on H.B. No. 1784**

The purpose of this bill is to appropriate funds for 24-hour ambulance service for the Wai'anae Coast of Oahu.

Testimonies received by the Department of Health, the City and County of Honolulu, a Councilmember of the City Council of the City and County of Honolulu, and various other doctors and members of the community support this bill. Your Committee realizes that the Wai'anae Coast has a shortage of emergency medical services. Your Committee also notes that with the addition of 24-hour ambulance service to the Wai'anae Coast, a number of lives may be saved.

After further consideration, your Committee has amended the bill by changing the appropriated amount to \$1 for purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1784, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.



**SCRep. 323                    Health on H.B. No. 2137**

The purpose of this bill is to supplement funding for substance abuse prevention and treatment services through increased assessments on the wholesale value of alcoholic beverages.

Your Committee received supporting testimony from the State Department of Health.

Your Committee agrees that the establishment of the substance abuse special fund is justified. Availability of funds to support the substance abuse education and prevention services and the substance abuse intervention and treatment services will go far to reduce the substance abuse problem in our State.

Your Committee has amended the bill in Section 2 to correct the dollar amounts shown in paragraph (a) subsections (1), (3) and (5).

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2137, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 324                    Health on H.B. No. 1175**

The purpose of this bill is to appropriate funds for subsidy payments to dentists in order to encourage practice in underserved areas identified by the Director of Health.

The State Department of Health provided testimony supporting the intent of this measure. However, they could not accept new or expanded responsibilities which required an additional allocations from the State's general fund revenues.

In view of the shortage of dentists in many areas of the state, your Committee determined that subsidy payments proposed by this bill were completely justified.

Accordingly, the bill has been amended to appropriate the sum of \$1 for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1175, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1175, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 325                    Health on H.B. No. 1174**

The purpose of this bill is amend requirements for having an out-of-state prescription filled in Hawaii by requiring that the practitioner's Drug Enforcement Agency registration number shall be required only for original prescription fills. This bill also removes informational requirement for original prescription fills.

Your Committee received testimony in strong support of this bill from the State Department of Health.

Upon careful consideration, your Committee made a technical, nonsubstantive amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1174, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1174, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 326                    Health on H.B. No. 1044**

The purpose of this bill is to establish a full-time director for a State Resource Team in the Department of Health to coordinate mental health services for the deaf and hard-of-hearing and appropriates monies therefor.

Your Committee received supporting testimonies from the State Department of Health, Hawaii State Coordinating Council on Deafness, Gallaudet University Regional Center and a number of private citizens.

Your Committee has noted that adequate attention has not been given to the deaf population who have mental and emotional disorders. It was further recognized that since the diseases and conditions that cause deafness often cause significant neurological disorders as well, there is a higher incidence of mental or emotional disorders among the deaf population as compared to the general population.

Accordingly, your Committee has amended the bill to appropriate the sum of \$1 for the biennium fiscal year, 1993-1994 and fiscal year 1994-1995 to carry out the purposes of the bill.



Your Committee further amended the bill in Section 2 to clarify that the State Resource Team (SRT) would be specifically located within the Adult Mental Health Division of the State Department of Health.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1044, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 327                      Health on H.B. No. 2032**

The purpose of this bill is to extend the autonomy pilot program to community hospitals for an additional three years and to include Samuel Mahelona Memorial Hospital, Kauai Veterans Memorial Hospital, Kula, Maluhia and Leahi Hospitals into the already existing program which includes Hilo, Kona, and Maui Hospitals.

Your Committee has received testimony in strong support of this bill from the Department of Health and several community hospitals from around the State.

Due to the fact that significant benefits have been provided by this program to Hilo, Maui and Kona Hospitals since its inception, your Committee feels that it is a proven means of improving management of the community hospitals, and that this program should be extended to apply to all acute care and long term care hospitals managed by the Division of Community Hospitals.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2032 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami.

**SCRep. 328                      Health on H.B. No. 2031**

The purpose of this bill is to permit the Department of Health to contract for the management or lease of any or all Community Hospitals.

Testimony received from the Department of Health strongly supports this bill. Your Committee realizes that skilled Hospital Management Staff are continually needed and that Community Hospitals are always seeking means to hold down administrative costs. Furthermore, your Committee recognizes that, presently, increasing numbers of managers in the health care field are joining into cooperative ventures to minimize administrative overhead and that one way of doing this is to contract the management of hospital departments or facilities to a professional hospital management organization.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2031 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami.

**SCRep. 329                      Health on H.B. No. 2030**

The purpose of this bill is to grant the community hospitals in the State of Hawaii the authority to issue revenue bonds.

Testimony received by the Department of Health strongly support this bill. Your Committee realizes that in today's cost-conscious health care market and difficult economic times, hospitals must look to all possible means of financing to implement needed medical services. It is also recognized by your Committee that revenue bond authority would provide an alternative means of financing the community hospitals without requiring an outlay of general funds.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2030 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami.

**SCRep. 330                      Health on H.B. No. 1899**

The purpose of this bill is to amend certain sections of Chapter 325, Hawaii Revised Statutes, to broaden the definition of those charged with the responsibility of immunizing minors. This bill also allows the Department of Health to provide vaccines to private and public health care providers for administration to the general public.

Testimony received by the Department of Health strongly supports this bill. Your Committee realizes that there are many groups of people in the State that are either unimmunized or underimmunized. It is noted by your Committee that there are many reasons for these inadequacies in immunization, such as financial hardships or high risk groups for various diseases. Your Committee also notes that a great number of children are not immunized because of severe restrictions placed on the Department under current Statutory Material.

After careful consideration, your Committee has decided that an amendment be placed in this bill to clarify what constitutes a "responsible" adult. An amendment was also made to incorporate children of younger ages into the immunization program.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1899, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1899, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 331                      Health on H.B. No. 1754**

The purpose of this bill is to contribute to improved public health in Hawaii by requiring health insurers to cover all immunizations recommended by the Immunizations Practices Advisory Committee of the U.S. Department of Health and Human Services (IPAC) and the American Academy of Pediatrics (AAP).

Your Committee finds that this measure seeks to clarify the specific immunization requirements for children and adults, and explain what the health insurance industry must provide in the form of coverage and reimbursement.

The Department of Health submitted testimony in support of this measure. The Hawaii Medical Service Association raised concerns about this bill.

Your Committee finds that although both the IPAC and AAP issue immunization recommendations on the same topics and issues, they do not always agree. Accordingly, your Committee has amended this bill to provide that when the IPAC and the AAP differ in their recommendations, the Department of Health shall determine the final standard.

