

Signed by all members of the Committee except Representative Hagino.

SCRep. 358 Transportation on H.B. No. 226

The purpose of this bill is to allow only authorized information to be printed on temporary motor vehicle number plates.

Your Committee finds that the purpose of temporary motor vehicle number plates is to allow the operation of a new motor vehicle until the dealer has processed the proper documents for registration and the permanent motor vehicle license plates have been obtained. The purpose of the information contained on the temporary motor vehicle number plates is to identify the motor vehicle owner and to indicate the expiration date of the temporary motor vehicle license plate.

Your Committee finds that several automobile dealers are printing unauthorized information on temporary motor vehicle license plates.

Your Committee received testimony from the Hawaii Automobile Dealers' Association and the City and County of Honolulu Department of Finance.

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. 226 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 359 Transportation on H.B. No. 481

The purpose of this bill is to require the holder of a temporary instruction permit to be accompanied by a licensed driver age eighteen years of age or older when operating a motor vehicle.

Your Committee finds that supervising a driver with a temporary driver's permit requires a great amount of responsibility. A person under 18 years of age who has minimal driving experience may not be capable of adequately instructing an unlicensed driver.

Your Committee received testimony from the State Department of Transportation, the Honolulu Police Department, and an interested citizen.

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. 481 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 360 Transportation on H.B. No. 2050

The purpose of this bill is to raise the principal amount of special facility revenue bonds authorized and to delete the existing sunset provision to allow the Department of Transportation to continue issuing special facility revenue bonds for harbors.

Your Committee finds that the sunset provision must be deleted and facility revenue bonds authorized increased to provide private enterprise the option to finance the development of waterfront facilities. In addition, various amendments 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.

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. 2050 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. 361 Transportation on H.B. No. 2118

The purpose of this bill is to place the burden of proof on a driver involved in an accident in which a motor vehicle strikes any person, animal, or object outside the boundaries of any road, freeway, or path normally used by motor vehicles.

Your Committee finds that this bill would require the operator of a motor vehicle to prove that the collision which occurred outside the boundaries of the roadway was not the fault of the motor vehicle operator.

Your Committee received testimony from the State Department of Transportation and the Hawaii Academy of Plaintiffs' Attorneys.

Your Committee has amended the bill to clarify that there shall be a rebuttal presumption that the party operating a motor vehicle is at fault in any civil action involving the collision of a motor vehicle with any person, animal, or object which occurs outside the boundaries of a roadway used by a motor vehicle.

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. 2118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2118, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hagino.

SCRep. 362 Transportation on H.B. No. 789

The purpose of this bill is to amend Section 291C-161, Hawaii Revised Statutes, to allow the courts to require an offender to attend a course of instruction in driver retraining, in addition to, or in place of, any other penalty imposed.

Your Committee finds that this bill would expand the Judiciary's sentencing options by allowing the court to require driver retraining. This would permit the court the flexibility of imposing a driver retraining mandate after reviewing the circumstances surrounding the infraction and the offender's complete traffic record.

Your Committee received testimony from the State Department of Transportation, the Judiciary, the City and County Prosecutor's Office, and the Honolulu Police Department.

Your Committee, upon further consideration, has amended the bill to delete the provision allowing the court to impose driver retraining in place of any other penalties presently specified in statute. The amended bill will allow the court to impose driver retraining in addition to any other penalties imposed.

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. 789, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 789, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hagino.

SCRep. 363 Transportation on H.B. No. 30

The purpose of this bill is to allow the Director of Finance of each county to require the payment of delinquent tax and penalties prior to the registration, renewal, or transfer of ownership of a motor vehicle.

Your Committee finds that the Office of the Ombudsman has indicated that delinquent taxes and penalties should not be charged to any person other than the vehicle's owner of record at the time the tax was due, unless the counties formally file a lien. The counties have stated that it is administratively impossible for them to file a tax lien on all vehicles that have not paid the required taxes by its registration expiration date.

Your Committee notes that this bill would allow the Director of Finance to require the payment of delinquent taxes and penalties as a condition precedent to the registration, renewal, or transfer of ownership of a motor vehicle.

Your Committee received supporting testimony from the City and County of Honolulu Department of Finance.

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. 30 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 364 Transportation on H.B. No. 16

The purpose of this bill is to increase the fee which a vehicle transferee must pay for a new certificate of ownership when the transferee fails to forward the endorsed certificate of ownership and the certificate of registration to the Director of Finance within twenty days of the transfer of title or interest.

Your Committee finds that the City and County Division of Motor Vehicles and Licensing has had an increase in delinquent transfers of ownerships. Furthermore, delinquent transfers cause inconvenience and aggravation to the seller of a vehicle when the vehicle is issued citations after the sale and physical transfer of the vehicle to the new buyer.

Your Committee received supporting testimony from the City and County of Honolulu Department of Finance.

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. 16 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hagino.

SCRep. 365 Transportation on H.B. No. 7

The purpose of this bill is to regulate the transportation of animals in pick-up trucks.

Your Committee finds that animals are prone to serious injuries when transported unrestrained in the bed of a pick-up truck. Also, an animal that had jumped or fallen from the bed or load-carrying area of a pick-up truck while travelling on a public highway can create a traffic hazard.

Your Committee received testimony from the Department of Transportation, and the Hawaii Humane Society.

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. 7 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 366 Transportation on H.B. No. 223

The purpose of this bill is to eliminate the notarization requirement to obtain a refund of motor vehicle taxes. The bill also requires that the certificate of title and registration for a previously junked vehicle include a statement that indicates the vehicle had been previously junked, and requires a vehicle identification number inspection as a condition prior to registration of the junked vehicle.

Your Committee finds that the vehicle identification number inspection will assure that the vehicle being registered is the same vehicle that was previously junked. In addition, the title branding requirement will alert subsequent buyers and other state jurisdictions that the vehicle was previously junked.

Your Committee received supporting testimony from the City and County of Honolulu Department of Finance.

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. 223 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 367 Transportation on H.B. No. 179

The purpose of this bill is to establish a new part entitled "High Occupancy Vehicle Lanes" under chapter 291C, the Statewide Traffic Code, of the Hawaii Revised Statutes.

Your Committee received testimony from the Department of Transportation, Leeward Oahu Transportation Management Association, the Honolulu Police Department, and the Chamber of Commerce of Hawaii.

Your Committee finds that High Occupancy Vehicle (HOV) lanes were designed to encourage ridesharing by providing a travel time saving incentive for vehicles transporting two or more persons during peak traffic periods. Your Committee further finds that HOV lane requirements have been difficult to enforce.

Your Committee notes that establishing a minimum fine, and authorizing the issuance of citations by mail will encourage compliance of the minimum vehicle occupancy requirement by the motoring public.

Your Committee upon further consideration has made the following amendments:

1. Incorporate language to clarify that when the high occupancy vehicle operation is also a contra-flow operation, the hours of usage shall be the time the high occupancy vehicle lane is coned for such use; and
2. To retain the present statutory language to mandate that the Department of Transportation shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, arrange for contracts with private organizations to manage and operate these programs, and assist in the formulation of ridesharing arrangements.

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. 179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 179, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 368 Transportation on H.B. No. 178

The purpose of this bill is to establish a bicycle/pedestrian coordinator position within the Department of Transportation.

Your Committee received testimony from the Department of Transportation, the Mayor's Bikeway Advisory Committee, and numerous organizations and interested individuals.

Your Committee finds that because of the growing demand on our highways, privately owned and operated vehicles must be complemented with other low-cost, energy efficient means of transportation. The creation of a full-time bicycle coordinator within the Department of Transportation would enhance focus upon bicycling programs and would insure that appropriate consideration be given to bicycling as a transportation alternative.

Your Committee has made the following amendments:

1. Delete Section 5 and Section 6, which appropriates an unspecified amount for the bicycle/pedestrian coordinator position. The appropriation has been incorporated into House Bill 1152; and
2. Replace all reference to "the bicycling promotion program" with "the statewide bicycling promotion program."

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. 178, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 178, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 369 Transportation on H.B. No. 1702

The purpose of this bill is to conform the State's definition of "tandem axle" with the federal definition that defines it as two consecutive axles spaced more than forty inches and not more than eight feet apart.

Your Committee finds that if the State's definition of "tandem axle" is not in conformance with the definition provided in Title 23, Part 658.5(j) of the Code of Federal Regulations, an estimated seventeen million dollars of Hawaii's National Highway System (NHS) apportionment of federal funds will be withheld on October 1, 1993.

Your Committee received testimony from the State Department of Transportation and the Hawaii Transportation Association.

Your Committee, upon further consideration, has made the following amendments:

1. Modify Section 291-35(1)(A), Hawaii Revised Statutes, to state that the total gross weight of any group of two or more consecutive axles shall not exceed 22,500 pounds when the distance between the first and last axles of the group under consideration is forty inches or less;
2. Modify Section 291-35(1)(B), Hawaii Revised Statutes, to state that the total gross weight of any group of two or more consecutive axles shall not exceed 34,000 pounds when the distance between the first and last axles of the group under consideration is more than forty inches but not more than eight feet;
3. Modify Section 291-35(2), Hawaii Revised Statutes, to state that the total gross weight, in pounds, imposed on interstate highways within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed that resulting from application of the formula when the distance between the first and last axles of the group under consideration is over eight feet;
4. Modify Section 291-35(3), Hawaii Revised Statutes, to state that the total gross weight, in pounds, imposed on any public road, street, or highway, other than interstate highways, within the State by a vehicle or combination of vehicles shall not exceed that determined by the formula when the distance between the first and last axles of the group under consideration is over eight feet;
5. Modify 291-35(5), Hawaii Revised Statutes, to state that for the purpose of this section, axles placed in the same transverse plane and are spaced forty inches or less apart shall be considered as one axle; and
6. Include various, non-substantive amendments.

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. 1702, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1702, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 370 Health on H.B. No. 2034

The purpose of this bill is to implement statutory exemptions that were identified during the autonomy pilot program as impediments to autonomous operation.

Testimony in strong support of the bill was received from the Department of Health. Your Committee understands that there are many management needs of the community hospitals of Hawaii that need to be met. It is also recognized by

your Committee, that the passage of this bill would provide a series of targeted solutions and that the combined effect of these exemptions will be improvements in administrative efficiency, reduction of "red tape" and a reduction in hospital costs.

After careful consideration, several amendments to strengthen the position of the community hospitals and to further strengthen language were added by your Committee.

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. 2034, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2034, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 371 Health on H.B. No. 2142

The purpose of this bill is to appropriate funds to meet the medical needs of the residents of the Hamakua region on the Big Island.

Your Committee received testimony from the State Department of Health which advised that the department had been working closely with a wide variety of community organizations, private clinics and other public agencies to provide as much assistance as possible, prior to the closing of Hamakua Sugar Company's operations. Given this year's fiscal situation, the Department of Health could not support the additional funding required by this bill.

Your Committee very much aware that the impending situation of Hamakua Sugar Company threatens the availability of medical and emergency services for residents in the region and consider it imperative that the existing infirmary remain operational.

Accordingly, your Committee has amended this bill appropriating 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. 2142, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2142, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 372 Health on H.B. No. 1374

The purpose of this bill is to appropriate funds for a dialysis machine for North Hawaii.

The State Department of Health submitted testimony indicating their support to improving the accessibility of important health services, such as dialysis treatment, to residents of the neighbor islands. The fiscal situation, however, precludes their ability to support the required appropriations this year.

Your Committee, being aware of the extreme hardships being experienced by North Hawaii patients needing dialysis treatment, strongly supports the purchase of a dialysis machine for the North Hawaii area. Accordingly, the bill has been amended to include the sum of \$1 for the purpose 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. 1374, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1374, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 373 Health on H.B. No. 1547

The purpose of this bill is to establish a multi-step bid process for the procurement of emergency ambulance services with private agencies in those counties which have not applied to the Department of Health to operate emergency ambulance services.

Your Committee received testimony from the Department of Health (Department), International Life Support, many mobile intensive care technicians, and emergency medical technicians, as well as physicians, in support of the intent of this bill.

The Department testified that amendments to the Public Procurement Code proposed in H.B. No. 1800 (1993) and S.B. No. 2000 (1993) address the special requirements for emergency ambulance service. The multi-step process proposed in these measures will allow for the evaluation of proposals to determine qualified bidders, and the award of the contract to the bidder offering high quality services with the lowest qualified bid price. The Department suggested that in light of the amendments proposed in these bills, the amendments made under the instant bill should be repealed on June 30, 1994. In this regard, your Committee was assured by the Department that if both H.B. No. 1800 and S.B. No. 2000 failed to pass, the Department would request a delay of the foregoing repeal during the the 1994 legislative session.

After careful consideration, your Committee has amended the bill to provide that the Act shall be repealed on June 30, 1994.

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. 1547, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1547, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Pepper.

SCRep. 374 Human Services on H.B. No. 1453

The purpose of this bill is to establish the Hawaii Children's Trust Fund to strengthen families with the intent of preventing child abuse and neglect.

Testimony from the Office of Children and Youth, Department of Education, Center for Youth Research, The Hawaii Association for the Education of Young Children, The Sex Abuse Treatment Center, Hawai'i Children's Trust Fund Coalition, Hawaii Community Foundation, Mental Health Association in Hawai'i, The Hawai'i Council of Churches, Prevent Child Abuse Hawaii, National Association of Social Workers, Child Abuse & Neglect Secondary Prevention Advisory Committee, Parents and Children Together, Hawaii Youth Services Network, and Hawai'i Early Intervention Coordinating Council was received in strong support of this measure. The Department of Health also submitted testimony in support of the intent of this measure.

Concern was raised as to the proposed structure of the Children's Trust Fund, because it seems to give final authority of financial grant awards to the Hawaii Community Trust. By statute, this responsibility has been given to the Department of Health. It is noted that the establishment of the Hawaii Children's Trust Fund will maximize resources from public and private sectors to strengthen families through prevention of child abuse and neglect. In general, prevention programs are more cost effective methods than treatment programs. Preventing child abuse and neglect is critical when considering its relationship to other problems such as substance abuse, delinquency, and runaways. Without the support provided by the program to families, there is a greater risk of repeated patterns of abuse and neglect in subsequent generations. Hawaii is currently one of two states that does not have a Children's Trust Fund. Failure to establish this fund may result in loss of Federal Prevention Grant monies.

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

- (1) In SECTION 1, the following sentence is deleted: "The Legislature finds that the establishment of the Children's trust fund will qualify Hawaii for federal funding to combat child abuse and neglect which would otherwise be lost". While there are strong indications that Hawaii will no longer qualify for this federal funding, that is not a certainty.
- (2) In SECTION 2, Sec -2(c) the following sentence is revised: "The State may donate moneys to the fund by legislative appropriation or other means on the same basis as a private person." The phrase "or other means on the same basis as a private person" is deleted. The revision is suggested due to concerns over Chapter 42 and Chapter 42D.
- (3) In SECTION 2, Sec -2(c) the following sentence is added: "Any appropriations made by the State are not intended to supplant the funding of existing prevention programs." This provision is added to ensure that existing prevention programs are not diminished or eliminated due to any State funds appropriated to the Children's Trust Fund.
- (4) In SECTION 2, Sec -2(e) the reference to "services" is replaced by "grantmaking or administration" to clarify the purposes for which expenditures may be made.
- (5) In SECTION 2, Sec -2(f) the requirement of the Department of Health to provide staffing for the advisory board, the coalition, and steering committee was revised to authorize the Department to engage in those activities without requiring it. This proposed amendment would provide flexibility to the Department.
- (6) In SECTION 2, Sec -2(h) the requirement to distribute unspent contributions made by the State "to the general fund" was revised to be less specific. Rather, these unspent contributions would "revert to the State." The flexibility provided by this amendment would permit flexibility provided by this amendment would permit unspent contributions to be returned to the proper depository should the general fund not be appropriate.
- (7) In SECTION 2, Sec -3 the specific forms in which contributions may be made to the fund were deleted. The intent is to address this issue in the memorandum of agreement.
- (8) In SECTION 2, Sec -4 the specific activities in which the advisory board may engage are made more general. In addition, the selection of members is left to the memorandum of agreement, except that the Director of Health and the Director of Human Services, or their designees, are specified as members. The concept that representatives of the private sector constitute the majority is retained.
- (9) In SECTION 2, Sec -5 the specifics of how the steering committee of the coalition is selected is replaced with a general statement that there will be both private and public sector representation, with the majority consisting of private sector representation. Again, the intent is to include the details in the memorandum of agreement.

- (10) In SECTION 2, Sec -6 the specific functions and duties of the steering committee are deleted. In existing Sec -5 the broad function of the steering committee is to "provide leadership for the coalition." Since the functions of the coalitions are stated, the statement of the leadership role was thought to be sufficient.
- (11) In SECTION 2, Sec -5 and Sec -6 were reversed for purposes of clarity. As such, the statement of the functions of the coalition precedes the statement of the leadership role of the steering committee.
- (12) In SECTION 2, Sec -7(b) the following statement was deleted: "Members shall not receive compensation." While the intent is not to compensate coalition members, this statement may imply that steering committee members or advisory board members may be compensated, which is also not intended.
- (13) In SECTION 4, an amount of \$1 is inserted as an appropriation. It is unclear whether or not any State appropriation is needed to have the fund qualify for federal funding. The \$1 appropriation is intended as a prudent course of action to ensure that the fund qualifies. The \$1 appropriation is not intended merely to "keep the measure alive" in the legislative process, but as the actual appropriation amount.
- (14) 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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1453, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 375 Human Services on H.B. No. 1018

The purpose of this bill is to:

- (1) Designate the Office of Youth Services (OYS) as having primary responsibility for advocacy, program development, and interagency coordination of services in addressing the needs of sexual minority youths; and
- (2) Appropriate funds for the development and coordination of a statewide network of accessible and supportive services for sexual minority youths and their families.

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

- (1) Directing the OYS to address sexual orientation issues so that services in this regard will be provided to all youths, including, but not limited to, sexual minority youths;
- (2) Removing all references to "advocacy";
- (3) Focusing on the provision of services, including those related to sexual identity issues, which are direct, objective, accurate, and supportive;
- (4) Clarifying that services provided to sexual minority youths shall include the provision of information on the negative and positive consequences of lifestyles, and objective information on choices and alternatives;
- (5) Including church-related youth leaders among the persons who are to receive ongoing training and education under the bill;
- (6) Specifying that the citizen's advisory board shall include the following members:
 - (A) A Department of Education teacher or school counselor;
 - (B) A child and adolescent mental health worker;
 - (C) A physician whose practice includes the treatment of adolescents;
 - (D) A youth recreation worker;
 - (E) A representative from a church youth group;
 - (F) A representative from an AIDS/HIV-related community organization or community AIDS/HIV foundation;
 - (G) A representative from a county or city and county police department;
 - (H) A representative from a private youth-service agency;
 - (I) A representative from an organization advocating in behalf of gay or lesbian youth; and
 - (J) A high school student; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee recognizes that discrimination regarding sexual orientation is but one type of discrimination that our youths today face. Ethnic discrimination, for example, is another source of concern. As a policy matter, education, and counseling and other services should address all discrimination issues faced by our youths, directly, accurately, objectively, and supportively.

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. 1018, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1018, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

SCRep. 376 Human Services on H.B. No. 526

The purpose of this bill is to protect the health, safety, and welfare of the people of the State of Hawaii; and regulate persons engaged in the profession of social work by setting minimum qualifications for those who wish to practice social work.

Testimony from the Sex Abuse Treatment Center, Hawaii Psychological Association, Department of Health, Commission on the Status of Women, Hawaii Nurses' Association, National Association of Social Workers, and one private citizen was received in strong support of this measure. The Department of Commerce and Consumer Affairs and the Waikiki Health Center submitted testimony in opposition to this measure, and the Department of the Prosecuting Attorney took no position regarding this matter.

Concern was raised that without an exemption for those providing victim services in government and private non-profit agencies, victim services could be reduced or impaired. It is noted that licensing of social workers will assure that quality, low cost care will be available to the community. This is because legal regulation would enable health care providers to receive insurance and medicaid reimbursements for social work services, thus increasing the accessibility of health care services to the underserved populations of the State. The licensure of social workers would also improve the quality of services delivered to the public by establishing educational and experience qualifications, as well as providing consumers a recourse against social workers for unethical or harmful practice.

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

- (1) establishing that the purpose of this Act is to protect the health, safety, and welfare of the public as well as to set up minimum qualifications for those who wish to practice social work;
- (2) defining social worker as a person who represents himself or herself to the public by the title of "social worker" or any other title that includes such words and engages in social work practice; and
- (3) redefining the "License required" section of section 2 in the bill to read as follows:
No persons shall engage in social work practice and hold themselves out to the public by the title and description of services representing themselves as "licensed bachelor social worker", "licensed master social worker", "licensed clinical social worker", "social worker" or any other title that includes such words unless they have met the applicable requirements set forth in this chapter.

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. 526, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 526, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

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

SCRep. 377 Human Services on H.B. No. 478

The purpose of this bill is to promote the best interests of minor children in child custody cases by:

- (1) Providing that grandparents be given preference regarding visitation with their grandchildren; and
- (2) Requiring the appointment of guardians ad litem in every child custody case.

Testimony in support of this bill was submitted by the Hawaii State Legislative Committee of the American Association of Retired Persons and concerned individuals. The Judiciary offered comments on this measure.

Upon further consideration, your Committee has amended this bill by deleting the contents of this measure and instead adding provisions that would allow any person with significant familial ties to a minor child to petition the court for reasonable visitation rights with the child.

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. 478, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 478, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 378 Human Services on H.B. No. 1834

The purpose of this bill is to appropriate funds for the Families Together Initiative, a comprehensive, multi-agency effort to provide intensive, family-centered and home-based services designed to reduce the number of out-of-home placement of children.

Testimony from the Department of Human Services, the Department of Education, the Office of Children and Youth, the Judiciary, and Parents and Children Together was received in strong support of this measure. The Office of Youth Services submitted testimony in support of the intent of this measure.

It is noted that the Families Together Initiative is a collaborative effort involving nine state agencies. The goal of this program is to provide family preservation services through intensive in-home counseling. Studies have shown that Hawai'i has three times the national average of children in foster care, and that these children remain in foster care for great lengths of time. The longer these children are in foster care, the greater the risk that they will become unproductive citizens. Approximately thirty states are using this family preservation model, and their experiences show that keeping children in their home can work when there is intensive in-home counseling and when the family is supported.

Your Committee has concerns regarding the disposition of extra federal monies generated as a result of this program. The new federal title IV-A monies generated under the Families Together Initiative plan should return to the department, rather than the general fund, to strengthen and expand services which helped to generate these new monies.

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. 1834 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. 379 Human Services and Health on H.B. No. 1260

The purpose of this bill is to have the Department of Human Services (DHS) and the Department of Health (DOH) review and develop ways to establish an integrated program of universal health care for all children in Hawaii from birth to seventeen years of age.

Your Committees received testimony in support of the intent of this bill from the DOH, the Kapiolani Medical Center for Women and Children, and the Mental Health Association in Hawaii. The testimony indicated that clarification of the definition of "universal health care" is needed to ensure that mental health care is included therein.

Both the DHS and the DOH informed your Committees about efforts currently being made to secure Medicaid waivers for adults and children to provide universal access to health care services under a managed care program.

Upon further consideration, your Committees have amended the bill by:

- (1) Clarifying that "universal health care" includes mental health care;
- (2) Requiring the DOH to include in the 1994 report required by the bill, findings on the status of universal accessibility of health care to children in Hawaii, including where gaps exist and what efforts are being made to close those gaps;
- (3) Requiring the DHS to submit a bimonthly report to your Committees on the status of its efforts to provide universal access to health care by means of medicaid waivers; 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 Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1260, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1260, 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. 380 Human Services and Economic Development and Business Concerns on H.B. No. 485

The purpose of this bill is to allow corporate resident taxpayers to claim a tax credit against the Hawaii state corporate net income tax for the following: (1) a percentage of the expenses for providing day care to the children of the taxpayer's employees during work hours; and (2) a percentage of the net cost of operating a non-profit care facility primarily for children of the taxpayer's employees during business hours.

Testimony from the Hawaii Association for the Education of Young Children (HAEYC), The Toddler Program (at Waialae Baptist Church), Au's Plumbing and Metal Work, Inc., and 89 private citizens was received in strong support of this measure. The Department of Taxation and the Tax Foundation submitted testimony in opposition to this measure.

It is noted that the most critical years of a child's development are from birth to the age of eight. By the time of entrance to kindergarten, a child's educational foundation has been formed. Quality care results in a child that has a solid foundation for future learning. Conversely, poor quality early childhood education and care results in a poor learning environment, and a weak educational foundation.

Upon further consideration, your Committees are in full support of this measure, and have amended the bill by extending the tax credit from corporate resident taxpayers, to include resident S corporations, resident partnerships, and individual employer taxpayers.

As affirmed by the records of votes of the members of your Committees on Human Services 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. 485, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 485, 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. 381 Human Services and Economic Development and Business Concerns on H.B. No. 486

The purpose of this bill is to establish a credit against the tax imposed under the corporation income tax law, of thirty percent of the cost paid or incurred by a corporate resident taxpayer for the startup expenses of establishing a child care program, or constructing a child care facility in Hawaii, which is to be used primarily by the children of the corporation's employees.

Testimony from the Chamber of Commerce of Hawaii and various citizens was received in support of this measure. The Department of Taxation and the Tax Foundation submitted testimony in opposition to this measure.

It is noted that many parents are out of work because the type of child care that they want is unavailable or unaffordable. Many businesses want to provide child care services to these people, but they cannot afford the additional costs involved in establishing care facilities. Employer tax credits are a creative means of achieving quality child care by encouraging businesses to finance the development of child care facilities and services. Several states have already implemented tax incentives for employers that address the child care problem.

Upon further consideration, your Committees are in full support of this measure, and have amended the bill by extending the tax credit from corporate resident taxpayers, to include resident S corporations, resident partnerships, and individual employer taxpayers.

As affirmed by the records of votes of the members of your Committees on Human Services 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. 486, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 486, 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. 382 Human Services and Judiciary on H.B. No. 1524

The purpose of this bill is to continue funding for the multi-agency, community-based collaboration of the youth gang response system.

Testimony from the Honolulu Police Department and the Social Science Research Institute was received in strong support of this measure. The Office of Youth Services and the Department of Education submitted testimony in support of the intent of this measure.

It is noted that concern was raised regarding the financial constraints faced by the State. It is also noted that the Youth Gang Response System is a balanced and coordinated approach to a problem that continues to overwhelm many mainland cities. The Youth Gang Response System of the State of Hawai'i has been recognized as a national model by such organizations as the National Association of State Legislatures and the National Gang Information Center. The strengths of the Youth Gang Response System (as described in the report of the Office of Youth Services to the Legislature) should not be forgotten as it continues to tackle the daunting task of dealing with youth at risk for gang delinquency.

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 Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1524 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 Santiago.

SCRep. 383 Education on H.B. No. 2156

The purpose of this bill is to facilitate the implementation of local school reform initiatives by removing obstacles to funding and planning initiatives, encouraging greater community participation in schools, improving accountability at the state and local level, and using creative methods to finance quality school facilities and equipment for the education of Hawaii's children.

Testimony on this bill was heard from the Department of Education (DOE), which agreed with the intent of the bill, but had a number of concerns about specific provisions. First, the DOE believes the establishment of a Commission on school-based incentive grants is duplicative of current DOE and Board of Education (BOE) efforts. Second, the DOE believes the section of the bill dealing with assessment and accountability should be more closely tied to current DOE programs and plans in this area, and to the Commission for Performance Standards' findings.

The DOE also had some concerns about the sections of the bill dealing with collective bargaining and merit pay, setting a statutory term for the superintendent, and funding facilities improvement.

After hearing the public testimony, your Committee amended the bill by:

- (1) Clarifying that the reforms intended in the bill will apply to all schools, not only school/community-based management schools;
- (2) Adding a requirement that the Governor report the percentage change in the education budget request and the per-pupil expenditure since the previous budget request;
- (3) Adding a new subsection specifying that the DOE is exempt from the requirement to return any unexpended or unencumbered funds at the end of the fiscal year to the general fund, and requiring the DOE to submit a report on the unexpended portion to the Department of Budget and Finance and to the Legislature;
- (4) Deleting the provisions relating to a Commission on school-based incentive grants and establishing an incentive and innovation grant program within the DOE;
- (5) Establishing an incentive and innovation grant review panel to evaluate innovative proposals from schools;
- (6) Revising the assessment and accountability section to more closely parallel the DOE's current efforts in this area, and including the Commission for Performance Standards' work in those efforts;
- (7) Removing any language in section 9 dealing with school/community-based management to clarify that this section applies to all schools;
- (8) Changing the proposed term for the superintendent from six years to four years, and adding a provision on termination for cause;
- (9) Codifying the facilities review panel and placing it under the jurisdiction of the superintendent;
- (10) Specifying that the review committee set up to examine methods for closing the gap between school facility needs and resources is advisory only;
- (11) Specifying that the review panels will examine such methods as utilizing turn-key contracts and issuing design-construct bids;
- (12) Removing from review panel consideration the enactment of a state lottery and earmarking excess earnings from the state retirement fund for school construction;
- (13) Allowing monies in the State educational facilities improvement fund to be used for the activities of the facilities review panel;
- (14) Placing the administration of the revenue bonds authorized in section 13 under the jurisdiction of the Board of Education;
- (15) Changing the date at which unexpended funds remaining in the State educational facilities improvement special funds revert to the general fund and the date by which the fund shall be terminated from June 30, 2011 to June 30, 2023;
- (16) Establishing a reporting requirement to the Legislature on the status of projects undertaken to improve school facilities; and
- (17) Making other technical and non-substantive amendments.

Your Committee would like to express its intent that all of DOE's non-categorical programs eventually be evaluated by the incentive grant review panel established by this bill. Your Committee believes that non-categorical programs should be tied to measurable school improvement, and should be terminated if they are not so tied.

In addition, your Committee notes that computing and telecommunications facilities should be connected to the school curriculum.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2156, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2156, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 384 Education on H.B. No. 449

The purpose of this bill is to permit the use of parent-community networking center (PCNC) school "B" funds for the purchase of food items to assist in parent-child cooking demonstrations and to provide light refreshments at parent meetings, activities, and workshops.

Testimony in support of this bill was heard by the Department of Education and members of the public.

After hearing the public testimony, your Committee amended the bill by:

- (1) Deleting the \$200 ceiling for each school and authorizing the Board of Education to establish the ceiling for each school.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 449, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 449, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Duldulao, Hagino, M. Ige, Lee and Shon.

SCRep. 385 Education on H.B. No. 2012

The purpose of this bill is to provide for the price of the school lunch to be set in proportion to the cost of preparing the school lunch, and to allow the Department of Education to adjust the price to maintain this proportion.

Testimony was heard from the Department of Education in strong support of this bill.

After hearing the public testimony, your Committee amended the bill by:

- (1) Amending S296-44 to round the cost to the nearest quarter.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2012, 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, Shon, Takumi and Yonamine.

SCRep. 386 Education on H.B. No. 1739

The purpose of this bill is to establish a fee for enhanced service program which would allow Hawaii state public libraries to charge fees for certain services. The bill also establishes a special fund into which the money collected from the program will be deposited. Money deposited into the special fund will be allocated back to individual libraries for continued operation of the Fee for Enhanced Services Program.

Testimony in support of this bill was heard from the Hawaii State Public Library System. Testimony in opposition was heard from the Librarians Association of Hawaii, and a number of individual librarians.

In light of the testimony received, your Committee has amended the bill by amending Section 312-A, subsection c, to allow individual public libraries to determine which services they will provide under the Fee for Enhanced Services Program.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1739, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1739, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo, Arakaki, Hagino, M. Ige, Shon, Takumi and Yonamine.
(Representatives Beirne, Duldulao and Isbell voted no.)