Other technical, nonsubstantive amendments have been made to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1754, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1754, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 332                      Health on H.B. No. 2029**

The purpose of this bill is to provide consistency with the Federal Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) Reorganization Act provisions. This bill also deletes reference to "substance abuse" from statutory provisions for the State Council on Mental Health and Substance Abuse, and amends provisions for Council and Service Area Board membership. Concurrent appointment of a council member to the Hawaii Advisory Council on Drug Abuse and Controlled Substances (HACDACS), and a HACDACS member to the Council, will promote coordination between the two advisory bodies as is stated in this bill.

Testimonies in strong support of this bill were received from the Department of Health, HACDACS, and the Salvation Army, as well as various other addiction treatment service centers.

Your Committee realizes that currently, HACDACS and the State Council on Mental Health and Substance Abuse perform duplicate functions which causes confusion regarding the roles, responsibilities and functions of both bodies. It is also recognized by your Committee that this bill will clarify the roles of both organizations by establishing HACDACS as the caretaker of substance abuse problems in Hawaii while the State Council on Mental Health and Substance Abuse will be the organization responsible for mental health in Hawaii.

In accordance with the above findings, your Committee has amended the bill so that that the number of parents of children with serious emotional disturbance shall make up half of the number of nonprovider members by July 1, 1995 and thereafter providing adequate representation of such children in the deliberations of the Council.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2029, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2029, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representatives Chun and O'Kieffe voted no.)

**SCRep. 333                      Health on H.B. No. 2110**

The purpose of this bill is to appropriate funds for the conversion of a temporary clerk steno II position in the Department of Health's Injury Prevention and Control Program to permanent status.

Your Committee received supporting testimonies from the State Department of Health, the University of Hawaii School of Medicine, the Chief of Police of the City and County of Honolulu and six other agencies involved in safety and injury prevention.

Your Committee recognizes the need for personnel stability in the Injury Prevention and Control Program to facilitate long-term projects and program quality.

Your Committee notes that injury is the leading cause of death in Hawaii for children and young adults. More children die from preventable, unintentional injuries each year than from all childhood diseases combined.

Accordingly, the bill has been amended to appropriate the sum of \$1 or so much thereof as may be necessary for fiscal year 1993-1994.

Your Committee is aware that this bill could be passed without appropriation of funds but with the increase of the permanent position count in the Department of Health budget under HTH 180. A budget proviso will be submitted requesting this action.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2110, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2110, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 334                      Health and Human Services on H.B. No. 1387**

The purpose of this bill is to establish a model project to demonstrate the effectiveness of residentially-based services for medically fragile children. This bill would:

- (1) Evaluate the operation of residentially-based services for children with medically fragile conditions; and
- (2) Examine related licensure and reimbursement requirements;

by requiring the Departments of Health and Human Services to plan, design, and implement a three-year collaborative model project on Oahu.

Currently, hospitals serve a critical role in caring for medically-fragile children. However, many children reach the point where they no longer require the acute care provided in the hospital; nevertheless, they still require around-the-clock monitoring and continual medical treatment at a level which is difficult for the family caregiver to provide.

Many feel that alternatives to institutional settings would not only provide improved quality of life for children who are medically fragile, but would also provide it in a more cost-effective manner. However, regulatory and licensure barriers discourage the development of alternative facilities that will care for children in a home-like environment.

The Medically Fragile Task Force testified that the development of a model transition home was one of the key recommendations included in its report to the 1993 Legislature. The Task Force also attached language to amend this bill. The Kapiolani Medical Center for Women and Children also supported the Task Force's amendments. HDS Medical, the Hale Malama Program of Catholic Charities, and three concerned individuals supported this bill.

The Department of Human Services opposed the bill and pointed out that community-based waiver programs require a suitable body of licensure or certification regulations to govern the residence. The Department of Health also opposed the bill. The State Planning Council on Developmental Disabilities, the Child Welfare Services State Advisory Council, and the Hawaii Association for Home Care also testified.

Upon further consideration, your Committees concur with the recommendations of the Medically Fragile Task Force to create a licensing pathway whereby existing reimbursement mechanisms and funding sources can be utilized. The development of licensing standards and regulations would enable the development of transition homes and allow providers to negotiate with Medicaid and private insurers for payment. Accordingly, your Committees have amended this bill by:

- (1) Inserting a purpose section;
- (2) Replacing references to "therapeutic home care" with "transition homes" to avoid confusion with therapeutic foster care and traditional home care or home health services;
- (3) Requiring the departments to develop regulations for licensure of "transitional homes" for children with medically fragile conditions instead of implementing a model project that provides therapeutic home care;
- (4) Replacing language in subsections (b) and (c) with criteria that the licensing regulations shall consider; and
- (5) Inserting a new SECTION 3 that requires the departments to establish licensure or certification regulations for community-based waiver programs to govern transitional homes.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1387, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1387, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Peters.

**SCRep. 335****Health on H.B. No. 873**

The purpose of this bill is to allow a treating physician to test for the presence of Human Immunodeficiency Virus (HIV) without obtaining the consent of the patient if the physician determines that an emergency or health care worker may have been exposed to a patient's blood or bodily fluids capable of transmitting HIV.

Testimonies in support of the intent of this bill were received from the Honolulu Police Department, the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists, as well as various doctors and members of the community. However, the Hemophilia Foundation of Hawaii, the Big Island AIDS Project, and the AIDS Community Care Team testified against this measure.

Your Committee recognizes the concerns regarding a patient's right to privacy and confidentiality raised by those who testified against this bill. However, your Committee concurs with the arguments raised by those in favor of this measure. The devastating effects of the HIV virus and the disease known as AIDS to the human body require diligent and prudent medical management, including testing for the virus without obtaining a patient's consent under certain circumstances. Health care providers, police, emergency workers, and other first responder personnel may come into contact with bodily fluids that may cause transmission of the disease. To safeguard these workers and others, your Committee believes that they should be given appropriate information about possible exposure to the virus. Your Committee strongly cautions, however, that patients who have been tested for the virus without their consent should not be discriminated against under any circumstance.

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

- (1) Adding a new paragraph to allow testing of available body fluids and tissue without the patient's consent if the treating physician has already obtained the fluids or tissue for other diagnostic or medical purposes; and
- (2) Making technical, nonsubstantive amendments throughout the bill to correct drafting errors and for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 873, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 873, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Isbell and O'Kieffe.  
(Representatives Chun and Kawakami voted no.)

**SCRep. 336****Judiciary and Labor and Public Employment on H.B. No. 1980**

The purpose of this bill is to reassign the chief election officer function from the Lieutenant Governor to an appointed official called the "chief election officer." An elections appointment panel is established in order to select and appoint the chief election officer. Also, an office of elections is created to provide support to the chief election officer. The appointment of the chief election officer is made without regard to chapters 76 and 77, Hawaii Revised Statutes (HRS). The Lieutenant Governor shall transfer his functions and authority as chief election officer to this official effective June 30, 1994.