SCRep. 387 Education on H.B. No. 1796

The purpose of this bill is the establishment by the Department of Education, the Hawaii Young Scholars Program Pilot Program.

After hearing testimony on this bill, your Committee agreed to amend the bill to state that the bill shall take effect July 1, 1993.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1796, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1796, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Beirne, Duldulao, Hagino, M. Ige, Lee, Shon and Taniguchi.

SCRep. 388 Education on H.B. No. 2042

The purpose of this bill is to establish a separate fund of the Hawaii State Public Library System foundation, the "Hawaii State Public Library System Foundation Trust Fund."

Testimony for this bill was heard from the Hawaii State Public Library System and the Governor's Office of Children and Youth. All those who testified supported the bill.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2042 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, Arakaki, Hagino, M. Ige, Shon, Takumi and Yonamine.

SCRep. 389 Education on H.B. No. 1861

The purpose of this bill is to amend the law relating to the use of school facilities for recreational and community purposes so that a school whose facilities are utilized will receive the fees and charges assessed and collected by the Department of Education for expenditure at the school's discretion.

Testimony on this bill was heard from the Department of Education in opposition to the bill. Fees and charges from users of school buildings are expended under rules approved by the Board of Education. Your Committee believes that allowing schools to retain fees and charges collected is more consistent with the basic philosophy of School/Community Based Management.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1861 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Duldulao, Hagino, M. Ige, Lee and Shon. (Representatives Apo, Takumi and Taniguchi voted no.)

SCRep. 390 Education and Human Services on H.B. No. 1738

The purpose of this bill is to transfer responsibility for the State Literacy Program and the Governor's Council for Literacy from the Governor's Office of Children and Youth to the State Library System.

Testimony on this bill was received from the Hawaii State Public Library System, the Oahu Library Advisory Commission, the Governor's Office of Children and Youth (OCY), the Board of Education, Friends of the Library of Hawaii and members of the public. All who testified supported the bill, although the OCY suggested the few minor amendments.

After hearing the public testimony, your Committees amended the bill by:

- (1) Placing the literacy program in the office of the State Librarian, instead of the Department of Education;
- (2) Maintaining the existing program name (the Governor's Council for Literacy);
- (3) Directing the State Librarian to coordinate, instead of conduct, the public-private partners for literacy trust fund; and
- (4) Making other technical and non-substantive amendments for the purpose of style and clarity.

As affirmed by the records of votes of the members of your Committees on Education and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1738, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1738, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Duldulao, Hagino, M. Ige, Santiago, Shon, Taniguchi and Yonamine.

SCRep. 391 Education and Judiciary on H.B. No. 1339

The purpose of this bill is to provide intensive guidance and coordinated community services to pupils with school attendance problems by state and district school attendance review boards.

Your Committees heard testimony on this bill from the Department of Education and from the Judiciary. The Department of Education agreed with the intent of the bill, but did not support passage because the Department believes communities should decide for themselves whether or not to implement such a program, in accordance with the aims of school/community-based management. The Judiciary supports the bill as an alternative to sending youths to Family Court.

Based on the testimony heard, your Committees have amended the bill by:

- (1) Clarifying the subpoena authority granted in section -6; and
- (2) Making the referral of truants to the school attendance review board voluntary on the part of school officials.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1339, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1339, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, Duldulao, Hagino, M. Ige, Santiago, Taniguchi and O'Kieffe.
(Representatives Isbell and Lee voted no.)

SCRep. 392 Economic Development and Business Concerns on H.B. No. 732

The purpose of this measure is to establish an economic development inducement fund using pooled government and private sector money to attract new businesses to Hawaii and to retain existing businesses.

Favorable testimony on this measure was received from the Department of Business, Economic Development, and Tourism (DBEDT).

Your Committee finds that public-private matching funds are an effective and appropriate means of securing capital for economic development efforts. However, given the general language, it is unclear what matching funds the private sector is required to provide. Your Committee further finds that the Director of DBEDT may tap into other funds for this purpose if permitted.

Accordingly, this measure is amended by deleting the phrase "and stipends" from section -1 of the bill because it does not indicate a reciprocal relationship whereby private industry is a partner with the public sector.

Further, this measure is amended to allow the Director to transfer moneys from the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund, the Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund, the Hawaii capital loan revolving fund, and the Hawaii innovation development revolving fund into the economic development fund. Sections 189-23, 189-43, 210-3, and 211E-2, Hawaii Revised Statutes (HRS), are amended to accomplish this purpose. Your Committee has also amended this measure by deleting the appropriation to DBEDT.

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. 732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 732, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 393 Economic Development and Business Concerns on H.B. No. 1799

The purpose of this bill is to authorize the issuance of \$5,000,000 in special purpose revenue bonds as seed money for Hawaiian Entrepreneurs to develop a processing facility.

Testimony in support of this bill was received from the Committee on Planning, County of Hawaii, and from Hui 'Enekinia Hawai'i, formerly known as Wiliki Hawaii'i Partners 'Elua (Hui 'Enekinia).

Your Committee finds that the shortage of power facilities and the imminent loss of power due to the closure of Hamakua Sugar Company is a major community concern. Hui 'Enekinia seeks to design, develop, construct, own and operate electric power generating facilities which produce utility-grade electricity to sell to Hawaii's franchised electric utility companies. Hawaiian Entrepreneurs would then develop a processing facility that would use the thermal fluids produced by the cogeneration facility of Hui 'Enekinia.

Your Committee finds that the development of such a processing facility is in the public interest.

Your Committee also finds that Wiliki Hawaii Partners is now known as Hui 'Enekinia Hawai'i. Accordingly, your Committee has amended this bill to replace "Wiliki Hawaii Partners" with "Hui 'Enekinia Hawai'i." Technical, non-substantive amendments have also been made to this bill for the purpose of style.

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. 1799, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1799, 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. 394 Economic Development and Business Concerns on H.B. No. 2057

The purpose of this bill, as received by your Committee, is to create a new chapter in the Hawaii Revised Statutes, relating to export trading companies, to:

- (1) Promote, encourage, and advance economic prosperity and employment throughout the State by fostering the expansion of exports of manufactured goods and services to foreign purchasers; and
- (2) Create a more favorable regulatory and tax climate for businesses which qualify as export trading companies in Hawaii.

The bill also provides tax incentives to foster the creation of more export trading companies and exemptions from state antitrust laws to enable export trading companies to compete more effectively abroad.

Your Committee received opposing testimony from the Department of Taxation. The Department of Business, Economic Development, and Tourism (DBEDT) testified that it supports the intent to foster the development of export trading companies in Hawaii, but does not believe that the approach taken in the original draft of H.B. No. 2057 is appropriate at the present time.

According to DBEDT testimony, H.B. No. 2057 is generally analogous to the Export Trading Company Act (Act) passed by the U.S. Congress in 1982, which has been deemed ineffective because the Act failed to meet its objective of encouraging the development of successful export trading companies in the United States.

Your Committee notes that the International Business Center of Hawaii presently serves the business community as a special project within DBEDT.

Upon careful consideration, your Committee has amended the bill substantially by deleting its substance and inserting new material, the purpose of which is to direct DBEDT to establish as a program within DBEDT the International Business Center of Hawaii to strengthen the State's economy by enhancing and expanding international business opportunities for private sector firms interested in conducting business in or through the State.

Your Committee notes that the general intent of the original and the amended measures is to stimulate and encourage economic growth in the State through export trade. Your Committee finds that there is great potential for Hawaii to become a trading broker between United States sellers and Asian buyers. To this end, the International Business Center of Hawaii has been charged with fostering the development of trading companies in Hawaii by implementing an incubator program for trading companies and providing specific support such as training and financial incentives.

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. 2057, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2057, 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. 395 Economic Development and Business Concerns on H.B. No. 734

The purpose of this bill is to establish the Hawaii Economic Development Council in the Office of the Auditor for administrative purposes.

Favorable testimony on this measure was received from the Office of the Auditor.

Your Committee finds that the Hawaii Economic Development Council (Council) would provide the Legislature with improved information for policy making which is based on changing economic conditions. The Council would advise the Legislature on economic trends, goals, and policy objectives. It would also recommend implementation strategies and evaluate the policies, goals, and objectives adopted.

Your Committee further finds that the Council's duty to evaluate policies, goals and objectives may intrude on the audit function of the Office of the Auditor. Accordingly, this bill has been amended to clarify the Council's function.

On page 2, line 22, the word "only" has been added to the phrase "for administrative purposes." On page 4, line 5, the word "monitor" replaces the word "review." On page 5, line 14, the words "Report on" replaces "Evaluate." Also on page 5, line 18, the word "monitor" replaces "ensure." These amendments have been made to emphasize that the Council's function will involve descriptive reporting and in-depth evaluation will remain the separate function of the Auditor's office.

Your Committee has also amended this measure to appropriate \$1 in fiscal year 1993-1994.

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. 734, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 734, 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. 396 Economic Development and Business Concerns on H.B. No. 1196

The purpose of this bill is to exempt from the general excise tax law all out-of-state sales of goods and services.

The Department of Taxation testified in opposition to this bill indicating that:

- (1) Exempting a service provider from the imposition of the tax on activities performed within the State, although the purchaser of the service is located outside the State, is in direct conflict with the premise of the tax;
- (2) Section 237-21, Hawaii Revised Statutes (HRS), already grants to service providers an exclusion of gross receipts attributed to sources outside the State;
- (3) Determining the taxability of services which attach to something which is not located where the services are performed is unclear, and that since services are intangible it is difficult to define the location of the use of services;
- (4) Increasing the complexity of the General Excise Tax Law would create additional administrative burdens for the Department and complicate compliance for taxpayers; and
- (5) Creating more tax exemptions will reduce tax revenue collected by the State.

Testimony in favor of this bill was received from Media Five Limited, a design corporation; Group 70 International, Inc., a Hawaii corporation of architects, planners and interior designers; Kauahikaua and Chun, architects; CDS International, a firm providing architecture, planning, interior design, and graphic design services; and Carlsmith Ball Wichman Murray Case Mukai and Ichiki, attorneys at law dealing with foreign firms.

The Tax Foundation of Hawaii testified, noting that:

- (1) Goods are taxed on a consumption basis, meaning that goods produced and purchased in Hawaii are taxed under the General Excise Tax Law while goods exported out of State are exempt;
- (2) Services are taxed on a production basis, meaning those services performed in the State or for export out-of-state by licensed sellers are taxed while services performed by unlicensed out-of-state sellers are exempt;
- (3) A Hawaii business which performs services in the State for an out-of-state consumer is at a competitive disadvantage since an out-of-state provider of the same service would be able to offer the service without the State general excise tax; and
- (4) This bill reflects one of the recommendations made by the last Tax Review Commission which observed that the exemption for exported goods be extended to exported services which are sold by a Hawaii business to an out-of-state client.

In addition to the aforementioned comments found in the written testimony on this bill, your Committee finds that architects are considered as a contracting business, not a services business, for purposes of excise tax collection.

Accordingly, your Committee has amended this bill to include design professional services performed as contracting under the exemption provided for in Section 237-29.5, HRS. Your Committee has also included the reference to design professional services where appropriate.

Your Committee has also made technical, non-substantive amendments for the purpose of style.

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. 1196, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1196, 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. 397 Economic Development and Business Concerns on H.B. No. 653

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist the Sand Island Business Association to improve the infrastructure of the Sand Island Industrial Park.

Favorable testimony on this bill was received from the Sand Island Business Association (SIBA).

Your Committee finds that since the State Industrial Park Law, Section 171-131, Hawaii Revised Statutes, was enacted, SIBA has been working with the Department of Land and Natural Resources to formulate an acceptable long term lease,

and with the Department of Land Utilization to design a city-standard subdivision. Your Committee finds that such infrastructure improvements would be in the public interest.

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. 653 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, M. Ige and Tam.

SCRep. 398 Economic Development and Business Concerns on H.B. No. 951

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist ETV Hawaii/Elephant Television, Inc., as an industrial enterprise instead of a processing enterprise. This bill also extends the authority to issue special purpose revenue bonds from 1993 to 1994.

Favorable testimony on this bill was received from the Maui County Council, ETV Hawaii/Elephant Television, Inc. (ETV), and the Maui Economic Development Board, Inc.

Your Committee finds that the film industry is a means to diversify the State's economy. ETV proposed to create a facility on Maui which would provide national quality television and motion picture production training to students from throughout the State. As part of their education, training with interactive multimedia computer software would be provided. Interactive multimedia is the cutting edge of communications in the global market and represents a new, important, rapidly expanding global industry that would be highly beneficial for Hawaii.

Your Committee also finds that Act 278, Session Laws of Hawaii 1991, was flawed because it authorized an issuance of special purpose revenue bonds for processing enterprise rather than an industrial enterprise. Because of that flaw, ETV was unable to take advantage of that issuance.

Accordingly, your Committee has amended this bill to extend the authority to issue special purpose revenue bonds from 1993 to 1995. Your Committee has also made a technical, non-substantive amendment to page 1, line 3 of the bill for the purpose of clarity.

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. 951, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 951, 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. 399 Economic Development and Business Concerns on H.B. No. 1800

The purpose of this bill is to authorize the issuance of \$50,000,000 in special purpose revenue bonds to assist Wiliki Hawaii Partners, or a partnership in which Wiliki Hawaii Partners is a general partner, to establish a cogeneration facility and related water production facilities.

Testimony in support of this bill was received from the Department of Business, Economic Development, and Tourism and from Hui 'Enekinia Hawai'i, formerly known as Wiliki Hawai'i Partners 'Elua (Hui 'Enekinia).

Your Committee finds that such a cogeneration facility on the island of Hawaii would be in the public interest since it would help to alleviate the severe energy shortages expected there. Projected demand for electricity will increase, necessitating additional generating capacity by the end of this decade. Hui 'Enekinia seeks to design, develop, construct, own and operate electric power generating facilities which produce utility-grade electricity to sell to Hawaii's franchised electric utility companies.

Your Committee also finds that Wiliki Hawaii Partners is now known as Hui 'Enekinia Hawai'i. Accordingly, your Committee has amended this bill to replace "Wiliki Hawaii Partners" with "Hui 'Enekinia Hawai'i."

Technical, non-substantive amendments have also been made to this bill for the purpose of style.

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. 1800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1800, 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. 400 Economic Development and Business Concerns and Intergovernmental Relations and International Affairs on H.B. No. 1056

The purpose of this bill is to form a task force to prepare a contingency plan to manage a shift from defense-related to civilian economic activity, should this change occur in Hawaii.

Your Committees received testimony in support of this bill from Honolulu City Council Chair Gary Gill in his individual capacity, former Lieutenant Governor Jean King, the Spark M. Matsunaga Institute for Peace, the Hawai'i Green Party, the League of Women Voters of Hawaii, a professor in the economics department of Maui Community College, a concerned student at the University of Hawaii at Manoa, a member of the Boilermakers Local 204, and a member of a machinist union, Local 1998.

The Hawaii Federal Employees Metal Trades Council (Metal Trades Council), AFL-CIO presented testimony in opposition to this bill, as it was originally written. The Metal Trades Council indicated that this bill excluded federal employees unions and marine industry workers from meaningful participation in the economic conversion task force. The Metal Trades Council also pointed out that similar legislation had been introduced in 1984, 1985, and 1986.

The Military Affairs Council of the Chamber of Commerce of Hawaii also testified in opposition to the creation of a formal economic conversion task force, but that it supports contingency planning carried out by existing State agencies.

The Department of Business, Economic Development, and Tourism (DBEDT) testified in support of the intent of this bill, but against the establishment of a task force for the following reasons:

- (1) DBEDT has been monitoring the defense industry and has compiled much of the information sought in this legislation;
- (2) Through the State's economic modeling program, DBEDT is capable of tracking the economic impact of defense-related expenditures and changes in those expenditures;
- (3) The State administration meets regularly with Hawaii's congressional delegation and officials of the Department of Defense to make the case for Hawaii as the strategic location for designated military units;
- (4) DBEDT has been working with other State agencies on a subcabinet task force to help resolve issues of importance to the military and the community; and
- (5) A task force of as many as forty members representing varying interests is a very cumbersome means of dealing efficiently with the planning process.

The Department also testified that such an economic conversion task force, if established, should be under its purview.

In addition to the aforementioned testimony, your Committees were informed that Hawaii needs to create a comprehensive structural conversion plan and policy, and that such a conversion plan would require a lead time of two years to be developed. Your Committees further find that the Fourteenth Biennial Convention of the Hawaii State AFL-CIO passed a resolution supporting local and federal legislation which provides adequate planning at the national and local level for economic conversion and appropriate assistance for workers adversely affected by cuts in military spending. Also, the Federal Office of Economic Adjustment in the Office of the Secretary of Defense has \$1,500,000,000 dedicated for matching funds for economic conversion in the United States.

Your Committees have amended this bill by:

- (1) Clarifying the purpose of this bill in Section 1;
- (2) Placing the Economic Conversion Task Force (task force) within the Department of Business, Economic Development, and Tourism;
- (3) Placing five governmental officers and the four members of Hawaii's congressional delegation on the task force with the Director of Business, Economic Development, and Tourism as chair of the task force;
- (4) Allowing the Governor the discretion to choose the other six members of the task force, who, it is the Committee's intention, will represent a broad cross-section of those interested in contributing to its purpose;
- (5) Deleting Section 3 of the bill which dealt with the composition of the task force;
- (6) Deleting the \$300,000 figure from page 4, line 7 of the bill;
- (7) Deleting paragraphs (2), (3), (5), (6), (8), (9), (10), (11), (12), (13), and (14) from Section 6 of the bill;
- (8) Renumbering Section 6 of the bill to Section 5 and adding paragraphs numbered (3) and (5) in the amended bill which further outline the terms and conditions of a plan for economic conversion;
- (9) Deleting Section 7 of the bill which identified a variety of specific topics to be covered in the task force report;
- (10) Renumbering Section 9 of the bill as Section 7, replacing the word "draft" with "prepare," and changing the time period in which to complete the report from "eighteen" to "twenty-four" months;
- (11) Amending Section 7 of the amended bill by designating the mayors of each county as recipients of a copy of the economic conversion plan, and deleting the presiding officers of Senate and House of Representatives of the United States Congress;
- (12) Deleting Section 10 of the bill which dealt with establishing a non-profit organization; and

- (13) Renumbering each section in the amended bill as necessary.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns 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. 1056, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1056, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 401 Economic Development and Business Concerns and Transportation on H.B. No. 180

The purpose of this bill is to establish a telework center income tax credit of twenty-five percent of the purchase and installation cost of telecommunication equipment used to establish a telework center. The telework center income tax credit shall apply to taxable years beginning after December 31, 1993.

Your Committees received supporting testimony from GTE Hawaiian Telephone. The Department of Taxation testified in opposition to the measure. Your Committees also received testimony from the Tax Foundation of Hawaii.

Upon careful consideration, your Committees have amended this bill by:

- (1) Extending the telework center income tax credit to include the purchase and installation cost of telecommunication used to establish a telework station;
- (2) Adding a provision to recapture the tax credit whenever the property or equipment is disposed of before the recapture period by referring to similar provisions contained in the federal Internal Revenue Code;
- (3) Specifying that telecommunication equipment shall remain in place to qualify for the tax credit;
- (4) Clarifying that a telework station for an employee or a contract worker shall qualify for the telework center tax credit; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 180, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 180, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hagino, D. Ige, Shon, Tam and Ward.
(Representative Marumoto voted no.)

SCRep. 402 Economic Development and Business Concerns and Energy and Environmental Protection on H.B. No. 874

The purpose of this measure is to extend the authorization to issue special purpose revenue bonds to Elexs Ltd., pursuant to Act 282, Session Laws of Hawaii (SLH) 1990, for a period of two years from June 30, 1992 to June 30, 1994.

Favorable testimony on this measure was received from the Electric Vehicle Association of Hawaii and from Elexs Ltd.

Your Committees find that electric vehicles can become an alternative to conventional internal combustion engine-powered vehicles. Electric vehicles are also significantly more efficient than internal combustion engine-powered vehicles and will use less energy, thereby reducing the amount of associated pollution created.

Your Committees also find that at least two electric vehicle development programs are already underway in Hawaii. The establishment of an electric vehicle industry in Hawaii will provide for the development of home-grown and locally-based high technology industries. A vigorous electric vehicle industry will also create high technology jobs in Hawaii.

Your Committees further find that, for the above reasons, the purpose of this bill is in the public interest.

Your Committees further find that because of the need to structure Elexs Ltd. so as to make it easier to solicit private and federal customers and grants, it may be necessary to reorganize the company into a successor organization.

Accordingly, your Committees have amended this measure by adding the reference "or to its successor corporation" to page 1, line 16. Your Committees have further amended Act 282, SLH 1990, Section 2, by adding the reference "or to its successor corporation" where necessary.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns 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. 874, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 874, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hirono.
(Representatives Cachola and M. Ige voted no.)

SCRep. 403 Economic Development and Business Concerns and Energy and Environmental Protection on H.B. No. 1942

The purpose of this measure is to authorize the Department of Budget and Finance, with the approval of the Governor, to issue up to \$10,000,000 in special purpose revenue bonds for the purpose of assisting Electric Car Hawaii with an electric vehicle conversion and assembly plant.

Favorable testimony on this measure was received from the Electric Vehicle Association of Hawaii.

Your Committees find that electric vehicles can become an alternative to conventional internal combustion engine-powered vehicles with significant reductions in the use of fossil fuels and associated pollution. Also, your Committees find that electric vehicles are significantly more efficient than conventional internal combustion engine-powered vehicles and will use less energy.

At present, at least two electric vehicle development programs are already underway in Hawaii. The establishment of an electric vehicle industry in Hawaii will provide for the development of home grown and locally-based high technology industries. A vigorous electric vehicle industry will also create high technology jobs in Hawaii.

For the above reasons, your Committees conclude that the purpose of this measure is in the public interest.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns 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. 1942 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Hirono and M. Ige.

SCRep. 404 Economic Development and Business Concerns and Consumer Protection and Commerce on H.B. No. 1380

The purpose of this bill is to:

- (1) Amend the Disaster Relief and Rehabilitation laws under Chapter 209, Hawaii Revised Statutes, to allow long-term, low-interest loans to public utilities; and
- (2) Appropriate funds to be paid into the State Disaster Revolving Loan Fund to assist the Citizens Utilities Company, Kauai Electric Division, by authorizing the Department of Business, Economic Development, and Tourism (DBEDT) to issue long-term, low-interest loans to the company.

Your Committees received supporting testimony from the Manager of Administration of the Citizens Utilities Company, Kauai Electric Division. The DBEDT testified in support of the intent of the measure.

Upon consideration, your Committees have amended the bill by:

- (1) Decreasing the appropriation sum of the loan from \$40,000,000 to \$1 for the purposes of continued dialogue to determine an appropriate sum to be paid into the State Disaster Revolving Loan Fund; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns 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. 1380, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1380, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives D. Ige, M. Ige, Takamine, Tam, Tom and Thielen.

(Representative Amaral voted no.)

SCRep. 405 Economic Development and Business Concerns and Health on H.B. No. 658

The purpose of this bill is to authorize the Department of Budget and Finance, with the approval of the Governor, to issue special purpose revenue bonds to assist Zions Securities Corporation to finance wastewater facilities in Laie; provided that the facilities to be financed meet with the approval of the Department of Health, and the Department of Public Works of the City and County of Honolulu.

Your Committees received supporting testimony from a resident of the Laie community. Testimony was also received from a representative of Zions Securities Corporation and a concerned citizen.

Upon consideration, your Committees have amended the bill by:

- (1) Inserting the authorization sum of \$8,000,000 to assist Zions Securities Corporation to finance the construction of an expanded community wastewater collection system in Laie;

- (2) Changing "wastewater facility" to "expanded community wastewater collection system";
- (3) Correcting "Zion Securities Corporation" to read: "Zions Securities Corporation"; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Economic Development and Business Concerns and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 658, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 658, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki, M. Ige, Isbell and Kawakami.

SCRep. 406 Economic Development and Business Concerns on H.B. No. 1793

The purpose of this bill is to amend Section 206E-7, Hawaii Revised Statutes, to require the Hawaii Community Development Authority to adopt rules requiring developers of lands within a designated community development district to secure advance financing and have contingency plans available for their projects before they can displace existing businesses on those lands intended for redevelopment.

Favorable testimony was received from a concerned, private citizen who owns a business. The Hawaii Community Development Authority (HCDA) and Victoria Ward opposed the bill.

The private business owner emphasized that small businesses are being prematurely displaced, with the result that they sometimes close forever. Such evictions and business closures result in increased unemployment and decreased tax revenue. He also mentioned the reduction in taxes that are collected when only the land is taxable.

The HCDA argued that the bill is unnecessary because existing procedures and requirements of the HCDA respect the rights of the tenants. Additionally, the HCDA asserted that the requirements of the bill are onerous and would inhibit development and ultimately be detrimental to the redevelopment of Kakaako.

Victoria Ward, Limited argued that the bill was unnecessary since "developers already bear stiff penalties for postponing construction." Additionally, Victoria Ward, Limited, argued that a basic inequity of the bill is that lessors who want to make improvements are forced to extend leases that expire or retain tenants who do not abide by the terms of the lease agreements. "Why should lessors who want to make improvements be forced to extend leases that expire or to retain tenants who do not abide by the terms of their lease agreements?"

Your Committee finds that, despite these arguments, a significant economic and social problem exists which needs to be corrected. Your Committee finds that within the community development districts which are within the jurisdiction of the HCDA, that special care must be taken to avoid dislocating existing tenants by requiring proof of financing and contingency plans before leveling of the existing land slated for redevelopment is allowed.

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. 1793 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 Cachola, D. Ige and M. Ige.

SCRep. 407 Consumer Protection and Commerce and Judiciary on H.B. No. 1888

The purpose of this bill is to amend the current law to create a revolving fund and provide that the Consumer Advocate shall assess, with the Public Utilities Commission's (PUC) approval, a utility or transportation company for expenses incurred as a result of a proceeding involving that company.

Your Committees recognize that the role of the Consumer Advocate is to represent, protect and advance the interests of Hawaii's consumers of utility and transportation services. Consumers have no real recourse against a utility company as the facts are solely in the control of the company and the issues are of a highly technical nature requiring specialized expertise. In addition, the utility companies have immense human and financial resources with which to litigate their cases. The Consumer Advocate is required to participate in the cases brought by the utility and transportation companies and those set by the PUC. The Consumer Advocate's resources are dwarfed by comparison to the utility companies and the disparity can lead to consumers not being adequately represented.

Supporting testimony was submitted by the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and the Hawaiian Electric Company. The Public Utilities Commission had some reservations with the bill in the area of proposed expenditures. However, GTE Hawaiian Telephone Company Incorporated and the Finance and Regulatory Affairs for the Gas Company were in opposition to the bill due to the reasons that the funding structure is cumbersome, costly, and would only serve to increase the customer's utility rates. In addition, rather than allowing for the creation of another hidden tax on utility customers, they prefer that the Consumer Advocate continue to obtain its funding from the general fund.

After much discussion and deliberation, your Committees find that in these times of budget constraints, the Consumer Advocate needs a flexible funding mechanism to carry out its statutory duties in light of the sharp increases in the number and complexity of major cases. The beneficiaries of the Consumer Advocate's actions are the consumers and, though the

consumers ultimately pay for the cost of the presentation of the Consumer Advocate's cases, it will serve in the best interest of the consumers.

Accordingly, your Committees have amended the bill by

- 1) Including any request for the assessment for expenses in the written statement.
- 2) Having the Commission determine whether the written statement includes sufficient findings to support the reasonableness and necessity of the requested assessment.
- 3) Inserting a new section to state that the affected utility or carrier shall have five days from the receipt of a written statement with which to file any opposition or comments with the Commission and the Consumer Advocate. In turn, the Consumer Advocate shall have five days to respond to the opposition or comments.
- 4) Indicating that the total sums received by the Consumer Advocate may not exceed \$950,000 for any one fiscal year.
- 5) Making technical, nonsubstantive changes for the purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1888, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1888, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Amaral, Bainum, Cachola, Hiraki, Hirono and Takamine.

SCRep. 408 Consumer Protection and Commerce on H.B. No. 1882

The purpose of this bill is to authorize the Director of Commerce and Consumer Affairs, in the role of Consumer Advocate, to employ exempt qualified technical assistants in areas such as telecommunications and energy utility planning.

Supporting testimony was received from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and Hawaiian Electric Co., Inc.

Your Committee is cognizant that the work of the Consumer Advocate includes participating in the regulation of very diverse industries which accounts for the broad backgrounds of the civil service staff. However, in cases where specific knowledge about a particular industry is critical, the expertise of the civil service staff is very limited. In addition, the State neither has the job classifications in areas such as energy utility planning or telecommunications analysis nor does it has the competitive salaries to attract potential hires.

Accordingly, your Committee understands that the Consumer Advocate needs flexibility in hiring the necessary exempt expertise. This will allow the Consumer Advocate to be more responsive to the increasing demands of utility regulation to the benefit of the consumers.

While your Committee is in accord with the intent of this bill, it has amended the 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1882, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1882, 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. 409 Consumer Protection and Commerce on H.B. No. 435

The purpose of this bill is to:

- (1) Establish additional financial disclosure and audit requirements, on a temporary basis, for insurers authorized to conduct business in the State of Hawaii;
- (2) Require the Insurance Commissioner to provide data and recommendations to the Governor and the Legislature within fifteen days after receipt of the notice of the declaration of insolvency of any insurer;
- (3) Clarify that the Insurance Commissioner's annual report to the Legislature shall include summarized financial analysis ratios and examination synopses submitted by the National Association of Insurance Commissioner's (NAIC) Insurance Regulatory Information System, and reports issued by the Hawaii Insurance Guaranty Association (HIGA) on the history and causes of domestic insurance insolvencies;
- (4) Require the HIGA to submit recommendations to the Insurance Commissioner pertaining to the detection and prevention of insurer insolvencies; and

- (5) Appropriate funds for the Insurance Commissioner to hire staff and consultants to implement the above-referenced provisions.

Testimony was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Insurers Council.

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 for the insurance industry to keep confidential certain information to preserve the integrity of the marketplace, your Committee asserts that due to the wide-ranging ramifications of insurer insolvencies on the welfare of consumers, additional disclosure requirements are needed on a temporary basis to ensure the welfare 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) The establishment of quarterly audit requirements would result in a tremendous expense to all insurers, to be passed on to consumers, as well as significantly disrupt insurer operations. It is also noteworthy to point out that the NAIC already has a program for the monitoring of quarterly financial results for insurers; and
- (2) The NAIC financial analysis ratios and examination synopsis are confidential tools for use by regulators, and will not be disclosed by NAIC to member states that cannot assure the confidentiality of the data for internal regulatory use.

In light of the foregoing, your Committee has amended this bill as follows:

- (1) Deleted the quarterly financial disclosure statement and audit filing requirements for insurers;
- (2) Clarified that insurers are required to notify the Insurance Commissioner within three days of determining the existence of a hazardous financial condition to policyholders or the public, and that the Insurance Commissioner may suspend or revoke the certificate of authority of any insurer who knowingly fails to comply with this requirement;
- (3) Required the Insurance Commissioner to notify the Legislature within three days after the Commissioner has determined the insolvency of any insurer authorized to conduct business in Hawaii;
- (4) Deleted requirements regarding the inclusion of: (a) summarized financial analysis ratios and examination synopses submitted by the NAIC Insurance Regulatory Information System; and (b) reports issued by the Hawaii Insurance Guaranty Association (HIGA) on the history and causes of domestic insurance insolvencies; into the Insurance Commissioner's annual report to the Legislature;
- (5) Removed the provision that required the HIGA to submit recommendations to the Insurance Commissioner pertaining to the detection and prevention of insurer insolvencies;
- (6) Eliminated the appropriation section; and
- (7) 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. 435, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 435, 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. 410 Consumer Protection and Commerce on H.B. No. 1736

The purpose of this bill is to amend the insurance statutes to update the law, clarify ambiguities in the law, provide for increased fees, and generally, facilitate the administration of the laws.