The Lieutenant Governor testified in support of this measure.

Your Committees find that the Legislature previously established a task force to consider the duties of the Lieutenant Governor. This task force was convened in accordance with House Concurrent Resolution No. 299, which was passed during the 1992 Regular Legislative Session. This task force found that, although there are safeguards inherent in the present elections system, because the Lieutenant Governor is an elected official there remains an appearance of possible conflict of interest. As a result, this task force recommended that the Lieutenant Governor transfer the functions and duties of chief election officer to an appointed, rather than an elected, public official. This bill is a result of that recommendation.

Your Committees have amended this bill as follows:

1. Inserted a new part to the bill, as SECTION 2, that substitutes the words "chief election officer" for the words "lieutenant governor" in numerous sections of chapter 11, HRS. This was needed to conform those sections with the intent of this bill;
2. Inserted a new part to the bill, as SECTION 4, to accomplish the same purpose as mentioned in the prior paragraph;
3. Renumbered the bill sections as a result of the insertion of the additional sections;
4. Changed this bill to reflect that, although the act shall take effect upon its approval, the section dealing with appropriations shall take effect on July 1, 1993; and
5. Made additional technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1980, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Alcon, Nakasone and Taniguchi.

**SCRep. 337                    Judiciary and Intergovernmental Relations and International Affairs on H.B. No. 1065**

The purpose of this bill is to provide various grants-in-aid to the Office of the Prosecuting Attorney of the City and County of Honolulu, the Office of the Prosecuting Attorney for the County of Hawaii, the Office of the Prosecuting Attorney for the County of Maui, and the Office of the Prosecuting Attorney for the County of Kauai for the creation or maintenance of career criminal prosecution units, the victim witness programs, and, for Oahu, Hawaii and Maui, youth gang prosecution units. The bill also provides grants-in aid to the office of the Prosecuting Attorney for the County of Kauai for a domestic violence prosecution unit.

Favorable testimony was received from the prosecutors of the Counties of Honolulu, Hawaii, Maui and Kauai.

Your Committees recognize the importance of these programs to the public safety, and have therefore amended the bill to appropriate the following sums:

- (1) For fiscal year 1993-1994 the sum of \$2,820,734 for career criminal prosecution units allocated as follows:
  - (a) \$1,226,346 for the City and County of Honolulu;
  - (b) \$806,704 for the County of Hawaii;
  - (c) \$475,704 for the County of Maui;
  - (d) \$311,980 for the County of Kauai.
- (2) For fiscal year 1994-1995 the sum of \$2,820,734 for career criminal prosecution units allocated as follows:
  - (a) \$1,226,346 for the City and County of Honolulu;
  - (b) \$806,704 for the County of Hawaii;
  - (c) \$475,704 for the County of Maui;
  - (d) \$311,980 for the County of Kauai.
- (3) For fiscal year 1993-1994 the sum of \$1,038,794 for the victim witness program as follows:
  - (a) \$502,965 for the City and County of Honolulu;
  - (b) \$262,480 for the County of Hawaii;
  - (c) \$176,801 for the County of Maui;
  - (d) \$96,548 for the County of Kauai.
- (4) For fiscal year 1994-1995 the sum of \$1,038,794 for the victim witness program as follows:
  - (a) \$502,965 for the City and County of Honolulu;
  - (b) \$262,480 for the County of Hawaii;
  - (c) \$176,801 for the County of Maui;
  - (d) \$96,548 for the County of Kauai.
- (5) For fiscal year 1993-1994 the sum of \$500,000 for youth gang prosecution units as follows:
  - (a) \$300,000 for the City and County of Honolulu;
  - (b) \$100,000 for the County of Hawaii;
  - (c) \$100,000 for the County of Maui.
- (6) For fiscal year 1994-1995 the sum of \$500,000 for youth gang prosecution units as follows:
  - (a) \$300,000 for the City and County of Honolulu;
  - (b) \$100,000 for the County of Hawaii;
  - (c) \$100,000 for the County of Maui.
- (7) For fiscal year 1993-1994 the sum of \$100,000 for the County of Kauai for a domestic violence prosecution unit.
- (8) For fiscal year 1994-1995 the sum of \$100,000 for the County of Kauai for a domestic violence prosecution unit.

As affirmed by the records of votes of the members of your Committees on Judiciary and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1065, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1065, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Alcon, Bainum, Cachola, Hagino, Hirono, Nakasone and Takamine.

**SCRep. 338                    Judiciary and Intergovernmental Relations and International Affairs on H.B. No. 1120**

The purpose of this bill is to authorize the Governor or a designated representative of the Governor to cooperate, co-sign, or participate in any federal disaster relief program, including loans to the political subdivisions of the State that requires the State's cooperation, co-signature, or the participation as a precondition to disbursing funds to any qualified political subdivision within the State.

Favorable testimony was received from a representative of the Department of Defense, a representative of Kauai County and a representative of the Kauai County Council.

Your Committees find that certain federal disaster relief programs require the State to cooperate, co-sign, or participate in order for the counties to receive federal disaster funds. In the wake of Hurricane Iniki, your Committees are in agreement that authorization should be given to the Governor so that the State can cooperate, co-sign, or participate in the disaster relief programs.

Your Committees have made a technical, nonsubstantive change for purposes of style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1120, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1120, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Hirono and Takamine.

**SCRep. 339                      Judiciary and Transportation on H.B. No. 17**

The purpose of this bill is to decriminalize all but the most serious traffic offenses, so as to more effectively and efficiently utilize the resources of the Judiciary and law enforcement. Under this measure violators would be subject only to civil penalties, such as fines and traffic points. The Judiciary is to prepare and submit to the Legislature a complete feasibility and implementation plan before January 1, 1994. Additionally, the Judiciary is to submit to the Legislature annual status reports at least twenty days before the convening of the regular sessions of 1995 through 1998, along with a final report twenty days before the regular session of 1999.

The Judiciary, the Department of the Attorney General, the Department of Transportation, the Office of the Public Defender, the Department of the Prosecuting Attorney for the City and County of Honolulu, the Department of the Prosecuting Attorney for the County of Hawaii, the Honolulu Police Department and the Hawaii State Bar Association testified in support of this measure. The Director of Finance and the Licensing Administrator for the City and County of Honolulu testified that they had no objection to the bill but they expressed concerns regarding the bill's provisions for placing restrictions on driver's licenses and motor vehicle registrations.

Your Committees find that many traffic offenses, including minor offenses, are classified currently as crimes. These offenses require the offender to appear in court, one or more times, to dispose of the case. However, currently the vast majority of violators are required only to pay a fine.

The present system consumes important judicial and law enforcement resources, which could be utilized elsewhere in the criminal justice system. Also, the present system costs drivers a needless amount of time and costs the taxpayers excessive amounts of money. The proposed program will save the taxpayers money and aggravation with the judicial system by simplifying the traffic court process.

Your Committees conclude that this measure will allow those offenders, who do not wish to contest the citation, to simply pay a fine by mail without any further action. Also, those offenders, who wish to admit to the infraction but want to explain mitigating factors, as well as those violators who want to contest the citation, will be afforded a hearing to do so.

Your Committees find that the bill proposes a traffic offense system whereby, upon receipt of a citation, the offender will be required, within fifteen days, to choose one of three options:

1.            Pay the fine indicated on the citation;
2.            Admit to the offense and request a hearing to present mitigating factors; or
3.            Request an informal hearing to contest the citation.

If the offender chooses the first option and submits payment, traffic points will be assessed according to the nature of the violation and the offender's prior record. Payment will be accepted, points assessed, and the matter will be closed. However, if the assessment of points would result in twelve or more points for that offender, which would require the suspension of the driver's license, payment would be rejected and the offender would be scheduled for trial.

If the offender chooses option number two, the offender will receive a hearing, which is limited to an explanation in mitigation of the fine and points assessed. The offender may request leniency, based upon the mitigating factors, but will not be allowed to contest the charge. The court will order an appropriate fine and point assessment and the matter will be closed. Again, if the assessment of points would cause that offender's total points to equal or exceed twelve, which would require the suspension of the driver's license, the offender's admission would be rejected and the driver would be scheduled for trial.

Should the offender choose the third option, the offender will be afforded an informal hearing. The prosecutor and police officer will not attend this hearing. At the hearing, the citation and a description of the offense will be admitted as

evidence and the offender will be permitted to explain his version of the matter. Ordinarily, no additional witnesses will be required. The offender, if dissatisfied with the outcome of this hearing, may request a regular district court trial. At the trial the prosecutor will be present and the violation must be proven beyond a reasonable doubt.

If the offender fails to respond within fifteen days to the citation and the choice of one of the three options, a judgment by default will be entered in favor of the State. The court will notify the offender as to the fine and points assessed. If the offender fails to take action to set aside the default or to pay the fine within an additional thirty days, the county Director of Finance will be notified and the offender will be unable to renew the driver's license or to register or acquire a vehicle until the matter is settled with the court.

Additionally, your Committees recognize that such an informal process may result in a greater opportunity to "fix" traffic tickets. Consequently, this measure increases the penalty from a misdemeanor to a class C felony for "ticket fixing," and provides for a minimum fine of \$1,000 and a maximum fine of \$10,000.

Your Committees have amended this bill as follows:

1. Added a more detailed purpose clause to explain the program in detail and to clarify how the program will work;
2. Abandoned the limitation that this program be confined to traffic infractions which have a maximum assessment of two points. This limitation might severely constrain the number of infractions disposed of under the program. Additionally, the Judiciary would have to maintain two separate systems, with multiple procedures. Your Committees conclude that this limitation would make the existing system worse than it is;
3. Deleted the requirement that the court send offenders, who failed to answer a citation or who failed to appear for a hearing, a notice of entry of judgment of default along with a notice of payment due and procedures to set aside the default. Your Committees decided to remove this requirement and to warn the offender, at the time of the receipt of the citation, of the consequences for a failure to respond or appear. This action minimizes the number of notices which the Judiciary must send to offenders;
4. Inserted a requirement that the hearing date be placed on the notice of traffic infraction, except in parking cases. By eliminating the need for the Judiciary to send such information to offenders, the Judiciary will be better able to send out notices of default when the default occurs. This procedure will allow certain information to be deleted from the citation, thus condensing the citation form;
5. Increased from eight to twelve points, the number of points that would trigger the offender's proceeding straight to trial. Since some traffic infractions may result in the assessment of six points, people with only two points on their records, who are quite numerous, would have to proceed directly to trial. This would defeat the purpose of the program. Thus, the bill was amended to require offenders to go straight to trial when the potential points to be assessed equals or exceeds twelve;
6. Added definitions for "hearing," and "trial" and expanded upon the definition for "traffic infraction." Since all traffic infractions, except as provided by section -3, are to be adjudicated under this bill, it was necessary to define traffic infractions to exclude violations classified as criminal offenses and those with penalties involving imprisonment;
7. Clarified in section -3(b) that an inadvertent adjudication of a traffic infraction, committed in the course of a series of criminal offenses, would not preclude a subsequent criminal prosecution that might be barred otherwise under section 701-109, Hawaii Revised Statutes. This language does not attempt to override any provisions of the U.S. Constitution, the Hawaii Constitution or any cases decided thereunder;
8. Limited the restrictions on driver's licenses to cases involving traffic infractions other than parking violations and limited the restrictions on motor vehicle registrations to traffic infractions involving parking. According to the Licensing Administrator for the City and County of Honolulu, the drivers' license records and the motor vehicle records are not cross-referenced. For example, it would be very difficult to place a restriction on a motor vehicle registration based upon the driver's non-payment of an assessment for a traffic infraction not involving parking;
9. Provided that the date, time and place of hearing for citations, except for parking cases, issued directly to offenders be provided on the face of the citation. This eliminates the need for the Judiciary to write to the driver and provide this information;
10. Reorganized the court's actions in section -7 for clarification and management purposes;
11. Reassigned from the supreme court to the various district courts the authority to adopt a schedule for monetary assessments. This recognizes that each circuit establishes its own "bail forfeiture" schedule;
12. Clarified section -13 governing trials to note that there are two types of trials. The first type is for drivers who might have their licenses suspended if they admit to a violation or if they lose at an informal hearing. The second type is for drivers who lose an informal hearing and who want to contest the citation by means of a formal judicial trial;
13. Reorganized the bill by moving the section on rules and rulemaking from section -8 to section -14 and made these applicable to all proceedings, not just the hearings; and



14. Removed the establishment of a five-year pilot program for this measure along with a provision to "sunset" this measure on June 20, 1999, but retained the reporting requirements to the Legislature. Once the Judiciary prepares the feasibility and implementation plan for this program, it is probable that there will be extensive review and additional refinement of this program.

As affirmed by the records of votes of the members of your Committees on Judiciary and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 17, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 17, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Bunda, Cachola, Chun, Hagino, Hirono and Takamine.

**SCRep. 340                      Judiciary on H.B. No. 1592**

The purpose of this bill is to update the requirements and procedures for issuing Hawaii State identification cards, and to increase the fees collected for issuing the identification cards.