Supporting testimony was received from the Department of Commerce and Consumer Affairs.

Your Committee finds that changes to the insurance laws are necessary to correct outdated and ambiguous statutes, increase fees which have not changed since 1978, and generally, streamline the law to facilitate its administration. However, your Committee was concerned that certain provisions in the bill effected substantive changes to the law in a vehicle that was intended to serve as a housekeeping measure. Accordingly, your Committee has amended the bill by:

1. Deleting language in Section 431:10C-301(d) providing that an insurer is not required to offer an insured both the stacking option described in subsection (c) and the increased limits described in subsection (d) in the same no-fault policy;
2. Deleting language in Section 431:10C-305(d) providing that motorcycle or motor scooter passengers, or pedestrians injured as a result of a motorcycle or motor scooter accident, are not eligible to receive no-fault benefit payments; and

3. Deleting language in Section 431:10C-408(c) precluding assignments under the joint underwriting plan of claims relating to uninsured motorist or underinsured motorist coverages where the claimant has received no-fault benefits.

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. 1736, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1736, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor, Peters, Takamine and Thielen.

SCRep. 411 Consumer Protection and Commerce on H.B. No. 1677

The purpose of this bill is to:

- (1) Clarify the various fees assessed by the Bureau of Conveyances; and
- (2) Enable the Department of Land and Natural Resources to adopt, amend, and repeal administrative rules in response to changes in the industry and the economy.

Supportive testimony was submitted by the Department of Land and Natural Resources (DLNR).

Your Committee finds that:

- (1) The Bureau of Conveyances is responsible for recording over 300,000 documents annually and collecting over \$2 million per year in service fees alone;
- (2) The provisions of this bill will clarify these fees, as well as fees that are gratis for government agencies; and
- (3) The proposed amendments to Chapter 501, Hawaii Revised Statutes, will not affect fees within the jurisdiction of the Judiciary Land Court.

In light of this, your Committee believes that the provisions of this bill will strengthen the operations of the Bureau of Conveyances, as well as ensure the welfare of the consuming public.

While your Committee is in accord with the intent of this bill, 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. 1677, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1677, 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. 412 Consumer Protection and Commerce on H.B. No. 1317

The purpose of this bill is to require the sellers of residential property to provide a written disclosure on the condition of the property to the prospective buyer prior to a real estate transaction.

Supportive testimony was submitted by the Real Estate Commission and the Hawaii Association of Realtors. Testimony was also submitted by the Hawaii Real Estate Research and Education Center of the University of Hawaii and the Building Industry Association of Hawaii.

Your Committee finds that:

- (1) Sellers have knowledge of potentially dangerous defects pertaining to the property that are not readily observable by real estate licensees or professional home inspectors;
- (2) Prior to 1992, only two states -- California and Maine -- had enacted laws or regulations establishing the mandatory disclosure of property conditions by sellers. Since then, the number of buyer complaints and litigation in the above-referenced states has declined. It is also noteworthy to point out that since 1992, seven additional states have enacted similar legislation, and approximately twenty other states have contemplated action on similar legislation;

In light of this, your Committee believes that the mandatory disclosure of material facts will benefit the buyer, the seller, and the real estate agent during residential real property transactions, reduce the likelihood of litigation over transactions, as well as protect the interests of the consuming public.

Upon careful consideration, your Committee has amended this bill as follows:

- (1) Expanded the definition of transfer or disposition of residential property to include long term leases without option to buy;

- (2) Clarified the applicability of this bill to include condominium apartment, cooperative apartment, and the improved or unimproved residential lot;
- (3) Increased the time period that the seller or the seller's agent must provide the statement to the buyer from three days to ten calendar days from acceptance of an offer to purchase the real property;
- (4) Increased the time period that the buyer has to examine the statement or rescind the offer to purchase the real property from three days to fifteen calendar days;
- (5) Deleted a provision that required that the buyer shall have fifteen days to accept the statement;
- (6) Deleted provisions related to the inadvertent and intentional failure to deliver the condition statements;
- (7) Clarified that the buyer shall not lose any deposits for the rescission of an offer to purchase property after examining the statement;
- (8) Deleting provisions pertaining to the acceptance and approval of the statement through the mail;
- (9) Clarified that information regarding whether the real property lies in flood hazard areas, noise exposure areas, Air Installation Compatibility Use Zone of the armed forces, or a Civil Defense Tsunami Inundation area, shall be provided in the statement;
- (10) Provided that during the interim period prior to the Real Estate Commission's adoption of rules pertaining to mandatory seller disclosures, all causes of action pertaining to the seller's failure to disclose material facts in real estate transactions, and the real estate licensee's duty to ascertain and disclose all material facts, shall remain in effect; and
- (11) 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. 1317, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1317, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Peters, Takamine and Thielen.

SCRep. 413 Consumer Protection and Commerce on H.B. No. 1473

The purpose of this bill is to spread utility reconstruction costs incurred as a result of a State-declared emergency among utility service ratepayers throughout the State. The bill authorizes utilities which have incurred repair and restoration costs in excess of \$10,000,000 to assess a monthly surcharge against ratepayers to recover these costs, and requires the Public Utilities Commission to issue an order implementing the surcharge.

Supporting testimony was received from the Department of Business, Economic Development and Tourism, the Kauai County Council Chair, Citizens Utility Company, Kauai Electric Division, and GTE Hawaiian Telephone Incorporated.

Your Committee recognizes that disasters, such as the recent hurricane which struck this State, can wreak devastation upon the operations and facilities of utilities which provide vital services to the public. In the aftermath of these disasters, utilities face the enormous cost of restoring their damaged facilities and must necessarily recover such costs from their customers through substantial rate increases. Assessing these costs solely against those customers directly served by the damaged facilities imposes a substantial financial burden upon parties who may already be suffering severe economic losses as a result of the catastrophe. This bill attempts to alleviate some of that burden by spreading utility recovery costs among all ratepayers in the state.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1473, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1473, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bainum, Hiraki, Hirono and Takamine.
(Representatives Amaral and Herkes voted no.)

SCRep. 414 Consumer Protection and Commerce on H.B. No. 2048

The purpose of the bill is to impose an excise tax on wholesaling or dealing in cigarettes measured by a 4.5 cents tax on each cigarette sold or used by a wholesaler or dealer. The taxation of other tobacco products will remain at 40 percent of the wholesale price of the article as under present law.

Your Committee finds that taxation of cigarettes comprise about 90 percent of the tobacco tax revenues paid each year to the State. The present tax on cigarettes is approximately 2 cents per cigarette. The change in the taxing methodology

is to increase the revenues from the taxation of cigarettes and to allow for the taxation of sales of cigarettes to the military which presently are not subject to the tobacco tax. This change will be in compliance with the U.S. Congressional Act which will not take effect until January 1, 1994 or 6 months after Congress will have passed the law requiring the military to purchase locally as is presently required in the case of liquor.

Supporting testimony was submitted by the Department of Health, Department of Taxation, Building Owners and Managers Association, American Heart Association-Hawaii Affiliate, Waikiki Health Center and Medical Clinic, and the American Lung Association.

Your Committee recognizes that higher taxes on cigarettes have been clearly related to a reduction in the number of current as well as new smokers, particularly for minors. More importantly, cigarette smoking is the single most preventable cause of death and disability in Hawaii and the nation. In addition, the Environmental Protection Agency has now classified second-hand or Environmental Tobacco Smoke (ETS) as a Class A carcinogen.

In light of this, your Committee believes that the tax increase will generate more revenues for the State and healthier lives for those individuals who choose to stop smoking due to the cost. Overall, the State will pay less in health care in the long run.

Accordingly, your Committee has amended this bill by:

- 1) Clarifying that the sum of \$1,000,000 per year is to be expended by the Department of Health for health education and prevention programs related to smoking.
- 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2048, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2048, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Hirono and Takamine.
(Representatives Amaral and Peters voted no.)

SCRep. 415 Consumer Protection and Commerce and Judiciary on H.B. No. 777

The purpose of this bill is to authorize and govern the establishment of a new entity called a "limited liability company."

Supportive testimony was submitted by the Corporations and Securities Section, and Tax Section of the Hawaii State Bar Association, and the Economic Development Corporation of Honolulu. Testimony was also submitted by the Department of Commerce and Consumer Affairs, and the Hawaii Commissioners to the National Conference on Uniform State Laws.

Your Committees find that the creation of limited liability companies will offer tax advantages of a partnership, and the legal safeguards of a corporation for small businesses, joint ventures, and foreign investors who are normally barred from forming sub-S corporations.

After careful consideration, your Committees have amended this bill as follows:

- (1) Clarified dissolution proceedings by providing that a limited liability company shall continue to exist until a statement of dissolution is filed with the director or until a decree dissolving the limited liability company has been entered by the courts;
- (2) Required a statement of dissolution to be filed with the director after the payment and discharge of all debts, liabilities, and obligations of the limited liability company setting forth:
 - (A) The distribution of property and assets of the limited liability company among the members; and
 - (B) Whether there are no suits pending against the limited liability company, or that provisions have been made to satisfy any judgment, order, or decree entered against any pending suit;
- (3) Required foreign limited liability companies to keep records of the names and addresses of members, their capital contributions, and any additional information until the registration of the foreign limited liability company in this State is cancelled or withdrawn;
- (4) Instructed the courts to apply the case law that interprets the conditions and circumstances under which the corporate veil of a corporation may be pierced under Hawaii law when a party seeks to hold the members of a limited liability company personally responsible for the alleged improper actions of a limited liability company; and
- (5) Made technical, nonsubstantive revisions for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that is attached to this report, your Committees is in accord with the intent and purpose of H.B. No. 777, as

amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 777, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bainum, Cachola, Hiraki, Hirono and Takamine.
(Representatives Amaral and Thielen voted no.)

SCRep. 416 Water and Land Use Planning and Energy and Environmental Protection on H.B. No. 694

The purpose of this bill is to appropriate funds for test borings from underground sources near the Ala Wai Canal to establish the quantity and quality of water available from these sources.

Testimony in support of the bill was received from the Chamber of Commerce of Hawaii, various Waikiki community organizations, and the University of Hawaii Environmental Center.

The Department of Land and Natural Resources provided testimony supporting the intent of the bill but was not able to support the measure at this time due to the anticipated shortfall of State revenues noted in the Executive Biennium Budget.

Your Committee has thus amended the bill to reflect an appropriation of \$1.

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. 694, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 694, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 417 Water and Land Use Planning and Hawaiian Affairs on H.B. No. 1501

The purpose of this bill is to re-design the historic preservation project review process in order to increase public participation in the process. Specifically, this bill would:

- (1) Establish historic preservation commissions in each county;
- (2) Establish professional qualifications for professionals in the field of historic preservation;
- (3) Establish a historic preservation review process with expanded public participation;
- (4) Add new definitions to Chapter 6E;
- (5) Revise the qualifications of the State Historic Preservation Officer; and
- (6) Allow access for cultural, religious, or research purposes to individuals with a legitimate lineal or cultural connection to specimens or objects curated in a State or State-funded repository; and repeal Sections 6E-8 and 6E-42, Hawaii Revised Statutes.

Testimony in support of this bill was submitted by: Ka Lahui Hawaii, the Halawa Coalition, Kuikalahiki (a Hawaiian student organization), Hawaii's Thousand Friends, Hawaiian Researchers Ohana, Common Cause Hawaii, Citizens for Jobs and Environment, and eight interested individuals. Organizations in opposition to this bill consisted of: the Department of Land and Natural Resources (DLNR), the City's Department of Land Utilization, and Land Use Research Foundation of Hawaii. The UH's Environmental Center also commented on this bill.

The major concerns expressed with regards to the current historic preservation project review process included the following:

- (1) The Historic Preservation Division has had administrative rules in draft form since 1989, and has never scheduled a public hearing on these rules;
- (6) There is no assurance for public review in the existing process;
- (2) Hawaii statutes do not conform to federal laws; as a consequence, there are conflicting processes when State/federal projects are undertaken;
- (5) Developers cannot rely on a consistent procedure to follow when they undertake the development process;
- (3) Although the counties lack historic preservation ordinances, they control the permitting process for developments which impact on historic properties; and
- (4) Hawaii statutes contain no provisions for natural features, districts, and areas to be considered historic properties; nor are there specific requirements for state historic preservation professionals.

Your Committees find the rationale to upgrade the historic preservation project review process to be compelling and in need of support. At the same time, your Committees recognize that the much needed provisions for increased public input

will lengthen the overall land use approval process. In supporting the provisions of this bill, your Committees stress that this should not be interpreted as being opposed to development; on the contrary, Hawaii's current downturn clearly emphasizes the need for a strong, diverse economy. Rather, your Committees seek to save millions of dollars in both public and private funds by requiring a thorough review at the beginning of the land use approval process, thereby avoiding future costs. Your Committees seek to find a reasonable middle ground that balances the need for increased public input and the need to expedite the land use approval process. Accordingly, your Committees find that this bill should be moved forward for further consideration.

Your Committees have amended this bill by:

- (1) Inserting a new Section 11 that appropriates a blank sum to DLNR to fulfill the constitutional requirements of Article VIII, Section 5, of the Constitution of the State of Hawaii;
- (2) Inserting a new Section 13 that directs DLNR to adopt administrative rules on July 1, 1994; and
- (3) Repealing sections of the bill relating to the qualifications of historic preservation professionals and the State historic preservation officer when the administrative rules go into effect.

Finally, in no way should support for this bill be interpreted as a negative reflection on DLNR's efforts to do the best job it can, given limited resources. If anything, your Committees believes that the Historic Preservation Division has been over-extended for years and in desperate need of additional funding.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1501, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1501, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bainum, Ihara, Tajiri and O'Kieffe.

SCRep. 418 Water and Land Use Planning and Transportation on H.B. No. 640

The purpose of this bill is to change the boundaries of the Kakaako community development district to exclude Pier 1 and Pier 2 at Fort Armstrong.

Your Committee finds that Piers 1 and 2 include vital and unique maritime cargo facilities that cannot be relocated and would be prohibitively expensive to duplicate.

The Sause Bros, Inc., testified in favor that 98% of all food, clothing, building materials, fuel, machinery, cars, equipment, furnishing, etc. are transported to Hawaii by ships.

Your Committee also received favorable testimony from the Chamber of Commerce of Hawaii. The Hawaii Community Development Authority submitted testimony in opposition to the measure.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Transportation that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 640, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Beirne, Hagino, Shon, Tajiri and Yonamine.

SCRep. 419 Water and Land Use Planning on H.B. No. 1673

The purpose of this bill is to authorize the issuance of citations under the Penal Code, for unauthorized activities on unencumbered public lands.

Currently, your Committee finds any infraction of the rules requires the Board of Land and Natural Resources approval before imposing a penalty. In many instances, by the time the order is prepared and ready to be issued, the violator has already left the premises. The Department of Land and Natural Resources stated the current process is cumbersome, time consuming and ineffective.

This measure would allow the department to issue citations for violators on the spot and authorize the courts to prosecute violators under the penal code.

Your Committee received favorable testimony from the Department of Land and Natural Resources.

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. 1673 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. 420 Water and Land Use Planning and Agriculture on H.B. No. 1752

The purpose of this bill is to implement Article XI, section 3, of the Hawaii State Constitution while maintaining existing State and County responsibilities in land use. The bill adopts a land evaluation and site assessment rating system. It convenes an agricultural production goals committee to formulate agricultural production goals. It also provides that the reclassification or rezoning of important agricultural lands shall require a two-thirds vote by the Land Use Commission or respective County land use decision-making authority.

The Committees find that the 1978 constitutional amendment, Article XI, section 3, has yet to be implemented. The Committees further find that what is needed is an approach which will satisfy the basic requirements of the Constitution while retaining the existing State land use districts and the existing jurisdictional responsibilities of the State Land Use Commission and County land use decision-making bodies.

The Committees find that there is a need to develop standards and criteria to identify important agricultural lands. The land evaluation and site assessment rating system is the proposed method to identify important agricultural lands. However, the Committees find that reliable islandwide maps of the site assessment factors have been difficult to produce. Therefore, it is the Committees' intent that the LESA ratings be evaluated on a case-by-case basis. Islandwide maps would not be required under this approach. More detailed information on the site assessment factors can be provided on a case-by-case basis as petitions are brought before the Land Use Commission or the County decision-making body. The Land Use Commission will develop land evaluation and site assessment threshold scores.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1752, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1752, 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 Tajiri.

SCRep. 421 Water and Land Use Planning on H.B. No. 1675

The purpose of this bill is to extend the deadline for the issuance of long term agriculture leases to certain permittees of agriculture lands from July 1, 1993 to July 1, 1994.

Your Committee finds the work progressing, but the Department may not be able to make the July 1, 1993 deadline in the issuance of these leases agreements imposed by Act 69, Session Law of Hawaii. This is due to the irregular configuration of many of the lot sites, the tasks of surveying, and appraisal. The Department must also wait for the County for any requirements that may be imposed in the development of these lot sites. Once the necessary County approvals have been secured, the Department can then begin to negotiate with the qualified permittees on long term lease agreements.

Your Committee received favorable testimony from the Department of Land and Natural Resources.

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. 1675 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 422 Water and Land Use Planning on H.B. No. 1769

The purpose of this bill is to create a Water Resource Management Special Fund under the jurisdiction of the Commission on Water Resource Management which shall be used by the commission to protect, conserve and improve the watersheds of the State and requires an annual report by the commission to the Governor and Legislature. This bill also compensates commission members \$50 a day for each day's actual attendance at meetings and for other related expenses.

In order for your Committee to protect our most important and valuable resource, water, it needs to first protect its source, the State's watersheds. The State's watersheds must be adequately managed, weeds must be controlled, and incentives must be provided to private landowners to protect watersheds. This bill is a means of focusing in on these concerns through the creation of a Watershed Management Special Fund.

Although your Committee is sensitive to concerns associated with creating new special funds, an exemption is warranted here, because of the critical role watersheds play in recharging our water resources and providing for other environmental needs.

Your Committee received testimony from the Department of Land and Natural Resources and Valarie Mendez.

Upon consideration, your Committee has amended the bill by:

- (1) Deleting section 4 of the bill that provides for the compensation for commission members; 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 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. 1769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1769, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.
(Representative Kanoho voted no.)

SCRep. 423 Water and Land Use Planning on H.B. No. 1994

The purpose of this bill is to appropriate funds to conduct a comprehensive analysis of the various legal, social, economic, and cultural issues that impact territorial homestead lessees commonly referred to as "territorial homesteads" or "999-year leases."

Your Committee finds that certain lessees are currently encountering problems obtaining financing for home construction or home improvement due to these leases having undivided interests and are deemed by the lending institution to be difficult to collateralize. Similarly, lessees with sizable parcels have been unable to obtain permits to develop and more fully utilize their lots because State and County permit agencies are unable to determine if the applicant has proper tenure.

Your Committee finds this measure will begin the process of correcting the current situation for the lessees.

Your Committee received testimony from the Department of Land and Natural Resources, the Office of Hawaiian Affairs and from various territorial homestead lessees.

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. 1994, 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 Tajiri.

SCRep. 424 Water and Land Use Planning on H.B. No. 1952

The purpose of this bill is to provide assistance to industrial lessees by ensuring that lessees of public land in industrial zoned areas are guaranteed reasonable rates when it is time for renegotiation of lease rents.

Your Committee received favorable testimonies from Bays Deaver Hiatt Kawachika and Lezak, Hasting Conboy Briag and Associates Ltd., Cowell and Company Inc., CB Commercial, and the President and Vice President of the Industrial Business Association.

The Department of Land and Natural Resources was reluctant to support this bill at this time as it would, due to the current revenue shortfall, resulting in reducing current priorities indicated in the Executive Budget.

Your Committee has amended this bill for the purposes of keeping the bill alive without attempting to change the terms of existing leases which would otherwise be unconstitutional. Your Committee is concerned about setting a precedent that could influence all other public land leases.

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. 1952, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1952, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 425 Water and Land Use Planning on H.B. No. 888

The purpose of this bill is to:

- (1) 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 abandoned; and
- (2) Clearly distinguish and separately categorize appraisals done for land management from those done for acquisitions.

The Department of Land and Natural Resources (DLNR) testified that, currently, it does not make available for public review appraisal reports covering private property being acquired for a public purpose until after the acquisition is completed or abandoned. Therefore, this bill is consistent with DLNR procedures.

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. 888, 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 Tajiri.
(Representative Thielen voted no.)

SCRep. 426 Water and Land Use Planning on H.B. No. 136

The purpose of this bill is to appropriate funds for a pilot, three phase comparative videographic study of shoreline delineations.

Your Committee finds there is a need to improve the accuracy of the shoreline certification process by utilizing videographic technology that provides visual comparisons of shoreline delineations resulting in a more accurate certification.

Testimony was submitted by the Department of Land and Natural Resources.

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. 136 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.
(Representative Kanoho voted no.)

SCRep. 427 Water and Land Use Planning on H.B. No. 687

The purpose of this bill is to appropriate funds for the design and development of specifications for the dredging of Ala Wai Canal.

The Waikiki Improvement Association testified that in a 1992 Ala Wai Canal Improvement Feasibility Report prepared by Edward K. Noda and Associates Inc., to the Department of Land and Natural Resources indicated the last dredging of the Ala Wai Canal was in 1978, some fifteen years ago. The Association further testified that the Ala Wai Canal meets all the standards for international competition for length, width and depth if dredging was to take place.

Your Committee also received supporting testimonies from Associate Professor Eric De Carlo of the School of Ocean and Earth Science and Technology, University of Hawaii at Manoa, Associate Planetary Scientist Dr. Patricia Fryer of the Planetary Geosciences, University of Hawaii at Manoa, and the Hawaii Hotel Association.

The Department of Land and Natural Resources and Environmental Center, University of Hawaii at Manoa, submitted testimony but were unable to support this measure at this time.

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. 687 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. 428 Water and Land Use Planning on H.B. No. 2075

The purpose of this bill is to put government-owned Hawaiian fish ponds to productive use by expediting the State's approval process. This bill would permit the Board of Land and Natural Resources to lease fish ponds without the limitations set forth in Section 171-53(c), Hawaii Revised Statutes (HRS).

A recent Attorney General opinion indicated that government-owned Hawaiian fish ponds are subject to the provisions of Section 171-53(c), HRS, which treats fish ponds as submerged land. As a result, the leases would be subject to the time consuming process that requires prior authorization of the Legislature by concurrent resolution.

The Department of Land and Natural Resources and two Molokai residents supported this bill.

Your Committee finds that this proposed amendment is consistent with State goals for traditional fish pond restoration and that adequate administrative safeguards exist to prevent inappropriate uses of these historic treasures.

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. 2075 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. 429 Water and Land Use Planning on H.B. No. 14

The purpose of this bill is to appropriate funds for the planning and design of a civic center in Kapolei, Oahu.

Your Committee received testimony in support from the Estate of James Campbell. The estate is currently implementing its master plan for the City of Kapolei. As part of the plan, the estate has dedicated significant acreages of land to both the City and State to accommodate needed services and facilities for the Kapolei region. This translates into forty acres for the State and twenty acres for the City for the development of a civic center.

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. 14 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.
(Representative Thielen voted no.)

SCRep. 430 Water and Land Use Planning on H.B. No. 246

The purpose of this bill is to establish the Molokai Water Resource Advisory Committee that shall provide input to the Commission on Water Resource Management regarding the management of the Molokai water management area.

Your Committee finds Section 174C-41, Hawaii Revised Statutes, requires the Commission on Water Resource Management to determine areas that may be threatened by existing or proposed withdrawals or diversions of water and shall designate these areas as water management areas. In May 1992, the Commission on Water Resource Management designated the entire island of Molokai as a water management area.

Your Committee received testimony from the Department of Land and Natural Resources stating the establishment of a second board to address the concerns of water use on Molokai is unnecessary. The Department of Hawaiian Home Lands supported the intent of the measure but believes that an advisory committee may be premature at this time. The Molokai Board of Realtors stated in their testimony, they strongly support any forum that will allow a fair and open discussion of issues relating to water use and water allocation on Molokai. Several residents from Molokai also submitted testimony in support of this measure.

Your Committee has amended this bill to increase the number of committee members from five to fourteen. The composition of the committee will include: one representative from the Department of Hawaiian Home Lands, the Nature Conservancy, Maui County Board of Water Supply, a developer from Molokai, Maui County Administration, Maui County Council, Molokai Planning Commission; three representatives from the Homestead Association; and four representatives from the general public of which one shall be from the district of Manae, Kaunakakai, Maunaloa, and Ho'olehua.

Your Committee has also amended this bill to designate the representatives from the Maui County Board of Water Supply, the Maui County Administration, and the Maui County Council to serve as ex officio members.

Your Committee in establishing an advisory committee, does not intend to create a precedent to be allowed in all other areas designated as water management areas.

Your Committee has further amended this bill to provide for a three year sunset provision that addresses some of the concerns stated by the Department of Land and Natural Resources.

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. 246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 246, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 431 Water and Land Use Planning on H.B. No. 236

The purpose of this bill is to increase the fines that may be assessed those persons violating land use restrictions in agricultural land use districts.

Your Committee on Water and Land Use Planning heard testimony by the Department of Land and Natural Resources that the fines that may presently be imposed are not large enough to deter land use violations. Your Committee agrees with the increase proposed by H.B. 236 so long as violators are accorded their full right to due process under the law. After examination of the procedural provisions in H.B. 236 and consultation with the county agency responsible for enforcing agricultural district land use restrictions, your Committee has retained the notice provisions while removing language providing for injunctive relief and a Chapter 91 hearing. Your Committee notes that the absence or presence of the latter would have no effect on violators' procedural rights, whereas inclusion would duplicate the function of existing law and thereby invite misunderstanding and needless litigation.

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. 236 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 236, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Tajiri.
(Representative Thielen voted no.)

SCRep. 432 Water and Land Use Planning on H.B. No. 1289

The purpose of this bill is to amend the conservation districts law by:

- (1) Increasing the penalty for violations of the conservation districts rules from not more than \$500 to not more than \$2,000 for each separate offense; and
- (2) Making each day of each violation a separate offense.

Your Committee finds the need to increase the penalty for violations will greatly assist the department as a deterrent when enforcing the provisions under chapter 182, Hawaii Revised Statutes.

Your Committee received favorable testimony from the Department of Land and Natural Resources and the Sierra Club, Hawaii Chapter.

Your Committee has amended this bill to limit the statutory changes to just the increases in the level of the fine.

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. 1289, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1289, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 433 Water and Land Use Planning on H.B. No. 2122

The purpose of this bill is to appropriate \$750,000 in general funds for the fiscal year 1993-1994, to conduct field survey, title, search, and physical assessment of the lower Hamakua ditch system, as well as to estimate the cost of annual operation and maintenance.

Your Committee on Water and Land Use Planning agree with testimony by the Hawaii Island Economic Board and the ILWU Local 142 that maintenance of the Lower Hamakua Irrigation Ditch System would be essential to any potential agricultural operation in the area and would provide long-term economic benefits to the State. However, there was also testimony that it would be difficult to estimate the cost of the project proposed by this bill. Your Committees have accordingly amended H.B. 2122 to replace the amount appropriated with one dollar.

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that are attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2122, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2122, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 434 Water and Land Use Planning and Agriculture on H.B. No. 561

This bill authorizes the issue of general obligations in the sum necessary to acquire approximately 26,000 acres of "core plantation lands" currently occupied by the Hamakua Sugar Company on the island of Hawaii.

For well over a century this State's economy has relied on sugar. Hawaii's communities and unique character are intertwined with the sugar industry, which fostered rural communities, was the moving force behind the State's multi-ethnic diversity, and which required that so many of Hawaii's citizens learn skills and develop abilities based on a strong work ethic.

Today the sugar industry has encountered greater difficulty in remaining profitable. Hamakua Sugar Company has felt the impact of this pressure, and on August 14, 1992, despite valiant efforts by owners, employees, union representatives, and government officials to salvage the operation, Hamakua Sugar Plantation was forced to announce that it would be ceasing production on March 31, 1993.

Your Committees on Water and Land Use Planning, and Agriculture, heard testimony from members of the Hamakua community and county government, that the closing of Hamakua Sugar Plantation's doors will shake the plantation community of Hamakua to its core. Seven hundred employees will lose their livelihood. These employees, as well as approximately one hundred pensioners, face the possible loss of their pensions. Hundreds of other workers may lose jobs directly dependent on servicing the sugar industry. Hamakua Sugar's employees and their families will be left without medical coverage, and the number of physicians in the Hamakua area will be cut in half if the plantation subsidized infirmary is shut down. Four hundred families living in plantation homes may lose their dwellings.

Your Committees also heard testimony from State officials estimating some of the monetary costs of the closure to the State of Hawaii. Unemployment payments resulting directly from this event will cost the State approximately \$4,400,000 a year, and welfare payments may amount to \$6,000,000 a year. More troubling to your Committees was testimony revealing the human costs of such a closure. Although only 140, or approximately a sixth of Hamakua Sugar's workers have lost their jobs since Hamakua declared bankruptcy, medical referrals have since doubled, requests for psychiatric services are on the rise, spouse and child abuse, and drug abuse has increased, and four suicides have been documented.

Your Committee heard testimony from the community that the purchase of Hamakua Sugar's core lands will help to mitigate the harm that an abrupt closure of the plantation might otherwise inflict on the community of Hamakua. Purchase of these lands will allow Hamakua Sugar to retain its employees and implement a phased shut-down of its facilities in which the crop of cane now growing in the fields will be harvested at an estimated profit of \$13,400,000. In the twelve to eighteen months that it would take to accomplish the harvest, employees would have an opportunity to begin

retraining and to seek alternate employment. During these months Hamakua will be allowed to gradually adjust and more effectively implement plans developed by task forces and work groups in the community, which address housing, medical, stress management, employment, and training needs.

Your Committees also heard testimony from government officials indicating that the future welfare of the Hamakua community is rooted in the core lands of the Hamakua Sugar Plantation. Testifiers spoke of community and government efforts to develop plans for alternative, preferred futures for the economy of the Hamakua area, centered around redefinition and development of the core sugar lands. The Governor's Group, which includes the Department of Business and Economic Development, Department of Agriculture, Department of Labor, and Office of State Planning, is addressing these questions in the context of the area from Waipio Valley to the Wailuku River, and is set to report its findings and seek community input during the first week of March. In addition, a diversified Agricultural Task Force has been organized to develop agricultural options for the core lands and the Hamakua area.

Your Committees find that abrupt closure of Hamakua Sugar will devastate the community of Hamakua, extend the suffering of its residents, and intensify any repercussions that will be felt by the State. Your Committees believe that the State's assistance and support should go out to a community in its time of need, whether the disaster that strikes is natural, or, as in this case, economic. Your Committees further find that where a disaster can be foreseen and actions taken to mitigate or avoid human suffering and economic losses, it is both sound moral and economic policy to undertake such actions. Your Committees therefore agree that the core sugar lands of the Hamakua Sugar Plantation should be purchased by the State. Acquisition of the core sugar lands of the Hamakua Sugar Plantation will not only assist Hamakua to weather the closing of the Plantation, but at the same time represents an investment in the future that will result in the flowering of a new and diversified industry in the Hamakua area.

Your Committee agreed with the testimony of the Hamakua Development Council that a mechanism is needed to coordinate the efforts of the Legislature, the State Administration, the Hawaii County Administration and Council, ILWU, Hamakua Sugar, and the various communities that make up Hamakua. The Council suggested that a committee composed of the Governor of the State of Hawaii, the Mayor and Council Chairman of Hawaii County, Representatives of ILWU Local 142 and Hamakua Sugar, and the three elected officials from Hamakua, Senator Malama Solomon, Representative Dwight Takamine, and Councilman Takashi Domingo, be established. The Council would coordinate short-term community efforts to respond to the closure of Hamakua Sugar, and, in addition, coordinate a long-term, comprehensive response compatible with the Hamakua Regional Plan in order to develop a new economic future for the Hamakua area. The bill has also been amended to strike the specified dollar amounts in order to preserve the State's bargaining position in its ongoing negotiations with the Western Farm Credit Bank, Hamakua Sugar's principal secured creditor.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 561, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 561, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 435 Water and Land Use Planning n H.B. No. 1370

The purpose of this bill is to establish the Mount Olomana state monument by amending the Hawaii Revised Statutes to include language designating Mount Olomana as a historic site and directing the State to acquire those lands necessary to its preservation.

Testimony in support of this bill was received from the Sierra Club, the Hawaii Equestrian Trails Association, the Save Mount Olomana Association, and several members of the Kailua community.

According to its testimony, the Department of Land and Natural Resources supports the intent of the bill, but is unable to support the acquisition of Mount Olomana at this time.

Your Committee finds that Mount Olomana is a landmark that deserves special protection before its beauty and integrity is irreparably damaged by the scars of development. On the Maunawili Valley side of Mount Olomana, developments have already blemished the mountainside and impaired the ecosystem.

In accordance with its intent to recognize the significance of Mount Olomana, your Committee has amended the bill to insert the sum of \$1 for the appropriation amount. The effective date of the measure has also been amended to July 1, 1994.

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. 1370, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1370, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 436 Housing and Consumer Protection and Commerce on H.B. No. 661

The purpose of this bill is to appropriate funds for the establishment of a State Housing Consumer Advocate position within the Department of Commerce and Consumer Affairs.

Supporting testimony was submitted by the Land Use Research Foundation, and the Hawaii Association of Realtors.

Your Committees are aware that currently, no one source exists in Hawaii where consolidated, reliable, and easily-accessible housing data can be obtained. This resource is imperative for effective decision making, policy formation, the matching of housing needs with resources and opportunities, and the sharing of ideas and technical expertise.

Upon careful consideration, your Committees have amended the bill by expanding the scope of the housing information system established under Section 201E-10, Hawaii Revised Statutes, to include housing advocacy. Under the new housing advocacy and information system, the Housing Finance and Development Corporation (HFDC) shall conduct market studies, engage in community outreach, and solicit recommendations from government agencies, research organizations, nonprofit community groups, trade associations, the University of Hawaii, and housing consumers. The HFDC shall analyze the information it receives and make recommendations to appropriate agencies and developers. Finally, through the advocacy and information system, the HFDC shall act as a clearinghouse for information as to housing conditions, needs, supply, demand, characteristics, developments, trends, federal housing programs, and housing laws, ordinances, rules, and regulations.

As affirmed by the records of votes of the members of your Committees on Housing 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. 661, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 661, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bainum, Hiraki, Kawakami, Menor, Pepper, Peters, Takamine and Thielen.

SCRep. 437 Housing on H.B. No. 1170

The purpose of this bill is to establish a rental deposit trust fund into which all security deposits deposited by or for a tenant with a landlord pursuant to section 521-44, Hawaii Revised Statutes, shall be deposited. This bill also directs that all interest earned upon sums deposited into the rental deposit trust fund be deposited into the Rental Housing Trust Fund established under section 201(F), Hawaii Revised Statutes.

Supporting testimony was received by the YWCA, the Hawaii Green Party, the Affordable Housing Alliance, Catholic Charities, the Honolulu Neighborhood Housing Services, and the Hawaii Council of Churches.

The Bank of Hawaii felt it would be more feasible to hold rental security deposits in accounts like the attorney client trust accounts already handled by many banks. Instead of using a bidding process, all institutions could offer such accounts and the burden of bookkeeping would be left with the landlord. According to the bank, this would minimize administrative expenses.

Upon careful consideration, your Committee has amended the bill by deleting its substance and instead inserting provisions creating a rental deposit trust fund called the Tenant Trust Account which is modelled after attorney client trust accounts. As revised, the bill, in pertinent part, provides as follows:

- (1) Requires all Section 521-44, Hawaii Revised Statutes, security deposits to be deposited by the landlord into a Tenant Trust Account which shall be an interest bearing account;
- (2) Specifies that funds in the Tenant Trust Account shall be subject to withdrawal upon request and without delay;
- (3) Requires that the rate of interest payable on a Tenant Trust Account shall not be less than the rate paid by the financial institution to regular, non-landlord depositors;
- (4) Requires the financial institution in which the account is established to remit all interest or dividends derived from the account, less reasonable service fees, to the Rental Housing Trust Fund established by Chapter 201F, Hawaii Revised Statutes; and
- (5) Allows funds of different tenants to be held in a single tenant trust account.

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

Your Committee feels that the Tenant Trust Account is the most innovative method of increasing our supply of low and moderate housing. More than fifty accounts such as this are in place throughout the nation; building thousands of affordable units each year. A single tenant's interest from the rental deposit amounts to a very small amount. However, when placed in a trust account with 150,000 others, the total deposit amount may be \$150 million. The interest earnings at 4 percent is \$6 million annually and at 5 percent is \$7.5 million annually. The Tenant Trust Account could produce as many as 300 units at rents of \$650 at a current interest rate of 8 percent.

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. 1170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1170, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

SCRep. 438 Housing on H.B. No. 300

The purpose of this bill is to allow the Housing Finance and Development Corporation (HFDC) to issue bonds to purchase low-income housing projects financed by the United States Department of Housing and Urban Development to preserve those projects.

This bill also requires the HFDC to transfer title to these projects to the Hawaii Housing Authority (HHA) upon payment of all interest and principal stemming from these bonds. This measure would not prohibit the HHA from operating these projects or providing for their repair and maintenance before the payment of all interest and principal stemming from the issuance of these bonds. This bill will not prohibit the HFDC from transferring title to these projects to the HHA or the HHA's successor if these bonds can be secured to the satisfaction of the bond holders.

Your Committee received testimony in support of the intent of this measure from the HFDC, the HHA, and the Honolulu Neighborhood Housing Services, Inc. The Honolulu Neighborhood Housing Services, Inc. recommended that the HFDC assist nonprofit organizations (e.g., community-based nonprofit organizations and resident councils), as well as the HHA.

Your Committee has amended this measure to allow the HFDC to transfer title to federally financed housing projects to nonprofit organizations (e.g., community-based nonprofit organizations and resident councils). The nonprofit organizations would be given priority over the HHA.

Other technical, nonsubstantive amendments were made for the purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 300, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 300, 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. 439 Housing on H.B. No. 2143

The purpose of this bill is to appropriate funds to address the housing needs of residents of the Hamakua district on the island of Hawaii who face displacement from their plantation homes upon the closing of sugar operations.

Your Committee received testimony in strong support of this bill from the Mayor of the County of Hawaii, the ILWU Local 142, and several sugar industry employees from the Big Island who face the loss of their jobs and homes.

The testimony indicated that more than 600 workers and hundreds of pensioners are directly affected by the impending closure of Hamakua Sugar Company. With the closing of the plantation, about 400 plantation homes currently occupied by both workers and pensioners will be in jeopardy. It is hoped that an arrangement can be worked out to enable these people and their families to remain in these homes. If such efforts fail, many fear they will lose everything they worked for and join the ranks of the homeless.

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

- (1) Directing the Housing Finance and Development Corporation (HFDC) to explore and work on the strategy of using its bond authority to leverage federal and other funds for the purposes of the Act;
- (2) Directing the HFDC to assist in the organizational development and financial feasibility assessment of a project to preserve Hamakua plantation housing through a mutual housing association established under Act 310, Session Laws of 1992;
- (3) Changing the appropriated amount to \$1 for the purposes of further discussion and designating the HFDC as the expending agency; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee understands that it will take the combined efforts of federal, state, county, and private entities, as well as the ILWU Local 142, to address the difficult task of trying to keep Hamakua residents in decent, safe, and sanitary housing once sugar operations cease.

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. 2143, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2143, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

SCRep. 440 Housing on H.B. No. 1306

The purpose of this bill is to alleviate economic hardships faced by cooperative lessees whose lessor does not initiate rent renegotiation on a timely basis. The measure would require lessors to initiate rent renegotiation by the date specified in the lease or they will not be able to collect retroactive rent from that date.

Under existing law, new lease rent is effective retroactive to the date of reopening, and the term "reopening" is not defined. As a result, the lessor is able to collect renegotiated lease rent retroactive from the date of reopening regardless of whether they actually initiate rent renegotiation by the anniversary date specified in their leases.

Your Committee finds that this measure resolves this problem by defining the term "reopening" as the later of the date specified in the lease or 90 days after written notice of the lessor's intent to initiate rent negotiations is sent to the lessee.

The Hawaii Council of Association of Apartment Owners submitted testimony in support of this measure. The Housing Finance and Development Corporation and concerned citizens submitted testimony in opposition.

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. 1306 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.
(Representative Peters voted no.)

SCRep. 441 Housing on H.B. No. 1668

The purpose of this bill is to eliminate duplicatory recordation procedures, expedite the recordation process, and increase efficiency by clarifying the recordation process and procedures in the Bureau of Conveyances with regard to land court registration and condominium property regimes.

Your Committee received testimony supporting the intent of this measure from the Department of Land and Natural Resources (DLNR), the Judiciary, Stubenberg & Durrett, Gentry Homes, Ltd., and Escrow Association of Hawaii.

The DLNR recommended amending the bill to provide the Bureau of Conveyances with increased flexibility in the recordation of documents that have arisen in the affordable housing market, such as amendments to a declaration of condominium property regime that alter an apartment owner's percentage interest in a common element.

Your Committee has amended this measure by incorporating the changes proposed by the Department of Land and Natural Resources.

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. 1668, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1668, 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. 442 Housing on H.B. No. 1715

The purpose of this bill is to require the governor to appoint a "permanent" Rental Housing Trust Fund (RHTF) Commission by June 30, 1993. If the Governor fails to meet this deadline, the interim commission would automatically constitute the membership of the RHTF Commission.

Supporting testimony was submitted by the RHTF Interim Commission.

Your Committee feels it is important to allow the present interim commissioners to continue their task without interruption until their replacements are appointed by the Governor; therefore, the bill has been amended by:

- (1) Deleting the date the Governor shall appoint a permanent commission; and
- (2) Allowing the interim commissioners to serve as members of the Commission until the Governor appoints their replacements.

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. 1715, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1715, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 443 Housing on H.B. No. 690

The purpose of this bill is to regulate cooperative housing corporations under a system of governance similar to the condominium property regime law.

Your Committee received testimony in support of the measure from the Hawaii Council of Associations of Apartment Owners, the Kokua Council for Senior Citizens, and a cooperative unit owner-occupant.

The Department of Commerce and Consumer Affairs (DCCA) testified that there are numerous ambiguities and problems with the bill as drafted, such as whether the bill subjects cooperative housing corporations to Chapter 415 or Chapter 415B Hawaii Revised Statutes.

Your Committee supports the intent of the bill and urges the DCCA to work with the cooperative housing corporation stockholders and the House Committee on Commerce and Consumer Affairs to resolve the ambiguities and problems which it raised in its testimony.

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. 690 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. 444 Housing on H.B. No. 1231

The purpose of this bill is to amend section 514A-104.5 and 514-105, Hawaii Revised Statutes, to provide that an affidavit of intent to become an owner-occupant of a condominium unit shall automatically expire upon acquisition of title to the property by an institution pursuant to foreclosure. Requires the developer or agent to notify owner-occupants on the final reservation list about their liabilities under this part and the penalties for violation of this part.

Supporting testimony was submitted by the Mortgage Bankers Association, Hawaii Bankers Association, Hawaii Bar Association, Hawaii Developers' Council, Hawaii Association of Realtors, Real Estate Commission, and the Kokua Council for Senior Citizens.

Your Committee has adopted the recommendations of the Real Estate Commission by making the following amendments:

- (1) Deleting the provision that reaffirmation occurs when it is deemed to have been made;
- (2) Deleting the provision that a transmittal letter be allowed in absence of a commission form when giving notice;
- (3) Stipulating that the developer or agent have sixty to two hundred seventy days to mail an executed affidavit when informing owner-occupants of their legal obligations and penalties for violation of this part; and
- (4) 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. 1231, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1231, 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. 445 Housing on H.B. No. 313

The purpose of this bill is to continue regulating time sharing. This bill mandates preparation of an annual budget by the time share owners association, and mandates an annual audit of the time share association's financial accounts by a public accountant.

Testimony was submitted by several businesses, individuals, and time share companies supporting the time share business. The Department of Commerce and Consumer Affairs recommended deleting Section 1 of the proposed bill and extending the sunset date of the timesharing plan law, Chapter 514E, Hawaii Revised Statutes, to December 31, 1999.

Your Committee has adopted the recommendations of the Department of Commerce and Consumer Affairs by making the following amendments:

- (1) Deleting the section regulating the budgets, reserves, and audits of the time share owner's association; and
- (2) Extending the repeal date of Chapter 514E to December 31, 1999.

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. 313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 313, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 446 Housing on H.B. No. 714

The purpose of this bill is to strengthen and clarify the statutory right of first refusal for condominiums and cooperative projects.

Your Committee received testimony supporting the intent of this measure from the Hawaii Council of Association of Apartment Owners, the Board of Makani Kai Marina Association of Apartment Owners, the Sub-Committee on

Condominiums of the Real Property Section of the Hawaii State Bar Association, and several lessees and interested persons. The Kamehameha Schools/Bernice Pauahi Bishop Estate and a landowner testified in opposition to the measure.

The Subcommittee on Condominiums of the Real Property Section of the Hawaii State Bar Association proposed several changes to this bill. Upon further consideration, your Committee has incorporated these recommendations, which clarify that:

- (1) A lessor, if the lessor wishes to sell the leased fee interest under a condominium or cooperative, should first negotiate in good faith with the Board of Directors of the condominium or cooperative project for 120 days in an attempt to reach a mutually acceptable agreement as to the terms and conditions upon which the leased fee interest will be sold; and
- (2) Once a lessor has offered to sell the leased fee interest to the association of apartment owners, and some but not all of the apartment owners have accepted such an offer, then so long as the lessor offers to sell the remaining leased fee interest to the apartment owners who have not bought their fee and not to a third party, then such sales should not fall within the provisions of Chapter 514C, Hawaii Revised Statutes. Conversely, if the lessor wants to sell the remaining leased fee interest to a third party, then Chapter 514C should apply.

In addition, other 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 Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 714, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 714, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 447 Housing on H.B. No. 1825

The purpose of this bill is to amend Act 279, Session Laws of Hawaii 1992, as follows:

- (1) Change the length of the Hale Kokua Homeless Pilot Project from two to five years;
- (2) Limit the tenant participation in the Hale Kokua Homeless Pilot Project to those homeless individuals who are employed;
- (3) Give priority to families who have been homeless in the State the longest and who have been living in transitional shelters;
- (4) Require annual interim reports on the status of the project during each year of its operation, and a final report for submittal to the 1997 Legislature;
- (5) Provide that the allowable \$300 monthly state rent subsidy to supplement monthly rental payments made by homeless tenants be changed to allow a state rent subsidy up to \$300;
- (6) Award reasonable attorneys' fees and costs to the coordinator for any action brought to enforce Act 279;
- (7) Extend the drop dead date from July 1, 1994 to July 1, 1997; and
- (8) Provide that the repeal of the Act shall not affect the right to recover attorneys' fees and other costs.

Supporting testimony was submitted by the Hawaii Housing Authority.

Your Committee, upon further consideration, has amended the bill by expanding the project to all islands.

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 Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1825, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1825, 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. 448 Higher Education and the Arts; Education; and Economic Development and Business Concerns on H.B. No. 2106

The purpose of this bill is to build and expand upon the State's current telecommunication and computing initiatives by establishing the Hawaii Education and Research Consortium to accelerate the development of the Hawaii High-Performance Computing and Communications Program and the Hawaii Research and Education Network (HREN).

Testimony on this bill was received from the University of Hawaii, the East-West Center, the Department of Budget and Finance, the Maui Economic Development Board (MEDB), Hawaii Inc., and several members of the public currently involved in telecommunications and computing projects.

It is the intent of your committees that the consortium established by this bill review and coordinate the activities of the HREN with the Telecommunications and Information Technology Coordination and Policy Advisory Council.

In addition, your Committees would like to note that all staff, duties, responsibilities and powers of the consortium are derived from those already possessed by consortium members. No additional staff are authorized by this bill. Also, your Committees would like to state that this bill has no connection with the Maui supercomputer procurement currently underway, and will not interfere with that project.

Your Committees have amended the bill to:

- (1) Include a technical amendment specifying that the East-West Center's involvement in the consortium is dependent on the concurrence of its Board of Governors;
- (2) Include the economic development boards from all of the counties on the High-performance Computing and Communications Advisory Council;
- (3) Specify that the telecommunications industry will be represented on the High-performance Computing and Communications Advisory Council; and
- (4) Delete reference to the Discoveries and Inventions Revolving Fund, and add a new special fund to be known as the Hawaii High-performance Computing Special Fund.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Education 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. 2106, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2106, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Cachola, Duldulao, Isbell, Tam, Yonamine, Marumoto and O'Kieffe.

SCRep. 449 Higher Education and the Arts on H.B. No. 165

The purpose of this bill is to restrict the use of the words "university" and "college" by organizations that do not meet the standards of a university or college as established by the laws of the State.

Testimony was received from the University of Hawaii, University of Hawaii Professional Assembly and members of the community.

Your Committee has amended the bill to strengthen its provisions.

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. 165, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 165, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

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

SCRep. 450 Higher Education and the Arts on H.B. No. 771

The purpose of this bill is to appropriate funds to establish a Pacific Mapping Center at the College of Engineering at the University of Hawaii.

Testimony was received from the University of Hawaii.

Your Committee finds the aims of the 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. 771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 771, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Duldulao, M. Ige, Shon and Taniguchi.

SCRep. 451 Higher Education and the Arts on H.B. No. 880

The purpose of this bill is to establish a State History Museum.

Testimony supporting the concept of a State History Museum was received from the Department of Accounting and General Services, the Department of Education, Hawaii Museums Association and the Alexander & Baldwin Sugar Museum.

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. 880 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, Arakaki, Duldulao, M. Ige and Yonamine.

SCRep. 452 Hawaiian Affairs on H.B. No. 1500

The purpose of this bill is to add four new sections to the Hawaiian Homes Commission Act of 1920 to provide opportunities to native Hawaiian organizations and individual beneficiaries of the Hawaiian Home Lands Trust to enter into contracts with, or to receive grants from, the Department of Hawaiian Home Lands to finance certain enumerated services to beneficiaries authorized under the Act.

The Department of Hawaiian Home Lands currently bears the sole authority for hiring the necessary personnel to develop lands and provide program services to its beneficiaries. Your Committee has been informed that currently the Department does not consult with or involve beneficiaries in the planning and development of homestead programs and projects. As initially drafted, the bill would require the Department to contract with eligible beneficiaries or beneficiary groups requesting such contracts to provide program services, unless the Department can substantiate specified reasons for not doing so. It also authorizes the Department to make grants to beneficiary groups to strengthen their organizations and to enhance the capacity of these groups to enter into contract arrangements as contemplated in this bill. In administering the contracts awarded, the bill grants a preference to retain native Hawaiians in the provision of the actual services to beneficiaries. In addition, the bill imposes specific reporting and audit requirements on recipients of such contracts and grants as a precaution against abuse.

Your Committee received testimony supporting this measure from the Native Hawaiian Legal Corporation, Hawaiian Home Lands Action Network, Papakolea Homesteaders Association, private individuals, and Hawaiian Business/Professional Association. Both the Department of Hawaiian Home Lands and the State Council of Hawaiian Homestead Associations expressed certain concerns about this bill as drafted.

Upon further consideration, your Committee has amended this bill as follows:

- (1) Included new language to section 1, Legislative Statement of Findings, acknowledging the rights of self-determination for native Hawaiians;
- (2) Rearranged SECTIONS 2, and 3 of the bill to make the order more logical;
- (3) Added new definitions under SECTION 2 of this bill;
- (4) Incorporated the portion of SECTION 2 entitled "§ Grants to native Hawaiians or native Hawaiian organizations" under SECTION 3 of this bill; and
- (5) Specified the nature of the opportunities to contract and to receive grants in that portion of SECTION 2 entitled "§ Grants to native Hawaiians or native Hawaiian organizations";
- (6) Added a new SECTION 4 to amend Section 213(b)(5) of the Hawaiian Homes Commission Act, 1920, to exempt this bill from the operation of chapters 76, 77, and 103; and
- (7) Made technical, nonsubstantive changes to clarify provisions of the bill

Your Committee finds that the above changes to this measure would specify the types of services and projects under Section 213 (b) (5) of the Hawaiian Homes Commission Act, 1920 that are covered under this bill. These amendments clarify the scope and extent of the bill.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1500 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1500, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 453 Hawaiian Affairs on H.B. No. 2015

The purpose of this bill is to establish a trust in which the island of Kaho'olawe will be held by the State, as well as a management regime which shall control and manage the island until such stewardship may be transferred to the sovereign, native Hawaiian entity.

The island of Kaho'olawe, now uninhabited, was home to Hawaiians through the 19th century. The island contains over 540 archaeological sites, structures, and remains, and is regarded as a wahi pana (sacred place) and a pu'uhonua (sanctuary). Once part of the "government" lands of the Hawaiian Monarchy, the island was ceded to the United States in 1893 as a result of the overthrow of Queen Liliuokalani. From 1941 to 1990 the military used a leased portion of Kaho'olawe as a target range. Then in 1953, control of the island was officially transferred to the Federal government, which then placed the island under the complete jurisdiction of the Navy.

Beginning in 1960 several Maui County officials as well as community organizations, the most vocal being the Protect Kaho'olawe Ohana, attempted to halt the bombing of the island through the use of demonstrations, initiatives, and litigation. The Protect Kaho'olawe Ohana was the first organized group to call for the return of the island to the Hawaiian people. The Ohana advocated preservation of Kaho'olawe for its cultural, spiritual, and archaeological significance. The core group of this Ohana, the "Kaho'olawe Nine," are credited with re-introducing the concept of respect and love for the land, or "aloha aina," to the community.

Largely as a result of the Ohana's efforts, President George Bush issued a memo on October 22, 1990, directing the Secretary of the Navy to halt all target practice on Kaho'olawe. In that same year Congress passed S. 3088 which established the Kaho'olawe Island Conveyance Commission to study and recommend terms and conditions for the return of Kaho'olawe to the State of Hawaii, and prohibited the use of the island as a bombing range until 120 days after the termination of the Commission on December 17, 1992. Today, Kaho'olawe is no longer used by the Navy for target practice, but the deadly legacy of the island's past litters its surface, subsurface, and waters.

Your Committee heard testimony from the Office of State Planning, Office of Hawaiian Affairs, as well as various citizens and community groups, including Protect Kaho'olawe Ohana and Ka Lahui Hawai'i.

In order to address concerns raised, your Committee amends H.B. 2015 by:

- (1) including language requiring the State to fully address the issue of Federal liability for the clean up and rehabilitation of the island prior to the conveyance of Kaho'olawe;
- (2) including the term "native Hawaiian" to define the kinds of cultural, spiritual, and subsistence uses to which the island is limited; and
- (3) adding two additional members to the commission in order to increase the Protect Kaho'olawe Ohana's representation on the commission.

Your Committee has also amended H.B. 2015 to give the County of Maui more flexibility in the choice of its representative, and has made technical, nonsubstantive revisions for the purpose of clarity and style.

Your Committee on Hawaiian Affairs finds that the State stands poised to receive the island of Kaho'olawe from the Federal government, lacking only the terms and conditions of Kaho'olawe's return. As amended, this bill anticipates the conveyance of the island and requires that any conveyance agreement fully address Federal liability for the rehabilitation and clean up of the island. The bill also requires that the conveyance be developed in consultation with the commission established by this bill, and it is the intent of this Committee that the State secure the greatest possible commitment of Federal funds for the purpose of healing Kaho'olawe and its surrounding waters.

As amended, this bill also prepares for the conveyance of Kaho'olawe by creating a trust to receive the island and its surrounding waters. Once received by the State of Hawaii this island reserve is to be held in perpetuity and solely for the purposes of preserving traditional native Hawaiian culture and religion; for education; and for the rehabilitation, restoration, preservation, and protection of the environmental, archaeological, and historical resources of the island.

In addition, a regime for the management and control of the island reserve shall be created, and will exist until such a time that management and control of Kaho'olawe may be transferred to a sovereign native Hawaiian entity. The regime shall consist of a commission, to which shall be transferred the authority of Maui County and the State over land use policy and land dispositions for the island reserve. This commission shall interpret the terms of the trust, and oversee the Department of Land and Natural Resources in the Department's administration and enforcement of policies set by the commission. The commission shall include five members representing the Hawaiian community, as well as representatives of the County of Maui and the Department of Land and Natural Resources, who have been included to lend the Committee their administrative expertise, as well as the resources of their agencies.

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. 2015, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2015, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 454 Hawaiian Affairs on H.B. No. 1822

The purpose of this bill is to:

- (1) impose a moratorium on state and county dispositions of ceded lands until the establishment of an independent and sovereign government by the Hawaiian people, except for those dispositions that benefit Hawaiians and do not erode the trust assets;
- (2) prevent any future evictions of Hawaiians who occupy ceded or Hawaiian home lands as of January 17, 1993; and
- (3) implement a phased-in process to ultimately convey 100 per cent of public land trust revenues to na kanaka maoli.

Favorable testimony was submitted by a trustee of the Office of Hawaiian Affairs (OHA) speaking as a minority member, the Pele Defense Fund, Native Hawaiian Advisory Council, Hou Hawaiians, Native Hawaiian Legal Corporation, Nakoa Ikaika, and Hawaii Association of Civic Clubs Political Action Committee.

Your Committee finds that past uses of ceded lands have generated legitimate concerns about whether those uses have been consistent with the original five trust purposes of the ceded lands trust under §5(f) of the Hawaii Admission Act. Concerns have been raised questioning whether current policies and practices of the Department of Land and Natural Resources (DLNR) have resulted in the use of ceded lands for purposes consistent with the betterment of conditions of native Hawaiians. Your Committee was informed that the position of DLNR is that any disposition is allowable under §5(f), so long as the proceeds are managed in trust for native Hawaiians and the general public. Your Committee is not convinced that this approach fairly conforms with the explicit purposes of Section 5(f) and is concerned that this interpretation might deny native Hawaiians the protection they deserve under the law.

Although your Committee supports the intent of this bill, serious concerns were raised by the Department of Hawaiian Home Lands (DHHL) to the implications this measure would have on the effective functioning of DHHL and other public agencies. OHA also did not support this bill based on the concern that suspending any governmental action which could lease or otherwise dispose of the public lands would, over time, dramatically reduce the income generated from the lands. Therefore, your Committee has substantially amended this bill by:

- (1) deleting the moratorium on all dispositions of ceded lands and water rights with the exception of the moratoriums on the conveyance of ceded lands by sale; and
- (2) deleting Section 3 of this bill relating to the phased in process of ceded land revenues to OHA.

Your Committee has also amended this bill to conform to the amendments described above and has made technical, non-substantive revisions for the purpose of clarity and style.

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. 1822, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1822, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 455 Hawaiian Affairs on H.B. No. 2014

The purpose of this bill is to remedy past wrongful, improper, or unauthorized withdrawals, transfers, takings, or uses of Hawaiian home lands by continuing the claims resolution process. Among other things, this bill:

- (1) Authorizes the State to complete the work to determine the final amount of compensation for the Hawaiian home lands sold to private parties and to start the selection of comparable lands to restore the trust;
- (2) Authorizes the Hawaiian Homes Commission (HHC) to resolve alienations by land exchanges;
- (3) Authorizes the Attorney General and the Office of State Planning (OSP) to pursue claims against the federal government for the portion of the lost rent prior to Statehood plus interest and for lands to be returned to the trust; and
- (4) Offers alternatives for determining the future of the Nanaikapono Elementary School which is situated on Hawaiian home lands.

OSP and HHC strongly supported this bill. The Office of Hawaiian Affairs (OHA), the State Council of Hawaiian Homestead Associations, a group of attorneys, and an interested individual also submitted testimony.

Your Committee finds that the Office of the Governor, the Hawaiian Homes Commission, and other administrative agencies which have a role in the resolution should continue its work to make proposals to the Legislature to compensate the Department of Hawaiian Home Lands (DHHL) for breaches of trust by the State and to pursue claims against the federal government for breach of the Hawaiian home lands trust. The Committee also finds that it is in the best interest of both the beneficiaries of the Hawaiian home lands trust and the State of Hawaii to have a state court appointed independent representative to represent the beneficiaries' interest.

An independent representative is in the best interest of the beneficiaries, because any perceived conflict of interests created by the fact that DHHL is negotiating against the State will be eliminated. Participation by a court appointed independent representative should address expressed concerns that DHHL is in a conflict of interests, because it is a department of the State and its Commissioners are appointed by the Governor.

Appointment of an independent representative is also beneficial to the State, because any settlement is more likely to be binding on the beneficiaries.

Your Committee also finds that the independent representative should be involved in the State's work to pursue Hawaiian home land trust violations against the federal government, because it can be argued that the State is in a conflict of interests in representing the beneficiaries against the federal government since:

- (1) The State has also violated trust obligations; and

- (2) The federal government under §5(f) of the Admissions Act has the right to sue the State for the State's breaches.

While an independent representative will be the sole representative for the beneficiary in the process of resolving past breaches of trust, your committee does not intend to disturb the existing trust duty of the Hawaiian Homes Commission to beneficiaries in the administration of its current programs.

Therefore, your Committee finds it imperative that this bill be amended to:

- (1) Include a court appointed independent representative to protect the interest of the Hawaiian Home Land beneficiaries;
- (2) Require that the independent representative to participate in pending non-judicial proceedings to resolve claims against the State and appropriating funds for this independent representative;
- (3) Require the Attorney General and OSP to consult with the independent representative when pursuing Hawaiian Home Lands Trust claims against the federal government; and
- (4) Included an appropriation of \$1,210,000 for the design of a replacement school for Nanaikapono Elementary School;
- (5) Make technical, non-substantive amendments.

In matters not relating to the resolution process, your Committee requests that OSP consult with OHA on those opinions that relate to both the Hawaiian Hawaiian Home Lands program and other federal programs and entitlements such as education, health, and employment.

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. 2014, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2014, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 456 Hawaiian Affairs on H.B. No. 1992

The purpose of this bill is to facilitate the convening of Hawaiian congress to develop an organic document relating to self-determination and self-governance.

By way of a brief background, there are currently over three hundred sovereign nations in America. And while it has been concluded that the State cannot confer sovereignty because Hawaii is not a national government, your Committee believes that the State should support the right of native Hawaiians to self-determination and self-governance by facilitating the efforts of native Hawaiians to establish a Hawaiian Sovereign Nation.

Your Committee is in agreement that the State should facilitate native Hawaiian efforts to establish a Hawaiian Sovereign Nation by providing for the convening of a Hawaiian congress, or constitutional convention, so that Hawaiians may develop an organic document, which would then be subject to a ratification election of Hawaiians, should the Hawaiian people decide initially, through a referendum election, to have a constitutional convention.

After an exhaustive review of the testimonies received from a wide range of Hawaiian organizations, community groups, and individuals, your Committee would, at this time, like to take this opportunity to summarize its finding on the major issues raised.

(1) FORUM PLANNING

Complexities and sensitivities relating to conflicts of interest or prejudice, actual or perceived, must be addressed to support and facilitate the convening of a Hawaiian constitutional convention to draft an organic document. A neutral and fair forum needs to be created where Hawaiian representatives, elected through a fair process, are afforded full opportunity to understand and discuss what is entailed in establishing a sovereign nation, to reflect on what their needs are, and to freely and openly discuss the choices that are available.