Costs associated with the issuance of identification cards have substantially increased since the last fee increase in 1983. To keep up with the rising costs of issuing these identification cards, your Committee supports raising the fee from \$6 to \$8 dollars.

Your Committee has received testimony in support of this measure from a representative of the State Attorney General.

Your Committee has made technical non substantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1592, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1592, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hirono.

**SCRep. 341                      Judiciary on H.B. No. 1864**

The purpose of this bill is to give the Department of Public Safety (PSD) concurrent responsibility with the Department of Land and Natural Resources (DLNR) and the Department of Transportation (DOT) for enforcing all federal and state conservation and safety laws, rules, and regulations pertaining to state marine waters.

Testimony in support of this measure was submitted by PSD.

Your Committee has amended this bill by:

- (1) Establishing the Maritime Law Enforcement Division (MLED) within PSD to enforce all laws, rules, and regulations relating to state marine waters;
- (2) Changing the purpose of the marine patrol by establishing it as an operational unit of the MLED that is responsible for boating safety and ocean recreation programs;
- (3) Establishing the harbor patrol as another operational unit of MLED that is responsible for the enforcement of commercial harbor rules and regulations;
- (4) Specifying that MLED will also be responsible for enforcing Chapters 205A and 267, Hawaii Revised Statutes (HRS), and the general public laws of the traffic code, county ordinances, the penal code, and the rules adopted by the Board of Land and Natural Resources (BLNR) pursuant to Chapter 205A, HRS, and the rules adopted by DOT pursuant to Chapter 267, HRS;
- (5) Clarifying that MLED will "assist with" and not "carry out" specific enforcement activities requested by the BLNR and the DOT;
- (6) Clarifying that persons appointed, sworn, and commissioned as maritime law enforcement officers shall have the powers and authority of state law enforcement officers;
- (7) Clarifying that maritime law enforcement officers may conduct searches pursuant to law instead of probable cause;
- (8) Specifying that any forfeiture, notwithstanding section 712A-16, HRS, or any other law to the contrary, shall be turned over to PSD for disposition and not the DLNR or DOT;
- (9) Deleting the provision that PSD shall compile a list of all forfeiture and provide the list to DLNR and DOT;
- (10) Clarifying that PSD will cooperate with the enforcement authorities of the agencies of the federal government;
- (11) Clarifying that the duties of the marine patrol shall not include the handling of vessel registration but, in addition to its other duties, include assisting DLNR in boating safety enforcement and education, providing

interagency assistance to the U.S. Coast Guard and the National Fisheries Service, assist the Ocean Recreation Council of Hawaii in marine conservation endeavors, and enforcing ocean recreation management areas and shoreline rules with regards to thrill craft and not jetski restrictions;

- (12) Mandating that the duties of the harbor patrol shall include, but not limited to, regulating all the harbors of the State, assisting in the enforcement of harbor agents orders, policing the unauthorized use of harbor facilities and stay aboards as well as parking; and
- (13) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1864, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1864, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Hirono and Takamine.

**SCRep. 342                      Judiciary on H.B. No. 787**

The purpose of this bill is to expand the responsibilities of the Chief Justice to include the annual convening of a judicial conference to be known as the Hawaii State Judicial Conference (Judicial Conference).

The Judicial Conference has proven to be an effective forum for discussions by and between members of the Judiciary and the Hawaii State Bar Association (HSBA) regarding issues addressing the administration of justice and the delivery of legal services. More specifically, the Judicial Conference provides a forum for the unfettered discussion of problems encountered in the Judiciary system and allows for the proposal of various solutions. The Judicial Conference is also a source to provide educated and practical advice about judiciary administration.

Testimony in support of this measure was submitted by the Judiciary and the HSBA.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 787 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hirono, Peters and Takamine.  
(Representatives Menor, Amaral, Chun and Thielen voted no.)

**SCRep. 343                      Judiciary on H.B. No. 1985**

The purpose of this bill is to:

- (1) Require the Department of Taxation to provide an opportunity for a qualified individual to register to vote on the resident tax return form;
- (2) Modify last re-registration procedures; and
- (3) Authorize a county clerk to transfer a voter's registration at any time when notice of a change of address is received.

Testimony in support of this measure was submitted by the Office of the Lieutenant Governor, the League of Women Voters of Hawaii, and Common Cause Hawaii.

Section 1 of this measure, as currently drafted, requires the Department of Taxation (Department) to include the voter registration requirements on the resident tax return form and to forward a copy of the form to the appropriate clerk upon receipt. At the hearing, the Department testified that it has an oral agreement with the Office of the Lieutenant Governor to include voter registration forms in the resident tax return booklet beginning in 1994. The Department further testified that if Section 1 were implemented, the Department would need to expand the form to 8.5" X 17" and have the form perforated in a manner to prevent confidential tax return information from being released by the Department. Moreover, the Department noted that there is not enough staffing to extract and forward the voter registration information to the appropriate clerk. Currently, the Department processes over 101,000 pounds of mail annually. To require the Department to extract and process the voter registration forms would slow the processing of the tax returns and additional interest would be incurred because the payment of the tax refund would be delayed.

Your Committee, then, has amended this bill by:

- (1) Deleting the language requiring that voter registration requirements be included on the resident tax return and that a copy of the return be forwarded to the appropriate clerk;
- (2) Requiring that the application for voter registration be inserted in the tax return instructional booklet or pamphlet;
- (3) Providing that this measure shall take effect on July 1, 1993, instead of "upon its approval"; and
- (4) Making technical, nonsubstantive revisions for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1985, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1985, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Cachola, Hirono and Peters.

**SCRep. 344                      Judiciary on H.B. No. 1986**

The purpose of this bill is to improve the recruitment and placement process of precinct officials and other election day officials.

Last election year, the Chief Election Officer found difficulty in recruiting precinct officials and other election day officials. Approximately 50% of the 3,665 positions approved for Oahu remained vacant for about one month prior to the primary election. In order to improve the recruitment and placement process of election personnel, this measure would allow the Chief Election Officer to directly hire non-profit community groups as election staff and exempt from taxation any compensation paid to these groups, allow election officials to staff precincts based on ability and need rather than along party lines, provide employment waivers for election personnel necessary for minority language assistance or other special needs, and place the pay schedule within the administrative rules to permit flexibility in accommodating the inflationary and other pay increases for election personnel.

Testimony in support of this measure was submitted by the Office of the Lieutenant Governor, the Association of Clerks and Election Officers of Hawaii, and Common Cause Hawaii.

Your Committee has amended this bill by:

- (1)        Appropriating \$1 for purposes of further discussion;
- (2)        Providing that this measure shall take effect on July 1, 1993 instead of "upon its approval"; and
- (3)        Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1986, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1986, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Cachola, Hirono and Peters.