Relatedly, your Committee fully recognizes the urgency on the part of Hawaiians to establish a sovereign Hawaiian nation. However, there is a very real concern that ample time be provided to educate and register voters, and to allow the Hawaiian community and their elected delegates to understand, discuss, develop and ratify an organic document. It is your Committee's belief that this process cannot, and should not, be rushed for the sake of expediency.

(2) FORUM FUNDING

A forum of this nature requires funding and requires support services which are neutral, able, and qualified. Concerns were raised that the State's "facilitation" is a means to control and dictate to Hawaiians the form of self-governance they should choose. This is not the case.

The dilemma then is identifying an appropriate expending agency that is neutral, able and qualified to ensure fair and impartial support services. It should be noted that State Constitutional provisions require that the expenditure of state funds be made through a state department or agency. Strong opposition to the designation of the Office of Hawaiian Affairs as the expending agency for the constitutional convention was expressed because the Office of Hawaiian Affairs has a stated position on sovereignty, and is by nature a "creature of the State."

Your Committee has responded by designating the Office of the Lieutenant Governor as expending agency since this agency is currently responsible for the administration of all facets of elections, including voter education and registration, administration of election requirements, and the tabulation of votes culminating in the certification of results. The very strong testimony favoring an open, fair, and democratic election were persuasive in this difficult decision.

(4) **FORUM REFERENDUM**

There is strong support to establish a sovereign Hawaiian nation through a constitutional convention, however, no means have been provided to determine whether there is a mandate from the Hawaiian people to convene a constitutional convention. Therefore, your Committee finds that a referendum election must be conducted to allow Hawaiians to vote on the question of whether a constitutional convention to propose a constitution for the governance of Hawaiian Sovereign Nation should be held.

(5) **FORUM PARTICIPATION**

There was concern raised that only Hawaiians who are eligible to vote in the election of the Office of Hawaiian Affairs will be allowed to vote in elections established by this measure. However your Committee notes that there are many Hawaiians who do not vote in elections for the Office of Hawaiian Affairs and will not be able to participate in decisions regarding a Hawaiian Sovereign Nation, if this election database is utilized. Therefore, an alternate means to identify qualified Hawaiian participants should be established to ensure the widest and most widespread Hawaiian participation voter base.

Relatedly, districts and the apportionment of 101 delegates among those districts delineated in this measure were established based on Hawaiian population figures. Concern was noted that the apportionment in this measure provides the island of O'ahu with 65 percent of the delegates despite the fact that 80% of Hawaiians residing in this State reside on O'ahu.

Great care must be taken to the need for representation of the State's major Hawaiian population centers, and the need to recognize geographical, economic and social differences of urbanized and rural communities.

Based on these findings, your Committee has amended this measure for the purpose of responding to concerns presented in testimony and the above-referenced findings. The bill has been amended as follows:

- (1) Section 1 was revised by expanding the stated purpose of the bill to include all of the issues and areas addressed in the measure.
- (2) A new Section 2 was added that provides for a referendum election on the question, "SHALL THERE BE A HAWAIIAN CONSTITUTIONAL CONVENTION TO PROPOSE A CONSTITUTION FOR THE GOVERNANCE OF A HAWAIIAN SOVEREIGN NATION?"
- (3) A new section 3 was added to specify the qualifications for Hawaiian voters, and a new Section 4 was also added to delineate on voter registration procedures to allow Hawaiians who are not registered for Office of Hawaiian Affairs elections to qualify for the Hawaiian Sovereign Nation elections established in this measure.

As a result the term, "qualified voters" includes all registered Office of Hawaiian Affairs voters and Hawaiian persons registered.

- (4) A new section 5 was added providing for the administration and the actual election, in general, to ensure a fair election. This section also provides for poll watchers, and authorizes the League of Women Voters, a nationally and locally respected elections organization, to designate a portion of the counting observers.
- (5) Section 2 was amended by providing for a constitutional convention election if the majority of ballots cast on the referendum question are in the affirmative. Changes to the time frame for the election of delegates from July 15, 1993 to September 17, 1994 were made to provide for Hawaiian Sovereign Nation elections at the polls during regular state elections reduce election costs. It is envisioned that the Hawaiian Sovereign Nation election be conducting concurrently with the State primary election. Nomination papers for delegate representatives will be made available 90 days prior to the election, allowing candidates 3 months to secure necessary signatures.
- (6) Section 3 was amended by adding provisions for delegates to be elected at-large by island to address concerns raised on the apportionment of delegates and to recognize and provide for delegate representation, taking into account the disproportionate location of Ceded Lands and Hawaiian Home Lands among the islands. The total number of delegates would be increased from 101 delegates to 121 delegates apportioned as previously provided with the addition of the following at-large island districts:
 - a. Hawaii Island: 14 at-large for a total of 31 delegates.
 - b. Maui Island: 3 at-large for a total of 12 delegates.

- c. Moloka'i Island: 1 at-large for a total of 3 delegates.
 - d. Lana'i Island: none at-large for a total of 1 delegate.
 - e. O'ahu Island: none at-large for a total of 66 delegates.
 - f. Kaua'i Island: 2 at-large for a total of 7 delegates.
 - g. Ni'ihau Island: none at-large for a total of 1 delegate.
- (7) Section 7 was amended by deleting the original appropriation amounts for purposes of continued discussion.
 - (8) Section 8 was amended to allow the constitutional convention to convene for 3 months for the purposes of finalizing an organic document. The provision for a convention recess during which time hearings will be conducted in each district since the delegates will be soliciting community input during the 3-month convention was deleted. The provision to reconvene the convention for the purpose of preparing a final document was also deleted. The convention adjournment sine die date was changed from December 15, 1993 to December 30, 1994.
 - (9) Section 9 was amended by revising the qualifications of eligible voters as identified above. The date of the ratification election from January 17, 1994 to March 1, 1995 was correspondingly changed.
 - (10) Section 10 was amended by deleting specific dollar amounts and replacement with a nominal \$1 for purposes of continued discussion, and by adding an appropriation for the fiscal year 1994-1995 since the time frame for activities has been extended. The convention support services agency has been changed from the Office of Hawaiian Affairs to the Legislative Reference Bureau.
 - (11) Section 11 was amended by replacing all dollar amounts with a nominal \$1.00 amount for purposes of continued discussion, and by adding an appropriation for the fiscal year 1994-1995 since the time frame for activities has been extended.
 - (12) A \$1.00 was inserted for appropriation out of the special fund revenues of the Office of Hawaiian Affairs for fiscal years 1993-1994 and 1994-1995 which shall expended by the Office of the Lieutenant Governor for the purpose of conducting elections.
 - (13) A \$1.00 appropriation out of the special fund revenues of the office of Hawaiian Affairs was added for fiscal years 1993-1994 and 1994-1995 which shall be expended by the Legislative Reference Bureau for the expenses of providing the necessary services, research and assistance for the convention.

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. 1992, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1992, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 457 Education and Higher Education and the Arts on H.B. No. 728

The purpose of this bill is to create an innovative financing mechanism for the improvement of public educational facilities by earmarking a portion of general excise tax revenues for amortization of revenue bonds, and creating a facilities special fund for the University of Hawaii.

Testimony on this bill was heard from the University of Hawaii, the Department of Budget and Finance, and the Tax Foundation of Hawaii. The University of Hawaii and the Department of Budget and Finance supported the intent of the bill, but believed it could be improved. In particular, the Department of Budget and Finance noted that bonds issued under the provisions of the bill would not be classified as revenue bonds, but as general obligation bonds, and would therefore have an effect on the State's debt limit. The Tax Foundation testified in opposition to the bill.

After hearing the testimony, your Committees amended the bill by:

- (1) Deleting section 2, relating to the Department of Education;
- (2) Deleting section 3, subsection b, relating to the amortization of revenue bonds by the University of Hawaii; and
- (3) Making other technical and non-substantive amendments in connection with the deletions noted above.

As affirmed by the records of votes of the members of your Committees on Education 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. 728, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 728, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Duldulao, Yonamine and O'Kieffe.
(Representative M. Ige voted no.)

SCRep. 458 Education and Judiciary on H.B. No. 730

The purpose of this bill is to indemnify school volunteers against liability claims that may arise in connection with their volunteer activity.

Testimony on this bill was heard from the Department of Education, the Hawaii Academy of Plaintiffs' Attorneys, and the Chamber of Commerce of Hawaii. All who testified supported the intent of the bill, although the Department of Education was of the opinion that volunteers already are provided protection from liability under current statutes.

Your Committees find from the testimony presented that there is a need to encourage greater community participation in the schools, particularly in light of the State's school/community-based management initiatives. Protecting potential volunteers from liability is one effective way to promote such community participation.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 730 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Duldulao, Hagino, Hirono, M. Ige, Menor, Oshiro, Takamine, Taniguchi, O'Kieffe and Thielen.

SCRep. 459 Education on H.B. No. 2108

The purpose of this bill as received is to provide funding for and independent management study of the operations of the public schools.

Testimony was received from the Department of Education in opposition to this bill.

Your Committee amended this bill by deleting the original language and replacing it with an authorization for general obligation bonds for the design, construction, and equipment for a new cafeteria at Hanalei School on Kauai.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2108, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2108, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Hagino and Taniguchi.

SCRep. 460 Health and Energy and Environmental Protection on H.B. No. 538

The purpose of this bill is to establish maximum decibel levels for low and high frequency octave bands. The bill also authorizes the Director of Health to enter any premises suspected of being the source of noise. Penalties and fines for violations of this noise pollution law are also set forth by this bill.

The Department of Health supports the intent of HB 538. However, the Director of Health believes that the State should only be responsible for noise pollution violations on State lands. Furthermore, it is a conviction of the Director of Health that County and Federal lands should be monitored by County and Federal officials and that they be held responsible for enforcing the noise pollution law.

Your Committees concur with the recommendations of the Director of Health and has amended the bill such that the Director of Health is solely responsible for State lands and enforcement of the noise pollution law on these lands.

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. 538, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 538, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Hirono and Takamine.

SCRep. 461 Health and Energy and Environmental Protection on H.B. No. 1797

The purpose of this bill is to grant the Director of Health emergency authority to ensure the uninterrupted supply of electricity by amending Chapter 342B, Hawaii Revised Statutes.

Testimonies received from the Department of Health, the Department of Business and Economic Development and the Hawaii Electric Light Company support this bill. Your Committees note that the shutdown of Hamakua Sugar Company's power generation facility would seriously threaten the reliability of the electric power system on the Big Island. It is noted that this could escalate into emergency proportions and your Committees contend that the continued operation of Hamakua's power generation facility may be critical in order to avoid the disruption of essential public services.

However, your Committees also have various concerns regarding the public's input into the project, the use of existing Hamakua Sugar Company Operations, and the issuance of permits and variances subject to modification. In accordance with these concerns, your Committees have amended the bill to include various provisions that address these concerns.

Also a clause was added to cause this Act to be repealed on 7/1/95 provided that certain sections of the Hawaii Revised Statutes are reenacted in their original form.

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. 1797, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1797, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Kawakami and Takamine.
(Representative O'Kieffe voted no.)

SCRep. 462 Labor and Public Employment on H.B. No. 187

The purpose of this bill is to establish a leave sharing program so that State employees may donate accumulated leave credits to fellow employees, who have exhausted their leave and who are forced to take leave without pay or terminate their employment to recover from a debilitating illness or injury or to care for ailing family or household members.

Currently there is no mechanism for public employees to assist their fellow workers who suffer from, or have relatives or household members suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that prevents the employee from working, and which can cause great economic and emotional distress to the employee and the employee's family.

Testimony in support of this measure was received from the Department of Personnel Services, the Hawaii State Teachers' Association, and the Commission on the Status of Women. Although HGEA/AFSCME supported the intent of the bill, it expressed concern that an employee could be coerced to contribute to a leave sharing program.

Upon consideration, your Committee has adopted the recommendations of the Department of Personnel Services by amending this bill as follows:

- (1) Replacing the detailed program requirements with minimum program standards for eligibility and safeguards against coercion;
- (2) Authorizing each jurisdiction to adopt rules for greater flexibility and responsiveness to its respective employees;
- (3) Limiting the use of donated vacation leave to an employee's own illness or injury;
- (4) Inserting the new provisions in Chapter 79, Hawaii Revised Statutes, thus limiting the scope of the bill to employees covered by section 79-1;
- (5) Providing that a leave-sharing program does not impose undue hardship on employer operations; and
- (6) Making technical, nonsubstantive amendments for 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. 187, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 187, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasone and Taniguchi.

SCRep. 463 Human Services and Consumer Protection and Commerce on H.B. No. 31

The purpose of this bill is 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 the State of Hawaii.

Testimony from the Executive Office on Aging, ILWU, Hawaii Nurses' Association, Hawaii Government Employees Association/ AFSCME, American Association of University Women, National Association of Retired Federal Employees, Hawaii Association for Home Care, American Association of Retired Persons, Hawaii State AFL-CIO, Oahu Retired Teachers Association, Alzheimer's Association and 26 private citizens was received in strong support of this measure. The Hawaii Long Term Care Association submitted testimony supportive of the intent of this measure, and Small Business Hawaii, Aiea/ Pearl City Business Association, the Chamber of Commerce of Hawaii, National Federation of Independent Business, and Hawaii State Association of Life Underwriters testified against this measure.

It is noted that the establishment of a mechanism for financing long-term care without impoverishing Hawaii families is a matter of compelling State interest. The population of persons aged sixty-five and over currently accounts for nearly one-fifth of the adult population in Hawaii. By the year 2020, persons aged sixty-five and over will constitute over one-fourth of the Hawaii adult population, and nearly one-third of these elders are expected to be disabled. Average annual nursing home charges in Hawaii already are almost twice the average annual disposable income for Hawaii elderly families. Annual cash outlays for elder nursing home care by Hawaii families are expected to grow by more than one thousand one hundred per cent by the year 2020, with the average cost for one year of nursing home care reaching more than \$200,000. Unless a strategy is adopted to make long-term care affordable, families paying for nursing home care increasingly will be forced to deplete their savings and other non-housing assets and to face impoverishment. This result will have severe adverse ramifications for the well-being of families young and old, for the State (which will bear much of

the burden of paying for long-term care through its Medicaid program), and for society in general. Unfortunately, for elders and near elders, private long-term care insurance policies currently available generally are not affordable and typically offer very restrictive coverage. Despite the great need for an affordable insurance program for the citizens of the State of Hawaii, concern was raised regarding a number of issues:

- (1) the proposed tax be an individual contribution, rather than a mandatory employee benefit;
- (2) the availability or lack of intermediate care facility beds be considered during planning of the modified financial plan;
- (3) the impact on persons who have already purchased some sort of long term care insurance be considered;
- (4) provider and private business concerns be included in the formulation of the modified financial plan; and
- (5) the modified financial plan be approved by the Legislature.

Upon further consideration, your Committees have amended this bill by:

- (1) inserting a new section 2 that would require the modified financial plan to include federal commitments;
- (2) requiring the final modified financial plan to be approved by the Legislature; 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 Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 31, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 31, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Herkes, Menor, Oshiro, Peters, Santiago, Takamine and O'Kieffe.

SCRep. 464 Health on H.B. No. 1651

The purpose of this bill is to repeal Chapter 331 of the Hawaii Revised Statutes in its entirety.

Testimony given by the Department of Health strongly supports this bill. Your Committee notes that use of Radium for medical and surgical purposes was discontinued many years ago as a result of advances in the use of radioactive materials in the healing arts. It is also recognized by your Committee that the use of Radium for medical and surgical purposes is unacceptable and antiquated and that current control of ionizing radiation sources is covered under Chapter 321-11, Hawaii Revised Statutes and Hawaii Administrative Rules, Chapter 40.

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. 1651 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 465 Health and Human Services on H.B. No. 1656

The purpose of this bill is to amend Chapter 321D of the Hawaii Revised Statutes to include the Office of Youth Services on the Interdepartmental Cluster.

Testimony received by the Department of Health strongly supports this bill. It is recognized by your Committees that when the Interdepartmental Cluster was created by legislation known as Chapter 321D, Hawaii Revised Statutes, the membership was defined to include all major child serving agencies except the Office of Youth Services. Your Committees also realize that the Office of Youth Services deals with children and youths and that they have been an active and willing participant in the Cluster since 1991 despite not being officially recognized as a Cluster member.

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. 1656 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 Ihara, Peters and O'Kieffe.

SCRep. 466 Labor and Public Employment and Education on H.B. No. 1641

The purpose of this bill is to:

- (1) Permit the Department of Education and private schools to refuse to issue or revoke teaching or other educational certificates based on criminal convictions that indicate a risk to the health, safety, or well-being of children; and

- (2) Exempt the Department of Education and private schools from the provisions of Chapter 91, Hawaii Revised Statutes while conducting criminal history record and suitability checks.

Testimony was received from the Department of Education.

Your Committees find that this measure will assist the Department of Education's efforts to effectively conduct suitability screening for employees hired to work in close proximity to students. In addition, your Committees find that the Department of Education requires the additional authority to refuse to issue or revoke the teaching or other educational certificates of convicted criminals who pose a risk to the health, safety, or well-being of children; and need not conduct its investigations, notifications or hearings in accordance with chapter 91.

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. 1641 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 Duldulao, Hagino, Lee, Nakasone, Shon and Taniguchi.

SCRep. 467 Judiciary on H.B. No. 534

The purpose of the bill is to include a butterfly knife as a dangerous weapon under §134-51 of the Hawaii Revised Statutes.

Favorable testimony was received from a representative of the Prosecuting Attorney for the City and County of Honolulu, State of Hawaii, and from a Vice-Principal of an intermediate school.

The Hawaii State Supreme Court in the case entitled *In re Doe*, 73 Haw. 89, 820 P.2d 272 (1992) ruled that a butterfly knife was not a switchblade knife prohibited under section 134-52, as a butterfly knife opens manually rather than automatically. Your Committee finds that the butterfly knife is a weapon which can be opened with speed and ease and the need to ensure public safety requires the inclusion of the butterfly knife among those weapons classified as dangerous.

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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 534, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 534, H.D. 1, 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. 468 Judiciary on H.B. No. 1597

The purpose of this bill is to amend chapter 353, Hawaii Revised Statutes (HRS), by adding a new section which provides for orders for payment of child support and to amend section 353-22, HRS. This measure will facilitate the payment of child support from the inmates' individual trust accounts, which are maintained by the Director of Public Safety for inmates confined in correctional institutions in Hawaii.

The Department of the Attorney General submitted testimony in support of this bill.

Your Committee finds that this bill rectifies a current problem, whereby prison inmates, through the garnishment prohibition of section 353-22, HRS, can avoid paying their legal obligations to support their children. This bill removes the inmates' garnishment exemption as it relates to child support payments. Furthermore, the measure acknowledges that prison inmates receive small amounts of money and it limits the inmates' payments for child support accordingly. Finally, your Committee has 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. 1597, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1597, 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.

SCRep. 469 Judiciary on H.B. No. 1250

The purpose of the bill is to include private school officials within the scope of persons protected under the prohibitions against terroristic threatening in the first degree.

Your Committee received favorable testimony on the bill from a Representative of the Department of Education.

Your Committee finds that this bill is consistent with the public policy of providing a safe learning and working environment in both private and public schools. 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1250, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1250, H.D. 1, 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. 470 Judiciary on H.B. No. 22

The purpose of the bill is to mandate that no person shall purchase or provide liquor for consumption or use by a minor and to increase the penalties applicable to those eighteen to twenty-one for violation of liquor laws relating to minors.

Your Committee received testimony in support of the bill by a representative of Mothers Against Drunk Driving.

Your Committee finds that the more severe penalty is appropriate for offenses relating to the purchase of liquor for use or consumption by a minor and has therefore amended the bill in the following manner:

- (1) Language relating to a minor's possession of liquor was deleted from subsection (b) of §281-101.5, and placed under a new subsection (d), and language relating to providing liquor to a minor in Section 1 of the bill was deleted.
- (2) Old subsection (d) of the statute was renamed subsection (e) and the penalties for persons age eighteen to twenty-one purchasing liquor or using false identification to purchase liquor were upgraded to misdemeanors.

As affirmed by the record of votes of 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. 22, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 22, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 471 Judiciary on H.B. No. 201

The purpose of this bill is to amend Section 612-15, Hawaii Revised Statutes, by changing the trial jury service year to a calendar year as well as changing the method of storing trial juror names and qualification forms.

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

If enacted, this bill would lessen confusion among trial jurors by establishing a calendar year as the jury service year and would provide easier access to juror name and qualification forms by changing their method of storage while still maintaining security.

As affirmed by the record of votes of 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. 201 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. 472 Judiciary on H.B. No. 944

The purpose of the bill is to clarify that §134-6 Hawaii Revised Statutes was not intended to apply to certain felonies which already have enhanced penalties for identical conduct.

Favorable testimony was received by the Committee from a representative of the Office of the Public Defender.

Your Committee finds that this bill addresses the concerns expressed by the Governor when he vetoed a similar bill passed during the last legislative session.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 944 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. 473 Finance on H.B. No. 1609

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 1 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1609, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1609, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 474 Finance on H.B. No. 1610

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 2 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1610, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1610, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 475 Finance on H.B. No. 1611

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 3 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1611, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1611, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 476 Finance on H.B. No. 1616

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 8 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1616, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1616, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 477 Finance on H.B. No. 1617

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 9 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1617, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1617, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 478 Finance on H.B. No. 1618

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 10 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1618, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1618, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 479 Finance on H.B. No. 1619

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 11 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1619, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1619, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 480 Finance on H.B. No. 1621

The purpose of this bill is to provide fund authorizations and appropriations for wage and other adjustments in fiscal biennium 1993-1995 for Executive and Judiciary officers and employees excluded from collective bargaining.

Section 89C-2, Hawaii Revised Statutes (HRS), provides that the compensation, terms, and conditions of employment and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executive of the State, the Board of Education, the Board of Regents, or the Chief Justice, as applicable. Further Section 89C-5, HRS, stipulates that any adjustments that constitute cost items shall be subject to appropriation by the Legislature.

Since these adjustments may not be formulated in time to include the resulting cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this measure was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- (1) Inserting the amounts of \$1 for purposes of continued discussion; 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. 1621, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1621, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 481 Finance on H.B. No. 1589

The purpose of this bill is to appropriate \$1,171,251.57 to satisfy claims against the State for judgements, settlements, overpayment of taxes, or other liabilities.

Testimony in support of this measure was submitted by the State Attorney General.

Your Committee has amended this bill by:

- (1) Adding the dollar amount and percentage that the appropriation contained in this bill will cause the state general fund expenditure ceiling to be exceeded; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors.

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. 1589, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1589, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 482**Finance on H.B. No. 628**

The purpose of this bill is to implement the findings and recommendations of the Office of the State Auditor with respect to the repeal or modification of special and revolving funds currently administered by the departments, agencies, and offices of the State.

Testifying on behalf of their respective funds affected by this bill were the Department of Accounting and General Services; the Department of Agriculture; the Department of Budget and Finance; the Housing Finance and Development Corporation; the Department of Business, Economic Development and Tourism; the Department of Commerce and Consumer Affairs; the Department of Education; the Hawaii State Library System; the Department of Health; the Department of Human Services; the University of Hawaii; the Department of Labor and Industrial Relations; the Department of Land and Natural Resources; the Department of Transportation; the Department of the Attorney General; the Department of Personnel Services; the Department of Public Safety; and the Judiciary.

Additional testimony was submitted by the Department of Taxation; the Office of the Auditor; the Department of Hawaiian Home Lands; the State Planning Council on Developmental Disabilities; the Tax Foundation of Hawaii; the Chamber of Commerce of Hawaii; and the Hawaii Chapter of the Sierra Club.

Your Committee recognizes that the review of all special and revolving funds is in the early stages of an ongoing process of analysis. After performing a case by case review of the information presented, your Committee has found that circumstances at this time necessitate the continuation of many special and revolving funds. Some must remain in place to meet federal obligations, while others are needed to provide the flexibility necessary to accommodate variable or unpredictable program demands. Additionally, several funds have been newly activated and are just beginning to develop into self-sufficiency.

Accordingly, your Committee has amended this measure by:

- (1) Deleting the provisions to repeal the King Kamehameha Celebration Special Fund and to authorize the State Comptroller to account for general fund appropriations and donations;
- (2) Deleting the provisions to repeal the State Educational Facilities Improvement Special Fund;
- (3) Deleting the provisions to repeal the State Risk Management Revolving Fund and to continue the program through the general fund appropriations process;
- (4) Deleting the provisions to repeal the Works of Art Special Fund and to continue the program through the general fund appropriations process;
- (5) Requiring \$5,000,000 to be lapsed from the Works of Art Special Fund on June 30, 1993;
- (6) Deleting the provisions to repeal the Marketing Order Revolving Fund and to continue the program through the general fund appropriations process;
- (7) Deleting the provisions to repeal the Agricultural Park Special Fund and to continue the program through the general fund appropriations process;
- (8) Deleting the provisions to repeal the Irrigation System Revolving Fund and to continue the program through the general fund appropriations process;
- (9) Deleting the provisions to repeal the Hawaii Information Network Special Fund, to continue the program through the general fund appropriations process, and to allow the Director of Finance to accept donations;
- (10) Deleting the requirement to lapse all unexpended and unencumbered funds in the Hawaii Development Revolving Fund that are not needed for the next fiscal year into the general fund;
- (11) Deleting the provisions to repeal the Rental Assistance Revolving Fund and to continue the program through the general fund appropriations process;
- (12) Deleting the requirement that the Housing Finance and Development Corporation return all general fund moneys that were advanced to the Homes Revolving Fund;
- (13) Deleting the provisions to repeal the Aloha Tower Fund and to continue the program through the general fund appropriations process;

- (14) Amending the provisions of the Foreign Trade Zones Special Fund to allow for the payment of all or a portion of the cost of financing any foreign trade zone capital improvement project;
- (15) Deleting the provisions to repeal the Hawaii Community-Based Development Revolving Fund and to continue the program through the general fund appropriations process;
- (16) Deleting the provisions to lapse all unexpended and unencumbered funds remaining in the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Program Revolving Fund into the general fund at the close of each fiscal year;
- (17) Requiring \$2,000,000 from the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Program Revolving Fund to lapse into the general fund on June 30, 1993;
- (18) Deleting the provisions to sunset the Hawaii Small Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Program Revolving Fund;
- (19) Deleting the provisions to repeal the High Technology Research and Development Revolving Fund and to continue the program through the general fund appropriations process;
- (20) Deleting the provisions to repeal the High Technology Special Fund and to continue the program through the general fund appropriations process;
- (21) Deleting the provisions to repeal the Natural Energy Laboratory of Hawaii Authority Special Fund and to continue the program through the general fund appropriations process;
- (22) Deleting the provisions to repeal the Petroleum Products Control Fund and to continue the program through the general fund appropriations process;
- (23) Deleting the provisions to repeal the Out-of-State Offices Special Fund and to continue the program through the general fund appropriations process;
- (24) Deleting the provisions to repeal the Convention Center Development Revolving Fund and to continue the program through the general fund appropriations process;
- (25) Deleting the provisions to repeal the Insurance Examiner's Revolving Fund and to continue the program through the general fund appropriations process;
- (26) Deleting the provisions to repeal the Adult Education Special Fund and to continue the program through the general fund appropriations process;
- (27) Deleting the provisions to repeal the Special School Lunch Fund and to continue the program through the general fund appropriations process;
- (28) Deleting the provisions to repeal the Department of Education Storeroom Revolving Fund and to continue the program through the general fund appropriations process;
- (29) Deleting the provisions to repeal the Environmental Response Revolving Fund and to continue the program through the general fund appropriations process;
- (30) Deleting the provisions to repeal the Hospitals and Medical Facility Administration Fund and to continue the program through the general fund appropriations process;
- (31) Deleting the provisions to repeal the Public Health Facility Special Funds and to continue the program through the general fund appropriations process;
- (32) Deleting the provisions to repeal the Revolving Fund for Kalaupapa Store and to continue the program through the general fund appropriations process;
- (33) Deleting the provisions to repeal the Research and Training Revolving Fund and to continue the program through the general fund appropriations process;
- (34) Deleting the provisions to repeal the University of Hawaii at Manoa (UHM) and University of Hawaii at Hilo Intercollegiate Athletics Revolving Funds and to continue the programs through the general fund appropriations process;
- (35) Deleting the provisions to repeal the UHM Malpractice Special Fund and to continue the program through the general fund appropriations process;
- (36) Deleting the provisions to repeal the Discoveries and Inventions Revolving Fund and to continue the program through the general fund appropriations process;
- (37) Requiring \$2,000,000 from the Discoveries and Inventions Revolving Fund to lapse into the general fund on June 30, 1993.
- (38) Deleting the provisions to repeal the Child Care Programs Revolving Fund and to continue the programs through the general fund appropriations process;

- (39) Deleting the provisions to repeal the Hawaii Opportunity Program in Education Special Fund and to continue the program through the general fund appropriations process;
- (40) Deleting the provisions to repeal the UHM Campus Center for Student Development Special Fund;
- (41) Deleting the provisions to repeal the UHM Campus Laboratory Animal Service Special Fund;
- (42) Deleting the provisions to repeal the UHM Campus Intramural Sports Revolving Fund;
- (43) Deleting the requirement that the UHM Campus Telephone Communication System Special Fund be entirely self-sufficient;
- (44) Deleting the provisions to repeal the Prepaid Health Care Benefits Premium Supplementation Fund and to continue the program through the general fund appropriations process;
- (45) Deleting the provisions to repeal the Industrial Park Special Fund and to continue the program through the general fund appropriations process;
- (46) Deleting the provisions to repeal the Highway Advance Acquisition Revolving Fund and to continue the program through the general fund appropriations process;
- (47) Deleting the requirement to lapse into the general fund all moneys remaining in the Criminal Forfeiture Fund on June 30, 1995, and to sunset the Fund;
- (48) Deleting the provisions to repeal the In-Service Training Programs Revolving Fund and to deposit the fees into the general fund;
- (49) Deleting the provisions to automatically repeal special and revolving funds;
- (50) Deleting the requirements regarding purpose, scope, fees, projected revenues, and necessity for the establishment of new special and revolving funds;
- (51) Deleting the amendments to the definitions of special and revolving funds; and
- (52) Making technical, nonsubstantive amendments to correct drafting errors and for purposes of style and clarity.

It is your Committee's intent to continue the review process and to repeal or modify these funds as changing circumstances dictate.

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. 628, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 628, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 483 Finance on H.B. No. 1366

The purpose of this bill is to prohibit the Director of Finance from allotting any design funds for the Hilo Judiciary Complex until the State obtains all the necessary land use permits and approvals needed to proceed with the project.

Although the Judiciary testified against this measure, your Committee concurs with the intent of this bill to require the acquisition of all necessary permits and approvals before proceeding on this project.

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. 1366 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 Santiago.

SCRep. 484 Finance on H.B. No. 1686

The purpose of this bill is to appropriate \$882,353.24 for fiscal year 1993-1994 to be deposited into the Criminal Injuries Compensation Fund to compensate victims of criminal acts, or their service providers, as determined and authorized by the Criminal Injuries Compensation Commission.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1686 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, Tajiri and Tam.

SCRep. 485 Finance on H.B. No. 220

The purpose of this bill is to provide that the Firefighter's Contingency Fund (Fund) be funded through the general appropriations process by:

- (1) Removing the annual statutory appropriation of \$250,000 to the Fund; and
- (2) Appropriating an unspecified amount to be deposited into the Fund for fiscal year 1993-1994.

The Department of Land and Natural Resources testified in favor of the intent of this measure.

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. 220 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, Tajiri and Tam.

SCRep. 486 Finance on H.B. No. 293

The purpose of this bill is to repeal the requirement that at least sixty per cent of each development built by, or with the assistance of, the Housing Finance and Development Corporation be sold as affordable units.

Testimony in support of this measure was submitted by the Housing Finance and Development Corporation, the Land Use Research Foundation of Hawaii, and the Land Use Planning Committee of the Chamber of Commerce 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. 293 and recommends that it pass Third Reading.

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

SCRep. 487 Finance on H.B. No. 604

The purpose of this bill is to eliminate the presumption of abandonment for gift certificates or credit memos that remain unclaimed for more than five years and have no expiration date.

Testimony in support of this measure was submitted by the Retail Merchants of Hawaii. The Department of Budget and Finance submitted testimony against the bill.

This bill has been amended by making technical, nonsubstantive amendments to correct drafting errors and 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. 604, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 604, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 488 Finance on H.B. No. 1612

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 4 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1612, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1612, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 489 Finance on H.B. No. 1613

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 5 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining and the Hawaii State Teachers Association.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1613, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 490 Finance on H.B. No. 1614

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 6 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Including the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1614, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1614, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 491 Tourism on H.B. No. 1046

The purpose of this bill is to require the Office of Tourism of the Department of Business, Economic Development and Tourism to develop a five-year tourism marketing plan and annually update the plan for the following five years, instead of developing the biennial plan currently required by law.

This bill closely resembles House Bill No. 216, House Draft 1, Regular Session of 1991, which was passed by the House of Representatives.

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

Your Committee finds that the development of a five year tourism marketing plan and annually revising it to provide for the following five years will enable the State and the visitor industry to more wisely allocate their limited resources. This need is especially great in these current times of diminished revenue. A five year plan would also give the legislature and others greater insight into the Administration's vision for tourism promotion.

In addition, your Committee finds that private businesses compile plans for 5 years or more into the future. The State should also plan at least 5 years in advance, in order to guide private industry and better fulfill the department's mission of assisting economic development in the State.

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 placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 492 Finance on H.B. No. 1615

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 7 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1615, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1615, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 493 Finance on H.B. No. 1620

The purpose of this bill is to provide fund authorizations and appropriations for the fiscal biennium 1993-1995 for collective bargaining Unit 13 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10(b), Hawaii Revised Statutes, to cover the cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1993.

Since an agreement for the bargaining unit may not be reached in time to include the cost items in the 1993-1995 biennium budget, this separate measure may be necessary.

Testimony in support of this bill was submitted by the Office of Collective Bargaining.

Your Committee has amended this bill by:

- 1) Inserting the amounts of \$1 for the purposes of continued discussion; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1620, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1620, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 494 Finance on H.B. No. 120

The purpose of this bill is to amend provisions relating to government assistance.

H.B. No. 120 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.

This bill has been amended to provide that the determination of the amount of public assistance allowance be based on the poverty level established by the federal government in 1991.

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. 120, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 120, H.D. 1.

Signed by all members of the Committee except Representative Tajiri.
(Representative Ward voted no.)

SCRep. 495 Finance on H.B. No. 122

The purpose of this bill is to improve State finances.

H.B. No. 122 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 in long form so that a public hearing may be properly held on its substantive contents.

As amended, the purpose of this bill is to generate revenue to cover health care payments for the federally funded Medicaid program and to earn federal matching funds on the revenue by levying and assessing a Hospital and Nursing Facility Tax of ten percent on all nursing facility income. The bill also establishes the Health Care Revolving Fund into which will be deposited all Hospital and Nursing Facility tax collections and tax revenues paid from the general fund and will be used to match federal Medicaid program funds.

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. 122, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 122, H.D. 1.

Signed by all members of the Committee except Representative Tajiri.
(Representative Ward voted no.)

SCRep. 496 Judiciary on H.B. No. 1088

The purpose of this bill is abolish joint and several liability for a joint tortfeasor where that tortfeasor's degree of fault is less than or equal to the degree of fault of the person seeking recovery of damages.

H.B. No. 1088 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 Judiciary that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1088, as amended herein, and recommends that it be recommitted to the Committee on Judiciary for the purpose of holding a public hearing, in the form attached hereto as H.B. No. 1088, H.D. 1.

Signed by all members of the Committee except Representatives Amaral, Bunda, Hirono, Menor and Takamine.

SCRep. 497 Agriculture on H.B. No. 1582

The purpose of this bill is to delete provisions in the Hawaii Meat Inspection Act that relate to the inspection of animal food manufacture.

Your Committee received testimony in support of the bill from the Department of Agriculture (DOA). In its testimony, the DOA stated that enactment of this bill will limit the inspection of meat to that which is intended for human food.

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. 1582 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 Ishii-Morikami and Morihara.

SCRep. 498 Agriculture on H.B. No. 1584

The purpose of this bill is to repeal the statutory authority for the Advisory Committee on Flowers and Foliage, which is under Section 147-35, Hawaii Revised Statutes.

Your Committee received testimony in support of the measure from the Department of Agriculture.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1584 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 Ishii-Morikami and Morihara.

SCRep. 499 Agriculture on H.B. No. 1604

The purpose of this bill is to include businesses engaged in producing agricultural products in the definition of "qualified business" under State Enterprise Zones, Section 209E-2, Hawaii Revised Statutes.

Your Committee received supporting testimony from the Department of Taxation and 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. 1604 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 Ishii-Morikami and Morihara.

SCRep. 500 Agriculture on H.B. No. 1851

The purposes of this bill are to:

- (1) Make the feed registration process more efficient and less costly; and
- (2) Allow the Board of Agriculture to set inspection fees for feed.

Among other things, this bill:

- (1) Requires that a label or other printed matter describing the product accompany the application for registration of commercial feed;
- (2) Specifies that all registrations of commercial feed remain in effect until withdrawn in writing by the registrant or cancelled pursuant to Chapter 144, Hawaii Revised Statutes (HRS), or the rules of the Department of Agriculture (DOA);
- (3) Deletes the language that each registration may be renewed for one year;
- (4) Exempts an importer from having to register any brand of commercial feed which is already registered under Chapter 144, HRS, by another person;
- (5) Permits minor changes in the guarantee of either chemical or ingredient composition of a registered commercial feed as provided in the rules of the DOA;
- (6) Allows the DOA to refuse registration of any application not in compliance with rules adopted under Chapter 144, HRS, and allows the DOA to cancel any registration subsequently found not to be in compliance with rules adopted under Chapter 144, HRS;
- (7) Specifies that inspection fees of commercial feed be established by rules of the DOA;
- (8) Deletes the provisions that:
 - (a) A distributor be required to pay an annual registration fee for each brand of feed distributed in individual packages of ten pounds or less; and
 - (b) The distributor of the brand be exempt from the requirement to pay the inspection fee on the packages of the registered brand;
- (9) Requires the DOA to provide the forms used for quarterly statements by individuals who distribute or import feed for use or sale; and
- (10) Includes the imposition of administrative penalties on individuals who fail to make an accurate statement of tonnage, fail to pay the inspection fee, or fail to comply with Section 144-5, HRS.

Your Committee would like to make the following recommendations concerning the inspection fees of feed established by the rules of the DOA. Your Committee recommends that:

- (1) Labor costs to conduct the feed inspections be excluded from the feed inspection fee costs, particularly as the employee position costs for the inspections are funded by state funds;

- (2) The DOA work with pertinent parties within the livestock industry and the agricultural community to determine the appropriate number of feed inspections that shall be required; and
- (3) The adulteration portion of the inspection fee cost of feed be absorbed by the State as part of its general responsibility to ensure and promote public health and safety for the well-being of the community at-large.

The DOA and Fred. L. Waldron, Limited testified in support of 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. 1851 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 Ishii-Morikami and Morihara.

SCRep. 501 Housing on H.B. No. 1601

The purpose of this bill is to add a definition of townhouse to Section 196-2, Hawaii Revised Statutes.

Supporting testimony was submitted by the Department of Business, Economic Development & Tourism.

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. 1601 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 Kawakami, Peters and O'Kieffe.

SCRep. 502 Energy and Environmental Protection and Economic Development and Business Concerns on H.B. No. 1606

The purpose of this bill is to amend Chapter 227D of the Hawaii Revised Statutes to allow the expansion of the powers and duties of the Natural Energy Laboratory of Hawaii Authority necessary for the Authority to oversee the merger of the Hawaii Ocean Science and Technology Park with the Natural Energy Laboratory of Hawaii. The amendments proposed by this bill would also allow the Natural Energy Laboratory of Hawaii Authority to develop the merged facilities with the objective of encouraging commercialization of natural energy resources in Hawaii.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection 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. 1606 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 Cachola, Hirono and M. Ige.

SCRep. 503 Consumer Protection and Commerce and Judiciary on H.B. No. 1881

The purpose of this bill is to clarify state law pertaining to the regulation of charitable organizations, professional fund-raising counsel, and professional solicitors.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Your Committees find that the proposed amendments to Chapter 467, Hawaii Revised Statutes (HRS), in this bill have resulted from concerns with regard to the impact of the United States Supreme Court's decision in Riley v. National Federation of the Blind of North Carolina, Inc., et al., 108 S.Ct. 2667, 1001 L. Ed.2d. 669,56 U.S.L.W. 4869 (1988).

In Riley, the court held that:

- (1) State regulation of charitable solicitations must provide safeguards to ensure that speech protected by the First Amendment is not unduly delayed or prevented by administrative procedures; and
- (2) The enactment of statutes requiring professional solicitors to disclose financial information to the donating public is urged.

Because of this, your Committees believe that the provisions of this bill will, hopefully, comply with constitutional speech provisions, increase the awareness of donors and consumers, as well as enhance the meaningful decision-making of the public.

After much discussion and deliberation, your Committees are in accord with the intent of this bill. However, your Committees note that:

- (1) Sufficient time is needed to provide charitable organizations an opportunity to become acquainted with the financial disclosure requirements and make appropriate adjustments to bookkeeping systems; and
- (2) Sufficient leeway should be provided to the Department to ensure the timely and effective enforcement of State law.

In light of the foregoing, your Committees have amended this bill as follows:

- (1) Provided that regulations pertaining to the mandatory disclosure of financial statements by charitable organizations with gross receipts greater than \$25,000 shall take effect after July 1, 1994;
- (2) Deleted a provision that required the Department to issue a letter of exemption in the event that charitable organizations do not comply with financial statement disclosure requirements; and
- (3) Made technical, nonsubstantive revisions 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 Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1881, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1881, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Amaral, Cachola, Hiraki and Oshiro.

SCRep. 504 Consumer Protection and Commerce on H.B. No. 603

The purpose of this bill is to require insurers to notify the Insurance Commissioner and the general public six months prior to withdrawal from the State.

Supportive testimony was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Independent Insurance Agents Association.

Your Committee finds that the recent insolvency of domestic insurers has severely threatened the stability of Hawaii's insurance industry. Due to massive property claims attributed to Hurricane Iniki, and a worldwide shortage of reinsurance capital, a number of insurers conducting business in Hawaii, particularly homeowners' insurers, have had to suspend the issuance of new policies to consumers.

Therefore, your Committee notes that the withdrawal of insurers from the State under the current conditions of Hawaii's insurance industry will have serious and disruptive effects on the consuming public. However, your Committee believes that if an insurer was to withdraw from the State, prior notification to both the Insurance Commissioner and the general public would lessen the negative impacts of insurer withdrawal by providing a time period in which:

- (1) Consumers may acquire policies from other insurers; and
- (2) The State may develop solutions to improve the conditions of Hawaii's insurance market.

In light of this, your Committee believes that the provisions of this bill will ensure the stability of Hawaii's insurance industry, and thus protect the interests of the consuming public.

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. 603 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 Herkes, Hiraki, Oshiro, Takamine, Tom and Thielen.

SCRep. 505 Consumer Protection and Commerce on H.B. No. 438

The purpose of this bill is to change the composition of the Board of Public Accountancy (Board) by requiring that five of the six Certified Public Accountant (CPA) Board members be in active practice.

Supportive testimony was submitted by the Hawaii Society of Certified Public Accountants. Testimony was also submitted by the Department of Commerce and Consumer Affairs.

Your Committee finds that due to the complexity and importance of issues confronting the profession of accounting, Board members who actively practice public accountancy are better qualified to act on regulatory matters such as professional ethics, accounting and auditing standards, and quality review and experience requirements than inactive Board members because members who actively practice public accountancy are more cognizant of current trends occurring in the profession than inactive members.

In light of this, your Committee believes that increasing the number of members required to be in active practice will enhance the ability of the Board to regulate the practice of accountancy, as well to better serve the interests of the consuming public.

Upon careful consideration, your Committee has amended this bill to clarify language pertaining to the membership of Board members in active practice by ensuring that only CPAs in active practice are required to hold permits.

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. 438, as amended herein,

and recommends that it pass Second Reading in the form attached hereto as H.B. No. 438, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Oshiro, Takamine, Tom and Thielen.

SCRep. 506 Consumer Protection and Commerce on H.B. No. 232

The purpose of this bill is to exclude bullion and bullion type coins and bars from regulation under Hawaii's Pawnbrokers and Secondhand Dealers Law.

Supportive testimony was submitted by the Hawaii Stamp and Coin Dealers' Association, Cash for Gold and Kamaaina Loan, and Thomas Cook Currency Services.

Since the enactment of Act 120, Session Laws of Hawaii 1991, which established regulatory controls over the transaction of bullion and bullion type coins and bars, your Committee has learned that:

- (1) Many of Hawaii's coin dealers have suspended the purchase and sale of bullion and bullion type coins because volatile fluctuations in the markets for bullion and bullion type coins, and the prohibition of selling bullion and bullion coins within ten working days after the dealer's possession, has substantially increased the risk of bullion and bullion type coin transactions;
- (2) The suspension of local bullion and bullion coin transactions has increased consumer risk by forcing domestic hobbyists and coin collectors to conduct long-distance transactions with mainland and foreign coin dealers;
- (3) The submission of descriptions of bullion and bullion type coins has been of little tangible assistance to law enforcement agencies in deterring the trafficking of stolen items because bullion and bullion coins purchased by dealers are not specifically identifiable; and
- (4) The provision of reports pursuant to Section 486M-2, Hawaii Revised Statutes, has proven to be a hardship on both the reporting dealers and law enforcement agencies.

In light of this, your Committee believes that the elimination of regulatory oversight will strengthen domestic markets for bullion and bullion type coins and bars, as well as enhance the welfare of the consuming public.

While your Committee is in accord with the intent of this bill, your Committee has amended this bill by amending the definition on line 2 to read "precious or semiprecious metal."

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. 232, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 232, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Oshiro, Takamine, Tom and Thielen.

SCRep. 507 Consumer Protection and Commerce on H.B. No. 25

The purpose of this bill is to:

- (1) Require the minutes of meetings of condominium board of directors and the association of apartment owners be made available within sixty days after official board meetings; and
- (2) Provide that the minutes of any executive meeting be withheld if the disclosure would defeat the lawful purpose of the executive meeting.

Supportive testimony was submitted by the Real Estate Commission, the Condominium Property Regimes Committee of the Real Property and Financial Services Section of the Hawaii State Bar Association, the Hawaii Association of Realtors, Hawaii Independent Condominium and Cooperative Owners, Makaha Valley Plantation, and concerned citizens.

Your Committee finds that:

- (1) Certain condominium owners have experienced difficulty in obtaining the minutes of previous board meetings;
- (2) Certain boards have argued that Hawaii's Condominium Property Regimes Law is unclear with regard to the time frame in which the minutes are to be made available to owners; and
- (3) The minutes of board meetings represent the only means for most owners to obtain information regarding the expenditure of collected fees.

In light of this, your Committee believes that the provisions of this bill will clarify laws regarding the disposition of meeting minutes, and thus enhance the ability of owners to address issues pertaining to their homes.

After much discussion and deliberation, your Committee is in accord with the intent of this bill. However, your Committee notes that:

- (1) Because the minutes of each board meeting are usually corrected and approved at the subsequent board meeting, the sixty day requirement, as proposed, would create an extremely difficult situation for boards that meet on a quarterly or less frequent basis; and
- (2) References to "executive meetings" should be revised to conform to other provisions of the Hawaii Condominium Property Regimes Law.

Accordingly, your Committee has amended this bill as follows:

- (1) Provided that the minutes of open meetings shall be made available within seven days after receiving board approval, but no longer than sixty days after all open meetings; and
- (2) 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. 25, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 25, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Oshiro, Takamine, Tom and Thielen.

SCRep. 508 Consumer Protection and Commerce on H.B. No. 767

The purpose of this bill is to protect children from the messages delivered through violent toys by:

- (1) Requiring retailers of any war toy or look-alike toy to place a warning label on shelves or displays; and
- (2) Establishing fines for the violation of warning label requirements.

Supportive testimony was submitted by the American Friends Service Committee, and concerned citizens.

Your Committee finds that:

- (1) The use of realistic toy guns and other war-related toys promote violence in society. By encouraging aggressive behavior and violence in young children, the use of violence-related toys has promoted an unconscious acceptance of war and killing among youngsters; and
- (2) The use of realistic toy guns and other war-related toys may be detrimental to the welfare of Hawaii's youth. According to recent statistics, over 25,000 children are injured annually with toy guns, and 200 children die each year in accidental shootings when real guns are mistaken for toy replicas.

In light of this, your Committee believes that the provisions of this bill will reassert the Legislature's steadfast commitment toward reducing the propagation of violence in our State, as well as serve the interests of the people of Hawaii.

While your Committee is in accord with the intent of this bill, your Committee notes that:

- (1) Retailers who in good faith place warning labels on shelves or displays should not be penalized if a warning label is accidentally placed on a wrong shelf, or stock is inadvertently placed in an area without the warning label; and
- (2) A fine of \$500 per violation is excessively punitive.

Accordingly, your Committee has amended this bill as follows:

- (1) Provided that retailers exercise in good faith the placement of warning labels on shelves and displays;
- (2) Reduced the fine from \$500 to \$100; 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. 767, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 767, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Oshiro, Takamine, Tom and Thielen.

SCRep. 509 Consumer Protection and Commerce on H.B. No. 773

The purpose of this bill is to release insurance agents, brokers, and premium finance companies from liability for uncollected, unearned premiums.

Supportive testimony was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Independent Insurance Agents Association.

Your Committee finds that the provisions of the National Association of Insurance Commissioners' model act and current Hawaii law pertaining to uncollected, unearned premiums have placed a financial burden on the insurance industry by requiring agents, brokers, and premium finance companies to pay out of personal resources the unearned, uncollected premiums resulting from insurer insolvency.

Because of this, your Committee believes that the provisions of this bill will substantially enhance Hawaii's insurance industry by reducing the financial risks of agents, brokers, and premium finance companies conducting business in the State.

Furthermore, it appears that the provisions of this bill will not interfere with the State's efforts to gain accreditation from the National Association of Insurance Commissioners. It is noteworthy to mention that the issue of agent liability for uncollected, unearned premiums has been successfully amended in twenty states, of which nine have received accreditation status.

After much discussion and deliberation, your Committee is in accord with the intent of this bill. However, your Committee has amended this bill by reinstating the original text of Hawaii Revised Statutes, section 431:15-323(a)1 & 2 (which had been deleted by brackets) with amendments to reflect the purpose of removing the responsibilities for uncollected, unearned premiums from an insurance agent or broker and deleting the proposed new language of the bill. In effect, this accomplishes the same thing in a more efficient manner. Technical, nonsubstantive revisions for the purposes of clarity and style have also been made.

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. 773, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 773, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Oshiro, Takamine, Tom and Thielen.

SCRep. 510 Judiciary on H.B. No. 569

The purpose of this bill is to give the court discretion to excuse a party from participating in any component of any mediation program in a contested divorce proceeding where:

- (1) Allegations of spousal abuse are alleged; and
- (2) The court determines that it is in the best interest of the excused party.

By allowing the court discretion in coordinating mediation services for those in need, this measure attempts to maintain the physical and emotional well-being of spousal abuse victims.

Testimony in support of this measure was submitted by the Judiciary and the Hawaii State Commission on the Status of Women.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 569 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, Oshiro and Takamine.

SCRep. 511 Judiciary on H.B. No. 52

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

- (1) Correcting a clerical error in Rule 608;
- (2) Providing for the admission of televised testimony of a child abuse victim in Rule 616; and
- (3) Creating a new child abuse victim hearsay exception in Rule 804.

Testimony in support of this measure was submitted by the Judiciary, the Hawaii State Commission on the Status of Women, and the Department of the Prosecuting Attorney of the City and County of Honolulu.

In 1992, the Hawaii State Legislature passed Act 191 which updated the Hawaii Rules of Evidence pursuant to the recommendations made in the Final Report of the Committee on Hawaii Rules of Evidence (Final Report). Notably, Section 3 of Act 191, had directed the Revisor of Statutes to print, together with the Hawaii Rules of Evidence, the

commentary to the rules prepared by the Judiciary's Committee on the Hawaii Rules of Evidence in the appropriate 1992 supplement to the Hawaii Revised Statutes, or, if the commentary was unavailable or contained substantive defects, then in the 1993 supplement. Additionally, Section 3 directed the Revisor of Statutes to report to the 1993 regular session any substantive problems and defects relating to the commentary which should be corrected or remedied by the Legislature. Section 3 further specified that the report was to include specific recommended language in the form of a bill or resolution.

As directed by Section 3, the Revisor of Statutes has submitted proposed amendments to Rules 608, 616, and 804 which are reflected in this measure before your Committee. While the proposed amendment to Rule 608 is primarily clerical in nature, the proposed amendments made to Rules 616 and 804 remove potential constitutional deficiencies as discussed and recommended by the Final Report.

Your Committee, however, finds that the amendment made to Rule 804, which creates a hearsay exception for statements made by a child abuse victim describing any act of sexual contact or physical violence, does not fully comport with the statutory scheme of Hawaii's Penal Code which addresses sexual assault offenses. Accordingly, this measure has been amended to provide a hearsay exception which also includes statements made by a child abuse victim describing any act of sexual penetration as well.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 52, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 52, H.D. 1, 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. 512 Judiciary on H.B. No. 570

The purpose of this bill is to clarify that the standard for which a person shall be convicted of a misdemeanor violation of a temporary restraining order is knowing or intentional. The bill further requires that a person serve a mandatory minimum jail sentence of forty-eight hours upon the first conviction for a violation of a protective order and a mandatory minimum sentence of thirty days for any subsequent violations.

Testimony in support of the bill was received from a Women's Advocate at Child and Family Service, Shelter for Abused Spouses and Children. Testimony from a representative of the Judiciary was received which indicated that the Judiciary took no position on the merits of the bill but noted that the bill appeared to make the penalties for violation of a protective order consistent with penalties imposed for violation of a restraining order.

A representative from the Office of the Public Defender testified that often a protective order contains provisions not related directly to the protection of a party, such as specific dates and times of child visitation, counseling, etc., and that mandatory imprisonment for such violations may not be appropriate.

Your Committee finds that in adopting penalty provisions with respect to protective orders, the Legislature should take into account the fact that these types of orders typically last much longer than temporary restraining orders and typically contain provisions not directly related to the protection of a party.

At the same time, when the violation involves domestic abuse, as defined in Chapter 586, Hawaii Revised Statutes, or when there are repeated convictions for violating the protective order, a mandatory term of imprisonment is appropriate.

Therefore, your Committee has amended the bill as follows:

1. For a first conviction for violation of a protective order, a mandatory minimum sentence of forty-eight hours imprisonment will not be required, unless the case involves domestic abuse;
2. For a second conviction for violation of the same protective order, a mandatory minimum sentence of forty-eight hours imprisonment will be imposed even in the absence of domestic abuse, but if the case involves domestic abuse a mandatory minimum sentence of thirty days imprisonment will be required; and
3. For additional convictions for violations of the protective order, regardless of whether or not they involve domestic abuse, a mandatory minimum sentence of thirty days imprisonment will be required.

Your Committee has also amended the bill by making technical, non-substantive 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. 570, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 570, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 513 Judiciary on H.B. No. 1717

The purpose of this bill is to amend the penal code section regarding negotiating worthless instruments to update the statutory cross-references to the Uniform Commercial Code contained in this section.

Article 3 of the Uniform Commercial Code was repealed and replaced by Act 118, Session Laws of Hawaii 1991. However, Section 708-857 of the Hawaii Penal Code, relating to the negotiation of worthless instruments, contains several cross-references to the old version of Article 3. This bill will update these obsolete cross-references.

Because of Constitutional and fairness issues your Committee has amended this bill by removing its retroactive provisions.

For the purpose of clarity, your Committee has also made technical 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. 1717, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1717, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 514 Judiciary on H.B. No. 782

The purpose of this bill is to amend chapter 571, Hawaii Revised Statutes (HRS), by adding a new section which allows grandparents, in certain instances, to file a petition for reasonable visitation rights regarding minor children.

Your Committee received testimony in support of this measure from the American Association of Retired Persons, an attorney and a community member. The Judiciary submitted testimony taking no position on the bill, but expressed two concerns regarding the bill. The Judiciary's first concern was that section 571-46(7), HRS, already provides for reasonable visitation for grandparents whereas this bill appears to be more restrictive regarding grandparent visitation. Secondly, the Judiciary questioned whether this measure would interfere with the rights of the primary custodial parent and the non-custodial parent.

Your Committee agrees with the Judiciary that this bill is more restrictive than the language found in section 571-46(7), HRS. This measure is meant to apply only in situations where either or both of the child's parents are deceased or the child's parents have already divorced or are residing separate and apart. It is not meant to apply in other situations where section 571-46(7) may be applicable.

The Judiciary pointed out that under section 571-46(7), HRS, the court now has the power to award reasonable visitation to grandparents in instances where there is no action pending. However, despite the existence of section 571-46(7), HRS, your Committee desires to clearly show that grandparent visitation should be allowed if the criteria mentioned in the bill are met.

The testimony presented to the Committee highlighted a case where one of the children's parents had died and that parent's mother has not been allowed to see her grandchildren for nine months. The grandparent's attorney filed for reasonable visitation pursuant to section 571-46(7), HRS. Opposing counsel made the argument that section 571-46(7), HRS, contains language that grandparent visitation is to be awarded in actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child. Since custody isn't in dispute in this case, opposing counsel argued that the court cannot award visitation to the grandparent. This case is presently on appeal. This bill would allow the court to award the grandparent in such a case reasonable visitation rights as long as the specified criteria are met.

Your Committee believes that the Judiciary's second concern, regarding this bill's possible interference with the rights of the parents, is addressed by your Committee's inclusion in the criteria that such visitation be in the best interests of the child. The award of the grandparent's visitation is not meant to be at the expense of the parents' relationship with the child and the best interests of the child. Your Committee believes that usually, absent special circumstances, it is in the best interests of the child to have reasonable visitation with the parents. If the visitation of the grandparents would adversely affect the reasonable visitation of the parents, it would probably not be in the best interests of the child to permit the grandparents' visitation.

Accordingly, your Committee has amended the bill as follows:

1. Changed the initial paragraph to clarify that the criteria that follow are the basis for the court's awarding of reasonable visitation rights and that these criteria are not meant to be a prerequisite to the grandparents' mere filing of the petition;
2. Added a new paragraph 2 to include in the criteria that reasonable visitation rights for the grandparents are in the best interests of the child; and
3. Renumbered the existing paragraphs 2 and 3 to be paragraphs 3 and 4, respectively.

As affirmed by the record of votes of 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. 782, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 782, 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.

SCRep. 515 Judiciary on H.B. No. 781

The purpose of this bill is to amend Sections 706-620, 706-623, and 706-659, Hawaii Revised Statutes (HRS) to expand judicial discretion in the sentencing of Class A drug offenders. Also, this bill eliminates mandatory terms of imprisonment for these offenders.

The Department of Public Safety, the Office of the Public Defender, and a concerned citizen testified in support of this bill. The Judiciary testified and took no position on this matter. The Department of the Attorney General and the Department of the Prosecuting Attorney for the City and County of Honolulu testified in opposition to this measure.

Your Committee finds that the Judiciary should be given more discretion in the sentencing of Class A drug offenders. Presently, the Judiciary has to sentence these offenders to an indeterminate twenty year sentence, without the possibility of suspension of sentence or probation. The Office of the Public Defender made this Committee aware of a case where a judge wanted to give probation to a Class A drug offender but was prevented from doing so because of the present law. Your Committee wishes to rectify this situation by giving the Judiciary discretion in the sentencing of these offenders.

Additionally, the State's correctional system is in crisis. The number of inmates incarcerated exceeds operational capacity. By eliminating mandatory imprisonment for Class A drug offenders, this bill also helps to alleviate prison overcrowding. Finally, your Committee has changed the existing law to allow probation for ten years for a Class A felony, where such probation is permitted.

Your Committee has amended the bill as follows:

1. Restricted the Class A felons, who may be permitted probation, to Class A felons under Chapter 712, Part IV of the Hawaii Penal Code; and
2. Added language to Section 706-659, HRS to provide for indeterminate terms of imprisonment for Class A felons under Chapter 712, Part IV of the Hawaii Penal Code.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 781, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 781, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda and Peters.
(Representatives Amaral, Hirono and Thielen voted no.)

SCRep. 516 Judiciary on H.B. No. 2116

The purpose of the bill is to establish guidelines for the court with regard to the division of property in a divorce proceeding. The court is to follow the guidelines in a divorce proceeding, to the extent the resulting distribution is just and equitable under all of the circumstances of the case.

Testimony was received by your Committee from a representative of the Family Law Section of the Hawaii State Bar Association, who indicated that following the decision in *Gussin v. Gussin*, 73 Haw. __, 836 P.2d 484 (1992) rev'g 9 Haw. App. __, 836 P.2d 498 (1991), the Family Law Section's membership has been greatly concerned with the lack of a uniform method of analyzing and presenting property division issues. *Gussin*, in effect, overturned a series of opinions from the Hawaii Intermediate Court of Appeals which had established guidelines to be followed for distribution of property in a divorce proceeding, subject to an individuals judge's determination as to what constituted a just and equitable result.

The representative further indicated that a majority of the Family Law Section's membership favored the reinstitution of a system for categorizing different types of property, but there is no consensus as to what the starting points should be. Further, the membership felt that any system which is established should be promulgated by the Appellate Courts, with legislative mandate, rather than by the Legislature itself.

Your Committee finds, however, that establishing guidelines is a policy decision which should properly be made by the Legislature, and that the promulgation of guidelines will assist the public by reducing the uncertainty of property divisions, hence facilitating prompt settlement of the majority of divorce cases with the attendant decrease in expense to the parties. Further, your Committee believes judicial resources will be conserved if the parties can settle these types of issues without resort to trial.

Therefore, your Committee has adopted the approach set forth in the bill because inherent in that system is a recognition that at the time property is to be divided, it is essential to acknowledge that each party to the marriage has contributed to the accumulation of property, even if one party's monetary contribution has been minimal. For example, it is not infrequently the case that one spouse may bring more material assets into the marriage, both in terms of property and earning power, while the other spouse may make non-quantifiable or intangible contributions in the form of service. Such contributions may include, among other things, comfort, companionship, child-rearing, housekeeping, and managing the assets of the marital estate.

These tasks, while not compensated monetarily, significantly support and enhance the earning power of the primary wage earner and contribute to the accumulation of wealth, and as such, your Committee wishes to make clear that it strongly supports the recognition of their value, and that such value should be reflected in any division of the marital estate.

The present bill rewards these intangible contributions by providing that, irrespective of legal title, post-date of marriage increases in the value of property held before the marriage as well as all property accumulated during the marriage are to be divided equally, regardless of the actual source of the property and notwithstanding the earning record

of either spouse during the marriage. This seems consonant with the concept that upon marriage, the spouses voluntarily unite to form a family unit and hence wealth accumulated during the marriage is rightly shared equally between the spouses. The bill also recognizes that gifts and inheritances that might accrue to one party during the marriage should be treated differently, if the party receiving the same elects to keep it in that party's separate name, because such gifts and inheritances do not accrue because of the union, but are independent of it.

The bill recognizes that guidelines should not be inflexible for they cannot address every conceivable circumstance of the parties. The bill therefore provides that the court shall divide and distribute the property in accordance with the guidelines to the extent that the court determines that the division and distribution which results is just and equitable, in light of all of the circumstances.