**SCRep. 345                      Judiciary on H.B. No. 925**

The purpose of this bill is to create a Status Offender Committee to investigate the present status offender system and to prepare a study for the Legislature with recommendations for changes to this system. This study is to identify the governmental agency that will handle these cases. The Committee is to submit an interim report to the Legislature before January 1, 1994, with a final report to be submitted no later than January 1, 1995. The bill appropriates for the study the sum of \$110,000 per fiscal year for fiscal years 1993-1994 and 1994-1995. Additionally, the bill appropriates, for the interim handling of status offender cases by the Department of the Attorney General, the sum of \$124,000, per fiscal year for the foregoing fiscal years, for four positions, consisting of two attorneys, one paralegal and one legal stenographer.

The Department of Human Services, the Department of the Attorney General, the Office of the Public Defender, the Judiciary, and the Department of the Prosecuting Attorney of the City and County of Honolulu presented testimony supporting this bill.

Your Committee finds that the status offender system is extremely important to the welfare of the State of Hawaii. A system of early and effective involvement with a status offender can prevent a juvenile from becoming a future law violator.

Your Committee is aware of the Honolulu City and County Prosecutor's position that it is inappropriate for the Prosecutor's office to be involved in these cases, since these cases are civil and not criminal in nature. The Prosecutor wishes to reallocate these resources elsewhere in the criminal justice system. However, such a posture leaves the Judiciary in the untenable position of being both the entity bringing the matter to hearing and the judge for the status offenders. It is imperative that a study be done to determine how to deal with status offenders. Also, it is essential that the Department of the Attorney General handle these status offender cases until the study is finished.

The Status Offender Committee will be composed of eleven members appointed by the executive director of the Office of Youth Services. Each of the neighbor islands shall have at least one member on the committee. Your Committee recommends that the Department of the Attorney General and the Judiciary be allowed to have representatives on the Status Offender Committee.

The Judiciary has provided information showing that for the fiscal year July 1, 1991, through June 30, 1992, there were 1871 status offender petitions filed. The Department of the Attorney General had one deputy handling only the truancy and educational neglect petitions. The Honolulu City and County Prosecutor's Office was handling the remainder of the status offender petitions. The deputy attorney general handled 505 cases, or almost 30 percent of the 1871 petitions. Thus, in order to handle the remaining 1366 petitions, your Committee finds that the Department of the Attorney General will need at least two additional deputies, as well as support staff.

Your Committee has amended the bill as follows:

1. Section 2 of the bill is amended to specifically include a list of areas that are to be studied by the committee;
2. Section 2 of the bill is amended also to specifically include on the committee a representative from the the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Hawaii State Bar Association; and
3. Section 2 of the bill is amended further to include a requirement that each of the neighbor islands have a member on this committee.

Finally your Committee recommends that the status offender committee include a representative from the Judiciary and the Department of the Attorney General.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 925, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 925, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Cachola, Hirono, Oshiro and Takamine.  
(Representatives Amaral and Thielen voted no.)

**SCRep. 346                      Judiciary on H.B. No. 197**

The purpose of this bill is to change the position of Gender and Other Fairness Project Coordinator (Project Coordinator) from civil service to exempt status.

Testimony in support of this measure was submitted by the Judiciary.

The Project Coordinator is responsible for promoting the Judiciary's commitment to equal justice for all people, without regard to gender, race, ethnicity, religion, or other discriminatory factors prohibited by law. The Project Coordinator also works with the Supreme Court's Permanent Committee on Gender and Other Fairness to identify and address problems areas in the bar, law schools, and various components of the justice system. Moreover, the Project Coordinator also creates and implements educational programs for attorneys, jurors, Judiciary employees, law school professors and students. Because the Project Coordinator interacts with non-Judiciary legal institutions as a representative of the Judiciary and the Committee on Gender and Other Fairness, the person filling the position should serve at the pleasure of the Chief Justice and the Administration Director of the Courts.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 197, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 197, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Hirono and Takamine.

**SCRep. 347                      Judiciary on H.B. No. 933**

The purpose of this bill is to add a new section to chapter 103, Hawaii Revised Statutes (HRS) to permit the second lowest bidder to bring a cause of action for damages against the successful bidder due to that successful bidder's knowing violation of the wages and hours of employees found in chapter 104, HRS.

A number of representatives of the Construction Cooperation and Research Trust testified in support of this measure.

Your Committee finds that there are disreputable companies, who are successful in bidding for public contracts by means of misreporting their payroll and employees or by misclassifying their employees' wages. These companies fraudulently inflate the number of employees and the payroll involved in a contract. Also, these companies list their workers as making certain wages but they pay their workers much lower wages. These companies then can submit lower bids for the contracts and they can pocket the difference between the wages listed and the wages paid. As a result, honest companies are at a distinct disadvantage in trying to win bids for public contracts.

Your Committee received testimony that the Department of Labor testified before the Senate recently regarding a comparable bill and suggested changes to the bill that would add the new section to chapter 103, HRS, instead of chapter 104, HRS, and that, in the body of the bill, would refer to violations of chapter 104, HRS. The right of action, by the second lowest bidder, should be found in chapter 103, HRS, because this right is to exist regarding public contracts. However, the intent of the bill is that this right of action is to be triggered by a violation of the wages and hours of employees found under chapter 104, HRS. Accordingly, your Committee has amended this bill as follows:

1. Modified the bill to reflect that the new section is to be added to chapter 103, HRS and not chapter 104, HRS;
2. Identified that the second lowest bidder's right of action under chapter 103, HRS, involves violations of chapter 104, HRS; and

3. Made technical and non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 933, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 933, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Hirono and Takamine.

**SCRep. 348                      Judiciary on H.B. No. 150**

The purpose of the bill is to act as an omnibus bill for campaign financing reform.

Testimony generally in support of the bill was received by the Committee from a Representative of the Campaign Spending Commission, the League of Women Voters of Hawaii, and from a Representative of Common Cause.

Your Committee believes that reforms in Hawaii's campaign financing laws is essential to the revitalization of communication among citizens, candidates, and elected officials.

Your Committee finds that simply because a loan was not made through a financial institution should not automatically make the loan a campaign contribution. Your Committee also finds that the necessity of reporting to the commission regarding goods of mixed benefit should not be deleted from the current law, and that it should not be made more difficult for candidates to qualify for matching funds by increasing the amount of the qualifying campaign contributions.