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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2116, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 517 Judiciary on H.B. No. 1594

The purpose of this bill is to clarify the circumstances under which an agency may disclose, to another government agency, government records that are protected from public disclosure; to clarify that criminal history record information is not exempt from access by the individual to whom it pertains; and to clarify that the exceptions set forth in section 92F-13, Hawaii Revised Statutes, apply only to requests under part II of chapter 92F, and that the exemptions set forth in section 92F-22, apply only to requests under part III of chapter 92F.

Testimony in support of the bill was received by your Committee from representatives of the Office of Information Practices and the Department of Personnel of the City and County of Honolulu.

Your Committee finds that under current law, section 92F-19(a)(3) permits disclosure of a wide range of inter-agency confidential information in those situations in which the disclosure is not in fact proper for the performance of the requesting agency's duties, is completely incompatible with the original purposes for which the information was collected, or is completely inconsistent with the conditions or reasonable expectations of use under which the individual provided the information to an agency. The bill, therefore, requires, as one of the several specified conditions authorizing inter-agency disclosure, that the disclosure be (1) reasonably proper for the performance of the requesting agency's duties and functions; and also (2) either (a) compatible with the purpose for which the information was collected or (b) consistent with the conditions or reasonable expectations of use under which the information was provided.

Further, the bill appropriately adds a provision to the current law authorizing an agency to disclose information to other agencies, other states, or the federal government for purposes of a civil or criminal law enforcement activity authorized by law when disclosure is pursuant to an agreement or a written request. The bill further authorizes, under appropriate restrictions and under certain circumstances, the disclosure of otherwise confidential information to a foreign government pursuant to an executive agreement, compact, treaty, or statute, and to the various county councils, or any committee or subcommittee thereof which has a legitimate need for the information.

Your Committee also finds that chapter 92F does not require an agency to disclose criminal history record information to the individual to whom it pertains. This appears to be in conflict with section 846-13, Hawaii Revised Statutes, which does permit an individual to review the individual's criminal history record information. Your Committee finds that the conflict should be eliminated so that individuals be permitted to review criminal history record information that pertains to them for the purpose of determining its accuracy and completeness.

Finally, your Committee finds that certain references to "this chapter" in the current law were apparently drafting errors which have led to needless confusion. Your Committee supports the change of language proposed in this bill to "this part" rather than "this chapter."

As affirmed by the record of votes of 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. 1594 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 and Hirono.

SCRep. 518 Judiciary on H.B. No. 948

The purpose of this bill is to delete the requirement that all statements filed by lobbyists with the State Ethics Commission are to be open to public inspection.

For housekeeping purposes, this measure amends Section 97-4(2), Hawaii Revised Statutes (HRS), by deleting its reference to Section 92-51, HRS, which, in sum, mandates that all public records are available for inspection. Section 92-51, HRS, however, was repealed in 1988. The deletion of this reference in no way affects the status of lobbying registration and expenditures statements as public records. Under this measure, these statements would continue to be public records and would remain open to public inspection.

Testimony in support of this measure was submitted by the State Ethics Commission and Common Cause 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. 948 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, Hirono, Menor and Takamine.

SCRep. 519 Judiciary on H.B. No. 1593

The purpose of this bill is to provide for an extension of time from December 31, 1993 to December 31, 1994 for all State and county government agencies to complete the public records report required by Section 92F-18(b), Hawaii Revised Statutes.

Pursuant to 92F-18(b), HRS, each State and county government agency is required to complete and file a public records report that describes the records it routinely uses or maintains. The reports must designate which records are public or confidential, and provide other information such as the records' location and uses.

Initially, the public records report was to be generated on paper with a completion date of July 1, 1989. However, due to the tremendous volume of information to be collected and reported, to be cost effective and efficient, automation was found to be critical for the project's ultimate success. Consequently, in 1989, 1991, and 1992, the Legislature extended the time for the agencies' completion of the records report and allowed for the development of an automated records report system. Accordingly, the Office of Informational Practices (OIP), advised all agencies to not begin the records report until the installation of the automated records report system was completed.

In 1992, the Legislature appropriated funds for the hiring of critically needed support staff and consultants for the implementation of the automated records report system for when the installation was finally completed. However, due to severe budget restrictions that were imposed in July 1992, the appropriated funds were eliminated from OIP's budget. The elimination of these funds has severely strained the staff and resources of OIP and other government agencies in completing the records report. Because of the impact of the unexpected budgetary restrictions on the records report project, it will be impossible for the OIP to provide the support and assistance necessary for government agencies to complete the records report by December 31, 1993. Hence, the need for an extension of time.

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

As affirmed by the record of votes of 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. 1593 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 and Hirono.

SCRep. 520 Judiciary on H.B. No. 921

The purpose of this bill is to amend the ethics code with respect to financial disclosure statements required to be filed with the Ethics Commission by delineating additional increments of amounts required to be reported.

Testimony in strong support of the bill was received by your Committee from representatives of the State Ethics Commission and Common Cause Hawaii.

Your Committee finds that under current law the dollar amount ranges when amounts are required to be reported on disclosure of financial interest statements are too low, for they reflect the economic conditions in 1980 when they were adopted. The proposed cap of \$1,000,000 will provide citizens with more information and allow them to make better judgments about possible conflicts of interest. Your Committee believes the new cap will help restore public faith in government.

As affirmed by the record of votes of 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. 921 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 and Hirono.

SCRep. 521 Judiciary on H.B. No. 922

The purpose of this bill is to delete provisions of the ethics code that allow financial disclosure statements filed with the State Ethics Commission to be returned to the filer after the three-year period following the termination of the filer's term of office.

The law currently requires the State Ethics Commission, at the end of the three-year period, to afford the filer the opportunity to request return of his or her disclosure statement. Contacting these individuals has proven to be a time consuming and costly task. Your Committee believes that mandating the return of disclosure forms to the filers is an unnecessary use of time and taxpayers money.

Your Committee has received testimony in support of this measure from the State Ethics Commission.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 922 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 and Hirono.

SCRep. 522 Judiciary on H.B. No. 926

The purpose of the bill is to amend the gift disclosure law to exclude from the reporting requirements gifts of flowers which are displayed in locations open to the public in a public building, and gifts of food under \$30, if the food was intended for immediate consumption. Its purpose is also to clarify that only the statement filed with the State Ethics Commission is a government record subject to public disclosure.

Testimony was received by your Committee from a former legislator, a state employee (as a private citizen) and a current legislator which strongly supported the bill.

Testimony in opposition to the exception of certain gifts from the current law was received from a representative of the State Ethics Commission, but the representative did not oppose the provision that would keep gifts logs confidential, based on the fact that disclosure of gifts is only required under the law when the \$200 threshold is met.

Your Committee finds that the current law threatens to undermine the unique character of social relationships in Hawaii, and substitute a cynical, suspicious undercurrent to the most innocent of gestures. Your Committee finds it inappropriate that this Legislature should imply, as public policy, that small gifts of aloha suggest an attempt to buy influence. Your Committee notes that gifts of flowers and food to legislative offices lend a special quality to opening day festivities which has become admired throughout the country, and the suggestion that these types of gifts should be refused or returned to the giver implies that such gifts have an ignoble purpose. Rather, your Committee believes that the state-wide practice of social visits being accompanied by small gifts of food is a beautiful expression of friendship and aloha.

Further, your Committee finds that actively discouraging, and casting aspersions on, both the giving and the reception of such gifts, not to mention the necessity of inquiring of the giver as to the fair market value of the item, is contrary to simple social politeness.

Your Committee is in full support of the current law to the extent it requires disclosing gifts which could possibly be conceived as having a tendency to influence official action, but believes that the current law, by failing to take into effect our Island customs, is unintentionally creating meaningless and unnecessary paperwork.

Your Committee has amended the bill by clarifying the language which exempts the gift logs, but not the statement filed with the State Ethics Commission, from public disclosure, which your Committee finds was the Legislature's intent when the law was originally created.

As affirmed by the record of votes of 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. 926, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 926, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda and Hirono.

SCRep. 523 Judiciary on H.B. No. 1591

The purpose of this bill is to:

- (1) Clarify when an applicant with a deferred acceptance of guilty plea or nolo contendere plea can request expungement;
- (2) Allow the return of an applicant's photographs and fingerprints when the applicant has no convictions either prior or subsequent to the matter expunged;
- (3) Clarify when the applicant for an expungement order is entitled to be treated as not having been arrested; and
- (4) Clarify the definition of an arrest record.

The passage of this measure is necessary because the current statute is silent with regards to when expungement is available for those that have entered pleas of deferred acceptance of guilty or nolo contendere. The bill also promotes better utilization of administrative resources by eliminating the requirement that fingerprint cards and photographs must be returned to applicants whose records include convictions subsequent to the matter for which they have applied for expungement. This measure also provides that an applicant for an expungement order may be treated as not having been arrested when the expungement certificate is issued, as well as limits the definition of an arrest record to existing photographs and fingerprint cards.

Testimony in support of this measure was submitted by the Attorney General.

Technical, nonsubstantive revisions have been 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. 1591, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1591, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda and Hirono.

SCRep. 524 Judiciary on H.B. No. 1117

The purpose of this bill is to permanently enact the law authorizing the forfeiture of property seized in connection with criminal activity.

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

In 1988, the Hawaii State Legislature enacted the Hawaii Omnibus Criminal Forfeiture Act (Act) with the proviso that the Act would be repealed on July 1, 1990. In 1990, the Legislature extended this repeal date to July 1, 1993, to continue monitoring the fair implementation of the administrative forfeiture procedure.

The Act is a powerful weapon in the war against drugs. And although the Act has been fairly enforced and administered, it is still powerful in nature and demands oversight by the Legislature. At the hearing, the Office of the Public Defender had expressed concern about the Act's potency noting that the Act allowed law enforcement officers or prosecuting attorneys to seize the property, become the accuser in a proceeding for the forfeiture of the property, allowed the Attorney General to become the judge as to the propriety of the seizure, and finally, from the confiscation of the property seized, allow the joint benefit between the law enforcement agencies, the prosecuting attorneys, and the Attorney General. Moreover, the Attorney General has the authority to promulgate administrative rules with regards to forfeiture of property exempt from the requirements of Chapter 91, Hawaii Revised Statutes (HRS).

Accordingly, your Committee has amended this measure by extending the repeal date of Chapter 712A, HRS, to July 1, 1996, for the continued monitoring of the fair implementation of the administrative forfeiture procedure.

As affirmed by the record of votes of 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. 1117, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1117, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 525 Judiciary on H.B. No. 210

The purpose of this bill is to delete language which permits the court to dispense with the consent to adoption of an adjudicated or presumed father who has not submitted a petition for adoption or whose petition has been denied.

The Judiciary submitted testimony in favor of this measure.

Your Committee finds that adjudicated and presumed fathers need not file adoption petitions because they have legally recognized relationships with the child. Also, your Committee finds that the terms adjudicated and presumed were previously deleted by SLH 1986, Act 201 but were inadvertently and erroneously re-inserted by SLH 1992, Act 190. Your Committee agrees with the intent of this bill and has made additional technical and non-substantive changes to clarify the circumstances under which the section may be applied to a father.

As affirmed by the record of votes of 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. 210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 210, 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. 526 Judiciary on H.B. No. 2045

The purpose of this bill is to authorize the Director of Public Safety to release pretrial inmates when community correctional centers reach capacity.

Currently, the Oahu Community Correctional Center and the Women's Community Correctional Center are under a court-imposed consent decree which has established the maximum number of inmates that can be housed in each facility. Both facilities are subject to costly fines should either facility exceed the maximum number of inmates allowed. This measure would allow the Director of Public Safety to prevent prison overcrowding as well as maintain safe and secure facilities.

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

Your Committee has amended this bill by:

- (1) Mandating that the adoption of administrative rules regarding the release of pretrial inmates be subject to the requirements of Chapter 91 to avoid the arbitrary promulgation of rules; and
- (2) Deleting the provision allowing the Director of Public Safety to impose the terms and conditions of the release in order to avoid any conflict with the mandates and policies of the courts.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2045, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2045, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Bunda.
(Representative Thielen voted no.)

SCRep. 527 Judiciary on H.B. No. 1988

The purpose of the bill as originally received is to set forth procedures for the withdrawal of signatures from an election petition, to allow the chief election officer to make voting systems and election services available to state agencies and private agencies, to set forth procedures for a substitution of an alternative vice presidential candidate and to provide for regulation of non-electioneering activities within a 1000 foot radius of polling places.

A representative of the Office of the Lieutenant Governor testified in support of the bill. A representative of Common Cause testified generally in support of the bill but expressed concerns regarding the expansive powers the bill would grant with regard to non-electioneering activities.

Your Committee finds that adoption of procedures for withdrawal of signatures in a petition would greatly alleviate the present uncertainty in the law, and that permitting the chief election officer to make voting systems and elections services available to State agencies and private agencies will serve to reduce the cost of government. Your Committee further finds that providing a statutory method for the substitution of Vice Presidential candidates will fill a gap in the present law.

Your Committee, however, was concerned that the power to regulate non-electioneering activity was too broad.

Your Committee has therefore amended the bill by deleting the provision regarding control of non-political activities, and has further amended the bill by making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1988, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1988, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 528 Finance on H.B. No. 2003

The purpose of this bill is to allow checks drawn from demand deposit accounts in the State Treasury to be countersigned by the Director of Finance's representative, instead of the Comptroller.

Under current law, all checks drawn from demand deposit accounts in the State Treasury must be signed by the Director of Finance and countersigned by the Comptroller.

In supporting this measure, the Department of Budget and Finance (Department) explained that this bill will streamline the payment process by eliminating the need to use messengers between the two departments involved to obtain the necessary signatures. The Department also testified that this bill will not compromise the proper internal control over the issuance of checks and noted that the Department of Accounting and General Services' Audit Division had no objections to this bill.

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. 2003 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 Santiago.

SCRep. 529 Finance on H.B. No. 882

The purpose of this bill is to require the use of Polynesian introduced plants, in addition to indigenous plants, in all new or renovated landscaping of any state building or facilities.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources.

Your Committee has amended this measure by making several 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. 882, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 882, H.D. 2.

Signed by all members of the Committee except Representative Santiago.

SCRep. 530 Finance on H.B. No. 2023

The purpose of this bill is to make an emergency appropriation to the Medical Assistance (Medicaid) Program to ensure that sufficient funds are available to reimburse health care providers for the current fiscal year.

Your Committee has received a message from the Governor stating that a critical funding emergency exists in the Medicaid Program and requesting the Legislature to make an emergency appropriation to ensure the continuation of the Program.

The Department of Human Services testified in favor of this bill, noting that the Medicaid Program will have a funding shortfall before the end of the current fiscal year because of a number of factors, including:

- (1) Double digit health care inflation rates;
- (2) An increase in the number of Medicaid recipients;
- (3) A higher utilization of health care services; and
- (4) A reduction of federal Medicaid matching funds.

Additional supportive testimony was submitted by the Healthcare Association of Hawaii.

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

- (1) Adding the dollar amount and the percentage that the appropriation contained in this bill will cause the state general fund expenditure ceiling to be exceeded for fiscal year 1992-1993; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2023, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2023, H.D. 1.

Signed by all members of the Committee except Representative Santiago.

SCRep. 531 Finance on H.B. No. 1199

The purpose of this bill is to appropriate funds to establish a visitor regional office in Brussels, Belgium, for:

- (1) Disseminating and distributing information to persons interested in traveling to Hawaii; and
- (2) Coordinating information distribution from London, Frankfurt, Paris, and other points in Europe.

The Hawaii Visitors Bureau testified in favor of this measure, explaining that an office in Brussels is a major component of Hawaii's overall marketing and tourism promotion plan. Although supporting the overall intent of this bill, the Department of Business, Economic Development, and Tourism testified that it could not support any new proposals for budget items not already included in the Executive budget request.

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

- (1) Changing the appropriation amounts from \$140,000 to \$1 for each year of the 1993-1995 fiscal biennium for purposes of continued discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1199, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1199, H.D. 1.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 532 Finance on H.B. No. 1645

The purpose of this bill is to make an emergency appropriation to prevent the reduction or discontinuance of financial assistance payments to needy individuals and families for the current fiscal year.

Your Committee has received a message from the Governor stating that a critical funding emergency exists in the financial assistance payment programs and requesting the Legislature to make an emergency appropriation to ensure the continuation of the financial assistance payments.

The Department of Human Services testified in favor of this bill, noting that the payment programs will have a funding shortfall before the end of the fiscal year because of:

- (1) An increase in the caseload;
- (2) An increase in the unemployment rate;
- (3) Annual increases in the standard of assistance averaging approximately three to five percent each year; and
- (4) A decrease in the federal financial participation rate.

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

- (1) Adding the dollar amount and the percentage that the appropriation contained in this bill will cause the state general fund expenditure ceiling to be exceeded for fiscal year 1992-1993; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 1645, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1645, H.D. 2.

Signed by all members of the Committee except Representative Santiago.

SCRep. 533 Finance on H.B. No. 1740

The purpose of this bill is to establish a Sport Fish Special Fund into which sport fishing license and permit fees, and other associated moneys, will be deposited.

In supporting this measure, the Department of Land and Natural Resources (DLNR) testified that the Special Fund was needed to demonstrate compliance with federal requirements. Under current law, the State participates in the Federal Aid in Sport Fish Restoration Program and receives an allocation of about \$2,000,000 annually in reimbursements for approved State fisheries management projects and activities. However, DLNR stated that the United States Fish and Wildlife Services requested DLNR to document compliance with the federal provisions of this Program pertaining to nondiversion of sport fishing license fees for purposes other than administration of the State fish and game agency. The DLNR explained that although the State was already in compliance, a Special Fund would ensure that the State continues to receive federal aid for its programs.

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

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. 1740, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1740, H.D. 1.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 534 Finance on H.B. No. 1906

The purpose of this bill is to amend the provisions relating to the conveyance tax by:

- (1) Increasing the conveyance tax from 5 to 10 cents per \$100 of the actual and full consideration paid on any transfer of realty or any interest therein;
- (2) Directing that twenty-five per cent of the taxes collected annually be paid into the Rental Housing Trust Fund, and another twenty-five per cent of the collections be divided among the following funds: 50 per cent to the Natural Area Reserve Fund, 41.7 per cent to the Natural Area Reserve Fund for the Natural Area Partnership Program, and 8.3 per cent to the Forest Stewardship Fund;
- (3) Limiting the period for assessment, levy, collection, or credit of conveyance taxes to three years, except in case of an intentionally false or fraudulent filing; and
- (4) Providing that the conveyance tax shall not apply to certain documents or instruments for which there is no consideration or government exemption, and make the corresponding changes to the filing of certificates.

Testimony in favor of this bill was submitted by the Department of Taxation, the Department of Land and Natural Resources (DLNR), the Natural Area Reserves System Commission, the Rental Housing Trust Fund Interim Commission, and the Nature Conservancy of Hawaii. However, the Hawaii Association of Realtors, the Chamber of Commerce of Hawaii, the National Federation of Independent Business, and the Hawaii League of Savings Institutions testified against this measure. Comments were also received from the Tax Foundation of Hawaii.

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

- (1) Redirecting the funds for DLNR to be paid into its Natural Area Reserve Fund only, and allowing DLNR to disburse these funds to the management of the Natural Area Reserves System and the Natural Area Partnership and Forest Stewardships programs after joint consultation with the Forest Stewardship Committee and Natural Area Reserves Commission; and
- (2) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1906, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1906, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanoho.
(Representative Ward voted no.)

SCRep. 535 Finance on H.B. No. 1904

The purpose of this bill is to repeal the general excise tax exemption on gross income or gross proceeds received on investments in real property by an employee benefit plan.

Testimony in support of this bill was submitted by the Department of Taxation. The Department testified that this measure will correct an inequitable tax advantage currently available only to employee benefits plan by imposing the general excise tax equally on all taxpayers in the real property rental business. The Tax Foundation of Hawaii also submitted comments.

Your Committee has made 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1904, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1904, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kanoho.

SCRep. 536 Finance on H.B. No. 1627

The purpose of this bill is to allow the Comptroller, with the approval of the Director of Finance, the option of issuing checks drawn from financial institutions serving as depositories of State funds in lieu of warrants drawn from the State Treasury.

In supporting this measure, the Department of Budget and Finance testified that the conversion to checks is being proposed for economic and administrative reasons. In the past, because the banks had to present State warrants at the Treasury for redemption, the State gained an extra day of interest on the funds to cover the warrants. However, the banks currently require the State to maintain compensating balances to cover any warrants cashed which precludes the State from investing these funds. In addition, conversion to checks will transfer the responsibility for monitoring and enforcing stop payment action to the bank.

Technical, nonsubstantive amendments have been made 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. 1627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1627, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Santiago.

SCRep. 537 Finance on H.B. No. 1296

The purpose of this bill is to grant preference to qualified local contractors when awarding contracts for public works projects.

More specifically, this measure requires State and county agencies to award public works contracts to qualified local bidders when their bids are within ten percent of those submitted by non-local competitors.

The Construction Industry Association, the Construction Industry Legislative Organization, and the Hawaii Operating Engineers Industry Stabilization Fund testified in support of this measure. The Department of Accounting and General Services expressed its reservations about this measure, while the Department of Finance of the City and County of Honolulu presented testimony opposing this bill.

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

- (1) Changing the percentage by which a bid from a qualified local bidder may be higher than that from a non-local bidder for purposes of granting preference from 10 percent to 4 percent; and
- (2) Making other technical and non-substantive amendments.

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. 1296, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1296, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Santiago.

SCRep. 538 Finance on H.B. No. 2071

The purpose of this bill is to appropriate funds for the planning, design, and construction of an add-on, non-profit, long-term health care facility for the Pohai Nani Care Center.

In support of this measure, the Pohai Nani Good Samaritan Kauhale testified that the Windward community on Oahu is experiencing a nursing bed shortage of at least 600 beds. The proposed 18-bed expansion of the Pohai Nani Care Center will help to alleviate this shortage.

Favorable testimony was also received from the Hawaii Long Term Care Association.

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

- (1) Deleting the appropriation provisions and authorizing the Department of Budget and Finance (BUF) to issue special purpose revenue bonds for the Pohai Nani Care Center expansion in a total amount not to exceed \$1,000,000;
- (2) Inserting language to enable bond issuance under Part II, Chapter 39A, Hawaii Revised Statutes, including a declaration that the issuance is in the public interest and for the public health, safety, and general welfare; and
- (3) Specifying that the authorization to issue special purpose revenue bonds shall lapse on June 30, 1996.

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. 2071, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2071, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 539 Finance on H.B. No. 1147

The purpose of this bill is to encourage individual artists to pursue their craft in Hawaii by:

- (1) Requiring the State Foundation on Culture and the Arts to establish an Individual Artist Fellowship Program;
- (2) Designating qualifying standards for individual artist fellowships; and
- (3) Requiring artists who receive fellowships to perform or exhibit their work for the benefit of the people of Hawaii.

Your Committee received testimony from the State Foundation on Culture and the Arts in favor of this bill.

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. 1147, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 540 Finance 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 by authorizing the issuance of special purpose revenue bonds in a total amount not to exceed \$40,820,000 to finance a multipurpose capital improvement program including:

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

In supporting this bill, the Kauai Electric Division of Citizens Utilities Company stated that the issuance of special purpose revenue bonds, at a lower interest rate than would otherwise be available, would allow capital improvements of

its power generation and distribution systems. In addition, because the repayment of special purpose revenue bonds would be guaranteed by the Citizens Utilities Company, and that the interest paid to bondholders would be exempt from taxation, the Citizens Utilities Company would be able to pass the savings in bond interest costs to users through lower electric rates.

Your Committee also received favorable testimony from the Department of Business, Economic Development, and Tourism; Hawaiian Electric Company, Inc.; Hawaii Electric Light Company, Inc.; and Maui Electric Company, Ltd.

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. 1376 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 541 Finance on H.B. No. 1771

The purpose of this bill is to improve the Correctional Industries Program (Program) by specifying that:

- (1) Moneys deducted from inmate wages be deposited into the Correctional Industries Revolving Fund (Fund); and
- (2) Proceeds in the Fund may also be used for the reimbursement of incarceration costs of inmates related to the inmates' participation in the Program.

The Department of Public Safety (PSD) testified in support of the measure. In its testimony, the PSD testified that the language "inmate contributions" and "contributing inmates" be amended, as the word "contribution" implies that deposits will be voluntary on the part of inmates and deductions authorized by law are mandatory.

Accordingly, your Committee has amended this bill by:

- (1) Changing "inmate contributions" to "inmate deductions"; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 1771, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1771, H.D. 2.

Signed by all members of the Committee except Representative Chang.

SCRep. 542 Finance 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 ten additional permanent positions and fill them with temporary personnel.

The DHHL testified in support of this bill, explaining that the additional personnel will help administer the Hawaiian Homes Commission Act in a more effective manner by:

- (1) Enabling the DHHL to cope with present and future workload requirements; and
- (2) Avoiding costs associated with turnover of temporary personnel.

Upon further consideration, your Committee has amended this bill by authorizing DHHL to establish up to five additional permanent positions.

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. 2018, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2018, H.D. 2.

Signed by all members of the Committee.

SCRep. 543 Finance on H.B. No. 2060

The purpose of this bill is to mandate a transfer of land from the University of Hawaii to the Department of Education to provide for a new district library in Manoa.

Testifying in favor of this bill, the Hawaii Public Library System, the Oahu Library Advisory Committee, the East Oahu Library District, and the Manoa Public Library stressed overcrowded and outdated conditions at the current facility, and the extensive community support for the library. Also testifying in favor were the Principal of the Noelani School in Manoa, the Noelani Parent-Teachers Association, the Manoa Youth Baseball League, and private citizens.

A number of groups and individuals testified in opposition to the bill as well. The University of Hawaii, the University of Hawaii Professional Assembly, and faculty and students in the College of Tropical Agriculture and Human Resources stressed the worth of the current research done at the site, and the importance of maintaining the current research facility.

Representatives from Hawaii's tropical agriculture industry cited the practical applications from research done at the current facility in their opposition to the bill. The Hawaii Farm Bureau, the Hawaii Tropical Flower Council, the Landscape Industry Council, leaders in the 4-H program housed at the site, and several private citizens also testified against the bill.

The Department of Land and Natural Resources submitted comments on the measure.

After hearing the public testimony, your Committee has amended the bill by:

- (1) Limiting the parcel of land to be transferred to two acres;
- (2) Specifying that no existing facilities shall be displaced or relocated; and
- (3) Making other technical and non-substantive amendments for purposes of clarity and style.

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. 2060, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2060, H.D. 1.

Signed by all members of the Committee except Representatives Chang and Ward.

SCRep. 544 Finance on H.B. No. 924

The purpose of this bill is to appropriate funds for the development and implementation of a Juvenile Justice Information System (JJIS).

The Judiciary, the Juvenile Justice Information Committee, the Prosecuting Attorney of the County of Kauai, the Department of the Prosecuting Attorney of the County of Maui, the Kauai County Police Department, and the Maui County Police Department submitted testimony in strong support of the bill. Your Committee also received supporting testimony from the Office of the Prosecuting Attorney of the County of Hawaii, the Board of Senior Family Court Judges, the Hawaii County Police Department, and the former Prosecuting Attorney of the County of Hawaii and former Chairperson of the Juvenile Justice Interagency Committee.

According to the Juvenile Justice Information Committee, the JJIS, among other things, will:

- (1) Provide governmental agencies with around-the-clock access to statewide information on juveniles;
- (2) Permit agencies to track individual offenders through the State criminal justice system; and
- (3) Provide data for management and research purposes to determine patterns of juvenile crime and divert children from the adult criminal justice system.

Your Committee has amended this bill by changing the appropriation sums for each year of the 1993-1995 fiscal biennium to \$1 for each fiscal year for the purpose of continued dialogue on the measure.

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. 924, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 924, H.D. 1.

Signed by all members of the Committee except Representative Chang.

SCRep. 545 Finance on H.B. No. 687

The purpose of this bill is to appropriate funds to design and develop specifications for the dredging of the Ala Wai Canal.

Testimony in support of this measure was received from the City and County of Honolulu's Department of Public Works; the Housing and Land Use Committee and the Visitor Industry Council of the Chamber of Commerce of Hawaii; the Waikiki Improvement Association; the Hilton Hotels Corporation; the Hawaii Hotel Association; and the city councilmember of the affected district. The Department of Land and Natural Resources submitted testimony recognizing the merit of the dredging project, but withholding its support of the bill due to the anticipated State revenue shortfall.

Two employees of the Environmental Center of the University of Hawaii at Manoa and one employee of the Look Laboratory submitted combined comments indicating that specifications for the dredging project already exist.

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

- (1) Specifying that the funds appropriated are for actual dredging rather than for the design and development of dredging specifications;
- (2) Changing the appropriation amount to \$1 for the purposes of continued discussion; and
- (3) Making a technical, nonsubstantive change to correct a drafting error.

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. 687, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 687, H.D. 1.

Signed by all members of the Committee.

SCRep. 546 Finance on H.B. No. 1677

The purposes of this bill are to:

- (1) Clarify the various fees assessed by the Bureau of Conveyances; and
- (2) Enable the Department of Land and Natural Resources to adopt rules in response to changes in the industry and the economy.

This bill would enable the Bureau of Conveyances to establish fees for services by rules adopted pursuant to Chapter 91, Hawaii Revised Statutes.

Both the Department of Land and Natural Resources and the Judiciary supported this bill.

Technical, nonsubstantive amendments were made to the bill 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. 1677, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1677, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Ward.

SCRep. 547 Finance on H.B. No. 1209

The purpose of this bill is to appropriate funds to the Department of Agriculture (DOA) for construction of the Panaewa marshalling and processing facility (facility), which will enable the small farmers of East Hawaii to collect, consolidate, prepackage, and process their produce for shipment at discounted bulk shipping rates and under favorable conditions.

The Hawaii Farm Bureau Federation testified in support of the measure. The DOA testified that while it believes that the facility is important for East Hawaii farmers, it is precluded from requesting capital improvement project funds at this time because of the State's current and near future financial situation. Your Committee also received written comments from the Hilo Farmers Cooperative Exchange.

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

- (1) Changing the appropriation sum from \$1,000,000 to \$200,000 for construction of the facility;
- (2) Adding a dollar-for-dollar matching provision of funds with private sources; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 1209, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1209, H.D. 2.

Signed by all members of the Committee except Representative Tam.

SCRep. 548 Finance on H.B. No. 1449

The purpose of this bill is to appropriate funds to prevent the loss of agricultural and forest resources by controlling melastome plant pests through insect and pathogen exploration, herbicide evaluation, containment, and public education.

In supporting this measure, the Department of Agriculture (DOA) testified that the Tri-Island Resource Conservation and Development Council on Maui, in cooperation with DOA, the Department of Land and Natural Resources, the United States Forest Service, and the National Parks Service through its Cooperative Parks Research Studies Unit at the University of Hawaii, developed a statewide proposal and identified management and research needs for the control of melastome weed pests in forests and pastures.

The Natural Area Reserves System Commission, the Tri-Isle Resource Conservation and Development Council, the Natural Resources Defense Council, the Hawai'i State Office of the National Audubon Society, the Hawai'i Chapter of the Sierra Club, and other interested individuals, including University of Hawaii faculty members, National Park Service personnel, and scientists presented testimony in strong support of this measure.

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

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. 1449, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1449, H.D. 2.

Signed by all members of the Committee.

SCRep. 549 Finance on H.B. No. 1427

The purpose of this bill is to appropriate funds for:

- (1) Construction of a staging area in Panaewa, Hawaii, for livestock; and
- (2) Land acquisition, planning, design, and construction of a staging area on the island of Maui for livestock.

Although supporting the overall intent of this bill, the Department of Agriculture testified that it could not support the financial request. Your Committee also received written comments from the Hawaii Cattlemen's Council, Inc.