Your Committee has amended this bill by:

- (1) Deleting from the purpose statement in Section 1 the paragraph by paragraph description of the changes the bill will make to current law.
- (2) Clarifying, in Section 2, that loans to candidates in excess of \$2,000 which are not documented and disclosed to the Campaign Spending Commission will be treated as campaign contributions.
- (3) Deleting the proposed changes to §11-206(b).
- (4) Maintaining the current law with respect to limits on campaign expenditures in §11-209(a).
- (5) Clarifying language that it is only candidates who voluntarily agree to the expenditure limits who needs to notify opponents and the commission when the limits are exceeded.
- (6) Specifying that it is the thirtieth and not the twentieth day of January when the final primary report shall be filed.
- (7) Maintaining the current law by declining to alter §11-219 with respect to the amount of qualifying contributions required as a condition of receiving public funds.
- (8) Increasing the amount of campaign contributions which qualify as a deduction in computing taxable income.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 150, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Hirono and Takamine.  
(Representative Thielen voted no.)

**SCRep. 349                      Transportation; Intergovernmental Relations and International Affairs; and Judiciary on H.B. No. 2051**

The purpose of this bill is to allow persons with a Mexican commercial driver's license (CDL) to use it in Hawaii, to conform the State's definition of non-resident commercial driver's license with the federal definition, to prohibit a commercial driver's license holder to have more than one driver's license, and to provide a means of holding hearings for drivers who operate a commercial motor vehicle while having in their body an alcohol concentration of 0.04 percent or more by weight.

Your Committees find that this bill amends the State of Hawaii's laws to comply with the Commercial Motor Vehicle Safety Act (CMVSA) of 1986. This Act requires the Secretary of Transportation to withhold 5 percent of the amount required to be apportioned to any state if a state does not comply with the Commercial Motor Vehicle Safety Act requirements by October 1, 1993. In addition, the Commercial Motor Vehicle Safety Act requires 10 percent to be withheld every subsequent year that the state is not in compliance. For Hawaii, this translates to a loss of about \$4.4 million in the first year and \$8.7 million every year thereafter.

Your Committees received testimony from the State Department of Transportation and the Hawaii Transportation Association.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs and Judiciary that are attached to this report, your Committees are in accord with the

intent and purpose of H.B. No. 2051 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Alcon, Bunda, Cachola, Chun, Hagino, Hirono and Takamine.

**SCRep. 350                      Transportation and Energy and Environmental protection on H.B. No. 1789**

The purpose of this bill is to create an Office of Environmental Oversight within the Department of Transportation.

Your Committees find that the Department of Transportation, within its mandate to establish, maintain, and operate transportation facilities throughout the state, is often faced with environmental management issues and the need to ensure compliance with statutory and regulatory requirements.

Your Committees received testimony from the State Department of Transportation and the University of Hawaii at Manoa Environmental Center.

Your Committees have made the following amendments:

1.        Modify the duties of the Office of Environmental Oversight to include the assistance in the coordination with other departments to ensure compliance with state and federal environmental laws and regulations; and
2.        To include in the Department of Transportation's annual report the amounts spent for environmental protection and contamination remediation as well as detailing other environmental issues related to department operations.

As affirmed by the records of votes of the members of your Committees on Transportation and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1789, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1789, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino, Hiraki, Hirono and Takamine.

**SCRep. 351                      Transportation and Consumer Protection and Commerce on H.B. No. 173**

The purpose of this bill is to establish a comprehensive process for the regulation of inter-island air carriers to the extent possible under the Constitution and laws of the United States.

Your Committees have received testimony from the State Department of Transportation, Aloha Airlines, and Hawaiian Airlines.

Your Committees find that because of Hawaii's unique geography, inter-island air transportation is essential in meeting the mobility needs of both residents and visitors within our State. The absence of a connecting highway system between the various islands of our State emphasizes the need to maintain an efficient and stable inter-island air transportation system.

Essential inter-island passenger and cargo air services can be effectively assured through the establishment of a comprehensive process to regulate inter-island air transportation. This process is envisioned to ensure adequate service to our various communities at reasonable rates and fares.

In establishing this comprehensive regulatory process, your Committees emphasize that it is not our intent to prevent or impair the entry of any new carrier into Hawaii's inter-island air transportation system. It is the express desire of your Committees to create a fair and equitable regulatory process which would ensure stable and efficient inter-island air transportation service for Hawaii.

Your Committees, upon further consideration, have made the following amendments:

1.        Add a provision requiring advice and consent of the Senate for air carrier commission members;
2.        Authorize the air carrier commission to employ persons necessary for the performance of the commission's functions, and delete the criteria regarding the types of positions which may be established;
3.        Include a provision to exempt air carriers transporting cargo of not more than 3,000 pounds from the provisions of this bill;
4.        Delete provisions which state that the commission shall find in order to approve an application for an inter-island air transportation certificate that the proposed service will (1) not have an adverse economic effect on any other Hawaii air carrier, (2) not result in any loss of employment within the State, (3) be required in order to assure adequate service between the specific points, and (4) not result in any diminution of air transportation to any point within the State;
5.        Delete the earning of a reasonable return on facility investments from the criteria for setting rates;
6.        Authorize the commission to establish and periodically adjust the "recognized level" of the fare;

7. Authorize temporary fare increases upon a prima facie showing by an air carrier that such fare is just and reasonable;
8. Clarify that any complaint filed against a carrier for unfair or deceptive practices which result in a cease and desist order may relate to advertising and marketing, service and ancillary services, pricing, or any other aspect of the operation;
9. Insert penalty amounts for non-compliance violations;
10. Provide flexibility to the commission to compromise any fine or civil penalty;
11. Provide an initial appeal of commission action to the director of transportation;
12. Provide for a concurrent appeal of commission action to the courts;
13. Stipulate that any person providing inter-island air transportation service as of the effective date of this Act shall be deemed qualified and shall be issued a certificate;
14. Add a new section authorizing the Legislative Reference Bureau to:
  - a. Assess the need for a consumer advocate to represent, protect, and advance the interests of all consumers before the commission;
  - b. Recommend what the general powers and duties of the consumer advocate should be;
  - c. Assess staffing and funding requirements;
  - d. Assess whether this responsibility may be incorporated under the purview of our present consumer advocate or if a separate consumer advocate is recommended, where this position may be placed for administrative purposes;
  - e. Provide draft legislation necessary to implement the recommendations; and
  - f. Submit a report 30 days prior to the 1994 Legislative Session;
15. Leave the effective date blank; and
16. Make various technical, non substantive amendments.

As affirmed by the records of votes of the members of your Committees on Transportation and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 173, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 173, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Cachola and Hirono.  
(Representatives Hagino and Ward voted no.)

**SCRep. 352                      Transportation and Intergovernmental Relations and International Affairs on H.B.No. 171**

The purpose of this bill is to authorize the Director of Finance of each county to enter into a contract with a private enterprise for the registration of new motor vehicles.

Your Committees find that other jurisdictions have successfully implemented similar "Government-Dealer" partnership programs allowing a private organization to title and issue license plates to new vehicles. This process would benefit the public who would receive license plates and registration documents faster, and also result in the title for the new vehicles being processed more expeditiously.

Your Committees received testimony from the City and County of Honolulu Department of Finance, and the Hawaii Auto Dealers' Association.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 171 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hagino.

**SCRep. 353                      Transportation and Intergovernmental Relations and International Affairs on H.B. No. 961**

The purpose of this bill is to allow a police officer who has probable cause to believe a driver is operating a motor vehicle under the influence of drugs to require that driver to submit to a blood test. The bill also imposes sanctions for refusing to take such tests.



Your Committees find that the bill clarifies that every person operating a motor vehicle in the State is considered to have given consent to taking a blood test if there is probable cause to believe they are driving under the influence of drugs. Furthermore, the bill proposes amendments to the implied consent law with regard to withdrawing blood samples by:

1. Permitting hospital phlebotomists to withdraw blood samples;
2. Permitting the treating physician to disallow the withdrawal of a blood sample if it would endanger the driver's life;
3. Requiring hospitals to maintain and document the results of the blood sampling for admissibility in court; and
4. Expanding the existing exception to liability for those performing the blood tests to include liability based on the release of the test results to the proper authorities.

Your Committees have received testimony from the State Department of Transportation, the City and County Department of the Prosecuting Attorney, the State Attorney General, and Mothers Against Drunk Driving.

Your Committees, upon further consideration, have made the following amendments:

1. Add provisions for license revocation sanctions for refusal to take the blood test;
2. Retain the present statute regarding limiting implied consent for persons operating a motor vehicle or moped on public highways;
3. Require a blood test if there is probable cause to believe that a person is driving under the influence of drugs;
4. Delete amendments to the penalty section relating to the driving under the influence of alcohol;
5. Add provisions which create a per se offense of driving under the influence of drugs;
6. Add provisions mandating restitution for the cost incurred in administering a blood test;
7. Retain the present statute which identifies the offense of driving under the influence of drugs as when a person operates a vehicle or moped under the influence of any drug which impairs the person's ability to operate the vehicle in a careful and prudent manner;
8. Incorporate various amendments to insure that the arresting officer is properly trained with regard to the offense of driving under the influence of drugs; and
9. To incorporate various technical, non-substantive amendments.

As affirmed by the record of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that is attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 961, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 961, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committees except Representative Hagino.

#### **SCRep. 354      Transportation and Intergovernmental Relations and International Affairs on H.B. No. 1055**

The purpose of this bill is to resolve the jurisdictional dispute between the State and counties over the ownership of certain disputed highways. The bill deletes the requirement that a county has to remit to the State the proceeds of any sale of a county highway, if the right-of-way for the highway was acquired with State funds.

Your Committees received testimony from the State Department of Transportation and the City and County of Honolulu Department of Public Works. The directors of these departments testified in support of the measure.

Your Committees have amended Section 1 of this bill to mandate that the counties shall accept ownership and jurisdiction of all disputed public highways within their respective counties, as defined in Section 264-1, Hawaii Revised Statutes, without the necessity of conveyancing documents transferring title from the State to the respective counties. An additional amendment has been incorporated to clarify that this legislation does not establish a new program or increase the level of services under an existing program which would require the State to share the cost with the counties, pursuant to Article VIII, Section 5, of the Constitution of the State of Hawaii.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1055, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1055, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino, Oshiro and Ward.

**SCRep. 355                    Transportation and Intergovernmental Relations and International Affairs on H.B. No. 312**

The purpose of this bill is to require future amendments on the amount of the various county's fuel tax be determined by ordinance. The bill also requires that a public notice be published ten days prior to the hearing on the proposed fuel tax increase.

Your Committees find that the proposed change to the method of approval from resolution to ordinance would provide for enhanced review of the proposed fuel tax amendment. The use of an ordinance would also mandate the mayor of the county to approve or disapprove the measure.

Your Committees received testimony from the Tax Foundation of Hawaii.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 312 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees.

**SCRep. 356                    Transportation on H.B. No. 1701**

The purpose of this bill is to reinstate the helmet use requirement for persons operating and riding motorcycles and motor scooters on public roads.

Your Committee received testimony from the Department of Transportation, Honolulu Police Department, Oahu Traffic Safety Council, Chamber of Commerce, Street Bikers United, Injury Prevention Advisory Committee, Health Care Association of Hawaii, Pacific Health Injury Association, Hawaii Insurers Council, Hawaii Safety Helmet Coalition, Harley Owners Group, and concerned citizens.

Your Committee finds that a mandatory helmet use law will allow Federal highway funds to be used for their intended purpose. If the State does not implement a mandatory helmet law by September 30, 1993, \$1.4 million in Federal highway construction funds will be transferred to the highway safety program in Federal Fiscal Year 1995, and \$2.7 million will be transferred in Federal Fiscal Year 1996.

Your Committee further finds that fatal accident data indicate that a mandatory helmet use law in Hawaii decreases motorcycle fatalities. During the six-year period of calendar year 1962 and 1967 when Hawaii had no helmet use law, there was an average of 10.8 motorcycle fatalities per year. The annual average number of fatalities for the nine-year period 1968 through 1976, when Hawaii had a comprehensive helmet use law, was 6.2. During the 14-year period of Hawaii's current helmet use law, which relates only to persons under the age of 18, the annual average number of motorcycle deaths is 15.5.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1701 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 357                    Transportation on H.B. No. 1538**

The purpose of this bill is to establish a Non-Resident Violator Compact with other jurisdictions.

Your Committee finds that there is a need to improve upon the enforcement of traffic violations against non-residents, which would promote highway safety and generate additional revenue for the State. The total amount of outstanding fines for non-resident motor vehicle violations has escalated significantly in recent years. Hawaii's entry into this compact with other jurisdictions will greatly enhance our ability to collect upon such outstanding fines.

Your Committee received testimony from the State Department of Transportation, the City and County of Honolulu Department of Finance, and the Kauai County Police Department.

Your Committee has made the following amendments:

1. Add new definitions for "Issuing State" and "Motorist", while modifying definitions for "Citation", "Licensing Authority", and "State";
2. Modify the compact such that the Traffic Violations Bureau of the Judiciary issue and receive notices of driver license suspensions; and
3. Amend the Driver Abstract and the Financial Responsibility statutes to exclude the applicability of moving violations and license suspensions resulting from the non-compliance of submitting the appropriate bail forfeiture payment pursuant to this compact.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1538, H.D. 1, and be referred to the Committee on Judiciary.