Your Committee has amended this bill by:

- (1) Clarifying the \$75,000 amount for Maui includes all the costs for the staging area by deleting each of the \$1 appropriation sums appropriated for land acquisition, planning, and design; and
- (2) Making technical, nonsubstantive amendments for purposes of consistency and style.

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. 1427, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1427, H.D. 2.

Signed by all members of the Committee except Representative Tam.

SCRep. 550 Finance on H.B. No. 1424

The purpose of this bill is to appropriate funds for research on the control of pests that threaten Hawaii's agricultural industries.

More specifically, funds are provided:

- (1) For foreign exploration for biological control agents to combat and eradicate the yellow sugarcane aphid and webworm;
- (2) To conduct animal behavior research on aphids to determine the components of grasses that repel pests from crops;
- (3) For research on the yellow sugarcane aphid and webworm;
- (4) For administration, coordination, and research on various fruit fly control and eradication projects; and
- (5) For university-level research on pineapple pest problems.

Supporting testimony was submitted by the Hawaii Farm Bureau Federation. The Department of Agriculture testified in support of the intent of the bill but indicated that it could not support appropriations not included in the Executive Budget proposal for fiscal biennium 1993-1995. Your Committee also received written comments from the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources and the Hawaii Cattlemen's Council, Inc.

Upon further consideration, your Committee has amended the bill by deleting the appropriation sums for the purposes of continued dialogue and to ascertain, at a later date, the appropriate sums for each of the research projects.

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. 1424, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1424, H.D. 2.

Signed by all members of the Committee except Representative Tam.

SCRep. 551 Finance on H.B. No. 1796

The purpose of this bill is to extend the effective date of the Hawaii Young Scholars Program (Program) from two to five years.

The Department of Education testified in favor of the bill based on the Legislature soliciting private funds for this Program.

It is your Committee's understanding that the House Committee on Education has agreed to solicit funding from private sources for this Program.

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

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. 1796, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1796, H.D. 2.

Signed by all members of the Committee.

SCRep. 552 Finance on H.B. No. 434

The purpose of this bill is to appropriate funds for the establishment of an early defibrillation program to enable certified emergency first responder personnel to provide early defibrillation to victims of cardiac arrest.

The Hawaii Fire Chiefs Association, the State Fire Council, and the Fire Departments of the counties of Hawaii and Kauai testified in support of this bill. Your Committee also received testimony from the Department of Health supporting the intent of the bill, but indicating that immediate funding of a first responder early defibrillation program is not needed.

It is the intent of your Committee that in developing and implementing the early defibrillation program, priority be given to those areas where, according to statistics, firefighters are more likely to arrive and respond first at the scene of an emergency.

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

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. 434, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 434, H.D. 2.

Signed by all members of the Committee.

SCRep. 553 Finance on H.B. No. 1773

The purpose of this bill is to require the Department of Public Safety (PSD) to implement and develop a rigorous program (program) based on regimental discipline for defendants who:

- (1) Have been convicted of a class B or C felony;
- (2) Are between sixteen and twenty-four years of age; and
- (3) Have never been previously convicted of a felony.

The PSD testified in support of the bill. In its testimony, the PSD recommended that to maximize the potential of the program, the bill be amended to broaden the eligibility requirements of persons who may participate in the program.

Your Committee received opposing testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu. Partington and Foley, a Honolulu law firm representing the American Civil Liberties Union of Hawaii, also submitted written comments on the bill.

Based upon the recommendations of the PSD, your Committee has amended the bill by:

- (1) Authorizing the PSD to implement a rigorous offender program based on regimental discipline;
- (2) Broadening the eligibility requirements of persons who may participate in the program by making the program available to defendants and committed persons who:
 - (a) Are chosen by the PSD Director;
 - (b) Are in good physical condition;
 - (c) Have not been previously sentenced to an indeterminate term of imprisonment; and
 - (d) Are willing to participate in the program;
- (3) Changing the procedural requirements of the program with regard to the probation and sentencing of participants;
- (4) Deleting the time limitations of the program;
- (5) Adding an appropriation section; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 1773, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1773, H.D. 2.

Signed by all members of the Committee except Representative Chang.

SCRep. 554 Finance on H.B. No. 2078

The purpose of this bill is to extend the period that allows the Department of Public Safety and the Office of Youth Services to be exempted from state and county requirements relating to the planning, land use, and construction for the renovation or expansion of the Women's Community Correctional Center and the Hawaii Youth Correctional Facility for an additional year until July 1, 1995.

Your Committee received supporting testimony from the Department of Public Safety.

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. 2078 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 555 Finance on H.B. No. 2006

The purpose of this bill is to settle the unpaid ceded land revenues owed to the Office of Hawaiian Affairs (OHA) for the period of June 16, 1980, through June 30, 1991, by:

- (1) Authorizing the expeditious issuance of general obligation (G.O.) bonds in the amount of \$136,500,000 which represents the principal and interest owed through June 30, 1993, on the \$111,883,000 payable to OHA as provided for in Act 300, Session Laws of Hawaii (SLH) 1992, and costs of issuance for the bond issue; and
- (2) Appropriating \$9,555,000 for each year of fiscal biennium 1993-1995 for debt service on the bonds authorized.

Your Committee has received a message from the Governor requesting immediate passage of this measure, pursuant to Section 9, Article VII, of the State Constitution.

In testimony supporting this measure, the Office of State Planning and the Department of Budget and Finance explained that under Act 304, SLH 1990, the State is obligated to pay 10 percent interest on any unpaid balance due to OHA. Because interest rates on recent G.O. bond sales have been low (5.6 percent on January 8, 1993), it would be fiscally prudent to settle the OHA debt through the issuance of G.O. bonds. OHA also testified in support of this bill.

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. 2006 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 556 Finance on H.B. No. 2052

The purpose of this bill is to authorize the Department of Transportation to issue special facility revenue refunding bonds for special facility projects without further authorization by the Legislature, provided that the issuance of refunding bonds does not reduce the amount previously authorized by the Legislature.

Testifying in support of this bill, the Department of Transportation stated that because of recent substantial declines in the interest rates payable on bonds, this bill would allow the Department an 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.

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. 2052 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Santiago.

SCRep. 557 Finance on H.B. No. 2019

The purpose of this bill is to require that the value of permanent improvements made on lands 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.

Section 220.5 of the Hawaiian Homes Commission Act, 1920, as amended, authorizes DHHL to enter into developer agreements to develop Hawaiian home lands for homestead, commercial, and multi-purpose projects. This section also requires that lands under a project developer agreement are subject to withdrawal by DHHL at any time during the term

of the agreement with reasonable notice. Therefore, it provides for the reduction of rental in proportion to the value of the land withdrawn as well as the payment to the developer of the proportionate value of any permanent improvements on the withdrawn land. However, Section 220.5 does not describe the manner in which the permanent improvements are to be valued.

The DHHL testified in support of this bill.

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. 2019, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 558 Finance on H.B. No. 1930

The purpose of this bill is to provide purchasing flexibility for the University of Hawaii (UH) Alumni activities and programs by:

- (1) Clarifying that moneys in the UH Alumni Revolving Fund (Fund) may be expended on all costs associated with conducting alumni activities and programs; and
- (2) Exempting expenditures of the Fund moneys from State competitive bidding requirements.

The University of Hawaii Alumni Association (UHAA) testified in support of this measure. Explaining that UHAA is a Hawaii nonprofit corporation that is not an affiliate or arm of UH and that UHAA funds are non-state, private moneys, UHAA stated that its funds should not be subject to state purchasing restrictions and competitive bidding requirements.

The University of Hawaii also testified in support of the general intent of the bill but opposed the provisions seeking a waiver from State competitive requirements.

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. 1930 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Ward.

SCRep. 559 Finance on H.B. No. 2001

The purpose of this bill is to authorize the expeditious issuance of special purpose revenue bonds in an amount not to exceed \$6,000,000 to assist the Wailuku River Hydroelectric Power Company, Inc., complete a power plant project on the island of Hawaii.

Pursuant to Section 9 of Article VII of the State Constitution, the Governor has recommended immediate passage of this measure.

Testifying in favor of the bill, the Department of Business, Economic Development and Tourism (DBEDT) noted that the Legislature has already determined that the Wailuku River Hydroelectric Power Plant Project (project) qualifies as an industrial enterprise for purposes of Part V, Chapter 39A, Hawaii Revised Statutes. DBEDT also indicated that \$25,000,000 in special purpose revenue bonds has previously been authorized for the project. The \$6,000,000 amount proposed by the bill will enable project completion.

The Wailuku River Hydroelectric Limited Partnership testified that immediate passage of the bill would enable the project to forego obtaining costly loans, and begin providing much needed electricity to the people of the County of Hawaii by June of this year.

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. 2001 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 560 Finance on H.B. No. 2017

The purpose of this bill is to make various improvements to the funds and accounts provisions of the Hawaiian Homes Commission Act.

Specifically, this bill:

- (1) Removes the \$15,000 ceiling for home repairs and additions to homes for loans made from the Hawaiian Home General Loan Fund;
- (2) Correctly identifies 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" instead of "special funds;" and

- (3) Clarifies that receipts of the Hawaiian Home Trust Fund include gifts, bequests, and other moneys given for designated purposes.

The Department of Hawaiian Home Lands (DHHL) and the Office of Hawaiian Affairs testified in support of this bill. According to the DHHL:

- (1) The \$15,000 limit is unrealistic in light of rising prices for labor and materials for home repairs and renovations;
- (2) A trust fund is a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership. Therefore, references to the five special funds as trust funds is appropriate, since all five can only be used for the benefit of native Hawaiians; and
- (3) The Hawaiian Home Trust Fund was created by Act 229, Session Laws of Hawaii 1978, to allow DHHL to accept gifts and bequests. Thus, the amendment is consistent with the intent of the law.

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. 2017 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 561 Finance 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 public highways.

Specifically, this measure repeals the requirement that the county remit proceeds from the sale of any county public highway that was formerly a State public highway to the State. In addition, this measure provides that the Federal Highway Administration will be credited for its share of the sale proceeds since the State has no authority to waive a reimbursement or credit to the federal government, if a reimbursement or credit is required.

The Department of Transportation and the City and County of Honolulu's Department of Public Works testified in support of this measure. Testimony was submitted by the County of Hawaii's Department of Public Works and the Hawaii County Council in opposition.

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. 1055, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 562 Finance on H.B. No. 830

The purpose of this bill is to appropriate funds for the construction of temporary, portable facilities to house the Hale Kuamo'o Hawaiian Language Center and the Hawaiian Studies Department of the University of Hawaii-Hilo.

Supporting testimony was submitted by the Director of the Hale Kuamo'o Hawaiian Language Center and the Office of Hawaiian Affairs. Although the University of Hawaii supported the intent of the bill, it was unable to support the additional funding request to the University of Hawaii-Hilo at this time.

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. 830, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Ward.

SCRep. 563 Finance on H.B. No. 785

The purpose of this bill is to appropriate funds to the Legislative Reference Bureau to:

- (1) Publish replacement volumes and a replacement index to the Hawaii Revised Statutes (HRS); and
- (2) Employ temporary technical and clerical staff to accomplish this task.

Your Committee received favorable testimony from the Lieutenant Governor of the State of Hawaii, the Department of the Attorney General, the Department of Taxation, and the Legislative Reference Bureau. The Michie Company 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. 785, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 564 Finance on H.B. No. 1327

The purpose of this bill is to assist the Encogen Hawaii, L.P. develop a power plant and related facilities on the island of Hawaii to provide electric energy to Hawaii Electric Light Company, Inc., by authorizing the issuance of special purpose revenues bonds in an amount not to exceed \$36,000,000.

Your Committee received supporting testimony from a Honolulu law firm representing the Encogen Hawaii, L.P.

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. 1327, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 565 Finance on H.B. No. 1208

The purpose of this bill is to appropriate funds to continue biomass research for energy and alternative uses.

Testimony in support of this measure was submitted by the College of Tropical Agriculture and Human Resources of the University of Hawaii, the Department of Research and Development of the County of Hawaii, the International Longshoremen's and Warehousemen's Union Local 142, the Hawaiian Sugar Planters' Association, C. Brewer and Company, and the BioEnergy Development Corporation.

Although supporting the overall intent of this bill, the Department of Business, Economic Development, and Tourism testified it could not support new proposals for budget items not already contained in the Executive budget request.

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. 1208, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Ward.

SCRep. 566 Finance on H.B. No. 1082

The purpose of this bill is to allow the counties to prepare biennial budgets, provided that accounting and financial records continue to be maintained on a fiscal year basis.

Your Committee received testimony in favor of this bill from the Department of the Budget of the City and County of Honolulu.

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. 1082 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 567 Finance on H.B. No. 435

The purpose of this bill is to establish additional disclosure requirements on a temporary basis pertaining to insurers authorized to conduct business in the State.

Specifically, this bill:

- (1) Requires each insurer to notify the Insurance Commissioner within three days after determining that the insurer in good faith, believes it may be in a financial condition that is hazardous to the policyholders or to the public;
- (2) Allows the Insurance Commissioner to suspend or revoke the certificate of authority of an insurer who knowingly fails to comply with the notification requirements; and
- (3) Requires the Insurance Commissioner to notify the Legislature of the insolvency of any insurer within three days after the Insurance Commissioner has determined that the insurer is insolvent.

Your Committee received supporting testimony from the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 435, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Tam and Ward.

SCRep. 568 Finance on H.B. No. 1600

The purpose of this bill is to modify the certification provisions for energy conservation income tax credits under section 235-12, Hawaii Revised Statutes.

Specifically, this measure would provide that before a tax credit may be claimed, a registered, professional engineer must review the design of a solar energy system or heat pump installed and placed in service on new and existing multi-unit buildings used primarily for residential purposes. In addition, the engineer would be required to provide a written opinion that the solar energy system or heat pump is designed in accordance with recognized engineering practice.

Testifying in support of this measure, the Department of Business, Economic Development, and Tourism explained that professional designers of solar energy systems and heat pumps are reluctant to certify the design of solar energy systems and heat pumps under existing law. The existing requirement has been an impediment in obtaining reasonable assurance that solar energy systems and heat pumps are properly designed and adequately sized.

By only requiring the engineer to review the design and prepare a written opinion that the solar energy system or heat pump is designed in accordance with recognized engineering practice, this measure relaxes the stringent certification requirement and assures that the State tax credit will be applied fairly and reasonably.

The Department of Taxation and the Hawaiian Electric Company, Inc. submitted testimony in support of this measure. In addition, the Tax Foundation of Hawaii 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. 1600 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 569 Finance on H.B. No. 1592

The purpose of this bill is to update the requirements and procedures for issuing Hawaii State identification (I.D.) cards by:

- (1) Lowering the age that a minor may be issued a State I.D. card without parental signature from age sixteen to fourteen years;
- (2) Lowering the age that a minor may be issued a State I.D. card from six to three years;
- (3) Increasing the cost of the application fee for a State I.D. card from \$6 to \$8;
- (4) Transferring authority to waive fees for State I.D. cards to the Administrator of the Criminal Justice Data Center, rather than the Attorney General; and
- (5) Making various changes to the address and fingerprinting requirements for State I.D. cards.

Your Committee received supporting testimony from the State Attorney General.

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. 1592, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 570 Health on H.B. No. 1648

The purpose of this bill is to clarify which laboratories may perform premarital rubella testing and to remove from the statutes the requirement that the serological test for determining immunity be approved by the Department of Health.

Strong support for this bill was received from the Department of Health. Your Committee notes that the Department of Health is currently responsible for providing clinical laboratories with expensive and hard-to-obtain proficiency test samples, as well as approving the personnel who perform such tests. It is recognized by your Committee that passage of this bill will relieve the Department of Health from the above duties by allowing clinical laboratories, certified by the Federal Government under the Clinical Laboratory Improvement Amendment of 1988, to perform premarital rubella testing.

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. 1648 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 Isbell, Kawakami and O'Kieffe.

SCRep. 571 Health on H.B. No. 883

The purpose of this bill is to extend the repeal date for an Act Relating to Community Based Teenage Health Clinic Demonstration Project.

Testimonies received by the Waikiki Health Center and the Department of Health support this bill. Your Committee recognizes that many adolescents in Hawaii have little or no family support, are so alienated that they cannot participate in existing programs or services, or may have needs that existing resources cannot meet. It is also recognized by your Committee that many youths feel safer on the streets than they do living at home and that a great number of these youths congregate in the Waikiki area because it is easier for them to blend into this densely populated area.

Opposition to this bill was received by Hawaii Right to Life which had several concerns. Some of these concerns included parental notification of youths involved in the program and that the program evaluate teens to determine if they are really homeless.

Your Committee agrees with expressed concerns, as well as others involving the Department of Health which had not provided reports to the Legislature as required by law. Further, the possibility that the program was providing for youths living at home was also of concern.

Your Committee strongly expressed the need for the program to adhere to the criteria as stated in Act 162. Specifically, the program must adhere to the definition of "street youth", and not serve youths that are living at home if this category can be determined, and further that the Legislature receive a report from both the Department of Health and the Department of Human Services on the status of this program. Your Committee also has amended this bill to extend this program for another two years.

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. 883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 883, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Isbell, Kawakami and O'Kieffe.

SCRep. 572 Health on H.B. No. 1650

The purpose of this bill is to authorize the Director of Health to waive the thirty day per client per calendar year limit of respite care at the Waimano Training School and Hospital.

Testimonies received from the Department of Health supports this bill. Other testimonies received from the State Commission on Persons with Disabilities, the Protection and Advocacy Agency of Hawaii, and the State Planning Council on Developmental Disabilities also support the intent of this bill.

It is recognized by your Committee that there is a need in the community to provide quality respite services for persons with developmental disabilities, and further acknowledges that community resources are not often adequate to meet the needs of the client or the caregiver. As noted by the concerns of several of the groups testifying, your Committee has some concerns about expanding the thirty day calendar limit per client per year criterion without some stated contingency to assure that respite extensions do not become an avenue to admission or readmission to the institution.

In view of these concerns, your Committee has amended the bill to delete the thirty calendar days per client per year limit and add language to mandate the Director of Health to notify the State Protection and Advocacy system of the use of Waimano Training School and Hospital for respite care. The amendments also require the Director to notify the Protection and Advocacy system when respite care at Waimano Home is expected to exceed thirty days per year.

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. 1650, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1650, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Isbell, Kawakami and O'Kieffe.

SCRep. 573 Labor and Public Employment on H.B. No. 6

The purpose of this bill is to grant Hawaii National Guard (Guard) members with ten or more years of service preference when they apply for civil service positions in the State or its respective political subdivisions.

The State Department of Defense testified in favor of this bill, indicating that personnel retention is a critical concern for the Guard. The Department of Personnel Services testified in opposition to this bill, noting that the State follows the lead of the Federal government in granting employment preference to veterans.

Your Committee finds that granting this privilege will be a powerful attraction for potential new members, and will also encourage present personnel to remain with the Guard. Further, this privilege will serve as an incentive for Guard members to remain in service for at least ten years. Your Committee finds that promoting service in the Guard for at least a ten-year period will help to ensure an experienced and high quality organization.

Your Committee acknowledges the important work done by the Guard in service to the State and recognizes the necessity of continuing to develop and maintain a force of the highest possible caliber.

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. 6 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 Nakasone and Taniguchi.

SCRep. 574 Judiciary on H.B. No. 247

The purpose of this bill is to prohibit the selling of hiihiiwai from the waters within the jurisdiction of the State.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources and a private citizen.

The harvesting of hiihiiwai for commercial sale reduces the population of the species to below the normal reproduction cycle. The enactment of this measure would prevent the depletion of the hiihiiwai reserves by prohibiting the commercial sale of its species. In the interest of conserving other freshwater stream species, the Department of Land and Natural Resources testified that the commercial sale of hapawai and opae kala'ole should be prohibited as well.

Accordingly, your Committee has amended this measure by prohibiting the commercial sale of hapawai and opae kala'ole.

As affirmed by the record of votes of 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. 247, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 247, H.D. 1.

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

SCRep. 575 Judiciary on H.B. No. 1667

The purpose of this bill is to amend section 515-4, Hawaii Revised Statutes, to permit an exemption from the age discrimination protections in the real estate transaction law for housing constructed for older persons pursuant to federal law.

The Hawaii Civil Rights Commission and an attorney testified in support of this measure.

This amendment corrects an oversight in Act 171, Session Laws of Hawaii 1992 (Act 171). Act 171 added general age discrimination protections to the real property discrimination law. However, it inadvertently omitted an exemption for housing for older persons. Your Committee finds that this bill will ensure that potential developers of elderly housing projects are not deterred from building those projects and it will allow qualifying housing projects for the elderly to limit occupancy based upon age.

Your Committee has amended this bill to include 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. 1667, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1667, H.D. 1.

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

SCRep. 576 Judiciary on H.B. No. 1659

The purpose of this bill is to provide for filing and investigation of complaints, an appeals process, remedies, penalties, rulemaking authority, and housekeeping amendments to Hawaii Revised Statutes (HRS), to enable the Department of Labor and Industrial Relations to effectively enforce and administer Hawaii's Family Leave Law.

Testimony in support of this bill was submitted by the Department of Labor and Industrial Relations and Kokua Council for Senior Citizens.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1659, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1659, H.D. 1.

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

SCRep. 577 Judiciary on H.B. No. 1671

The purpose of this bill is to amend chapter 187, Hawaii Revised Statutes (HRS), to prohibit the release of non-native fish or non-native aquatic life into the state's waters. Additionally, this bill amends chapter 188, HRS, to prevent the breaking or damaging of coral with implements; to limit certain fishing activities; and to conform a penalty section of chapter 188, HRS, to the changes being made by this bill.

The Department of Land and Natural Resources and the State of Hawaii's Board of Agriculture testified in support of this measure.

Your Committee finds that this bill will prohibit the release of captive fish and other aquatic pets into the state's waters. Also, it allows non-commercial aquarium fish collectors to use certain nets and traps to catch these fish, but with a limit of five fish per day. Finally, it protects our ocean and marine environment by prohibiting the intentional breaking of coral.

Your Committee has made the following amendments to this bill:

1. Added a "savings provision" as SECTION 5 of this bill. This bill proscribes certain conduct and it provides a criminal penalty for that conduct. Your Committee believes that such conduct, that occurs prior to the effective date of this bill, should not be affected by this bill;
2. Made technical and other 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. 1671, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1671, H.D. 2.

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

SCRep. 578 Judiciary on H.B. No. 2028

The purpose of this bill is to:

- (1) Prohibit the disposal of used motor vehicle tires in landfills or at any municipal solid waste incinerator; and
- (2) Mandate that the retailer and the wholesaler who sell new tires shall collect and deliver the used motor vehicle tires to an authorized motor vehicle waste collection facility.

The disposal of tires at landfills or any municipal solid waste incinerator has presented several problems. When tires are disposed at landfills, the tires are extremely difficult to compact and tend to collect gases in the centers causing the tires to rise through the landfill. As the tires rise through the landfill, the tires disrupt the compaction and impact the integrity of the final cover. Moreover, the disposal of tires in landfills also contribute to the long burning landfills fires which are difficult to extinguish.

In addition, when tires are disposed at municipal solid waste incinerator facilities, the steel belts within the tires clog the shredders which prepare the refuse derived fuel prior to incinerating. The passage of this measure would stimulate the recovery of used motor vehicle tires and minimize the administrative costs of insuring the proper disposal of tires by allowing the tire industry to develop its own market-driven solutions.

Testimony in support of this measure was submitted by the Department of Health, the Department of Public Works of the City and County of Honolulu, Hawaii Automotive and Retail Gasoline Directors Association, and a private citizen.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2028, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2028, H.D. 2.

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

SCRep. 579 Judiciary on H.B. No. 783

The purpose of the bill is to permit the applicability of deferred acceptance of pleas under Chapter 853, Hawaii Revised Statutes, to non-felony assault cases.

A representative of the Office of the Public Defender testified in support of the bill.

Your Committee finds that burglary, felonious theft, and class "B" felony drug offenses are eligible for deferred pleas but that an assault involving any physical pain is not so eligible, even if the assault were part of a mutual affray, and a petty misdemeanor.

Your Committee notes that a deferred plea is only granted in the discretion of the court and only if it appears to the court that the defendant is not likely to again engage in a criminal course of conduct. Further, the degree of bodily injury would clearly be a factor considered by a court before determining whether a deferred plea might be granted.

Your Committee finds that the use of deferred pleas in appropriate cases and under appropriate circumstances has proven to be a beneficial tool in promoting public safety.

Concern was expressed by a representative of the Department of the Prosecuting Attorney of the City and County of Honolulu, that the bill not be construed to include those misdemeanors or petty misdemeanor offenses which have mandatory minimum sentences.

Your Committee does not intend that the bill permit deferred pleas in cases such as assault upon a police officer (§707-712.5) or abuse of a family or household member (§709-906), which have mandatory minimum sentences.

Your Committee finds that §853-4(5) clearly prohibits deferred pleas for nonprobationable offenses and that case law is also clear that such mandatory penalty cases do not fall within Chapter 853.

Your Committee has amended the bill by deleting awkward language regarding misdemeanors and petty misdemeanors and inserting clearer language stating that Chapter 853 is not applicable when the offense charged is a felony involving bodily injury or serious bodily injury.

As affirmed by the record of votes of 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. 783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 783, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bunda, Cachola, Hirono, Menor and Takamine.

SCRep. 580 Judiciary on H.B. No. 620

The purpose of the bill as received by the Committee is to allow persons to vote by absentee ballot at an established absentee polling place from the date that absentee ballots are available by mail and to allow all registered voters to vote by absentee ballot.

Your Committee received favorable testimony on the bill from representatives of the Office of the Lieutenant Governor, the Hawaii State Chapter of the National Rainbow Coalition, Common Cause Hawaii and the League of Women Voters.

Since your Committee was informed that requests for absentee ballots are received long before the actual ballots can be made available, a different method was necessary for designating the day on which the absentee polling place would open.

Therefore your Committee has amended the bill by providing that the absentee polling place shall open within two business days after absentee ballots have been delivered to the office of the respective clerks.

As affirmed by the record of votes of 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. 620, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 620, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 581 Judiciary on H.B. No. 1987

The purpose of this bill is to allow the chief election officer or the county clerk to postpone elections in the event of a natural disaster that makes the precinct inaccessible.

The need for some limited flexibility regarding election dates has come to the attention of your Committee through testimony regarding Hurricane Iniki, which recently devastated much of Kauai. Had this catastrophe occurred closer to the election date, the right of many to vote may have been impaired. This bill gives the chief election officer and the county clerk the ability to postpone the election to ensure that the right of the people to vote is preserved.

Testimony in support of this measure was received by your Committee from the Office of the Lieutenant Governor.

Your Committee has deleted the provision that would change the election date from the second to last Saturday of September to the third Friday in August because no problem with the current date was brought to the attention of the Committee.

Your Committee has also made technical, nonsubstantive amendments 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. 1987, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1987, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 582 Judiciary on H.B. No. 1400

The purpose of this bill is to provide that the term "person aggrieved" shall include an agency that is a party to a contested case proceeding before either the same agency or a different agency.

The 1981 Model State Administrative Procedure Act, caselaw, and public policy would appear to support that an agency that is a party to a contested case, and is aggrieved by a decision of the body hearing the contested case, has standing to seek judicial review in the Circuit Court under the Hawaii Administrative Procedure Act.

Testimony in support of this measure was submitted by the Department of Corporation Counsel of the City and County of Honolulu, the Department of Land Utilization of the City and County of Honolulu, the Office of the County Attorney of the County of Kauai, the Office of Corporation Counsel of the County of Hawaii, and the Department of the Corporation Counsel of the County of Maui.

As affirmed by the record of votes of 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. 1400 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, Hirono, Menor and Takamine.

SCRep 583 Consumer Protection and Commerce on H.B. No. 1880

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

H.B. No. 1880 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the action to report out H.B. No. 1880, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1880, H.D. 1.

Signed by all members of the Committee except Representatives Amaral, Bainum, Cachola, Takamine and Tom.

SCRep. 584 Judiciary on H.B. No. 947

The purpose of this bill is to require lobbyists to file an additional statement of expenditures with the State Ethics Commission on July 31 of each year.

Favorable testimony was received by your Committee from representatives of the State Ethics Commission, the League of Women Voters, and Common Cause.

Testimony raising concerns about the bill was submitted by representatives of the Aloha Society of Association Executives and a private company.

Your Committee finds that adding a new filing date of July 31 would mean that most of the lobbyists' expenditures during the legislative session would be reported to the Commission well after the session was over. Although there would be a report filed on March 31, that report would only cover the period of January 1 to the end of February and could, therefore, be misleading, because it is concerned only with the early part of the session.

Your Committee believes that the public is best served by having a report filed as soon as possible after the legislative session ends so that a report on expenditures during the session would be meaningful and complete. The January 31 report would still cover the period leading up to the legislative session.

Therefore, your Committee has amended this bill by:

- (1) Eliminating the March 31 and July 31 reports and requiring a May 15 report. This May 15 report would cover the period from January 1 through the last day of April. Your Committee has left the January 31 filing date intact except to provide that the period covered by the January 31 report will be from May 1 to December 31 of the previous year; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 947, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 947, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 585 Judiciary on H.B. No. 16

The purpose of this bill is to increase the fee that a vehicle transferee must pay for a new certificate of ownership when the transferee fails to forward the endorsed certificate of ownership and the certificate of registration to the Director of Finance within 20 days of the transfer of title.

In 1992, the Division of Motor Vehicles and Licensing processed approximately 162,000 transfers of ownerships of which 20 percent were delinquent transfers of ownerships. These delinquent transfers of ownerships cause inconvenience and aggravation to the seller of a vehicle. For example, if the vehicle has been physically transferred to the new buyer and the vehicle is issued citations, but the buyer has failed to file the transfer of ownership, the seller needs to take leave from employment, obtain a certified copy of the Notice of Transfer from the Motor Vehicle Branch, and submit it to the court. If the Notice of Transfer is not submitted, the seller may be subject to a fine of not more than \$100, whereas, in direct contrast, the buyer of the vehicle who failed to file the transfer of ownership is fined only \$5. The passage of this measure would increase the fee to \$50.

Testimony in support was submitted by the Department of Finance of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 16 and recommends that it pass Third Reading.

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

SCRep. 586 Judiciary on H.B. No. 789

The purpose of this bill is to amend section 291C-161, Hawaii Revised Statutes, to permit the court, as it deems appropriate, to require any person, who violates this chapter, to attend a course of instruction in driver retraining, in addition to any other penalties imposed.

The Judiciary, the Department of Transportation, and the Honolulu Police Department testified in support of this measure.

Your Committee finds that this bill clearly gives the court discretion to require certain offenders to attend a driver retraining course, in addition to other penalties that may be imposed. This provides the court with an important additional sentencing 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. 789, H.D. 1 and recommends that it pass Third Reading.

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

SCRep. 587 Judiciary on H.B. No. 1660

The purpose of this bill is to change section 386-95, Hawaii Revised Statutes, by eliminating imprisonment as a penalty for an employer who wilfully refuses or neglects to make any of the reports or to give any notice required by this section. Under this measure, offenders would be subject to an administrative penalty of not more than \$1,000 only.

The Department of Labor and Industrial Relations testified in support of this measure.

Your Committee finds that a monetary fine, rather than imprisonment, is a more appropriate penalty for a violation of this section.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1660 and recommends that it pass Third Reading.

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

SCRep. 588 Judiciary on H.B. No. 1673

The purpose of this bill is to add two new sections to chapter 171, Hawaii Revised Statutes (HRS). The first new section provides for the imposition of a fine of not more than \$500 for each violation of the rules regulating unencumbered public lands. The second new section supplies a definition for "unencumbered public lands."

The Department of Land and Natural Resources testified in support of this measure.

Your Committee has heard testimony that the present process for citing rules violators is cumbersome and ineffective. Currently, a violation of the rules requires the Board of Land and Natural Resources' approval before imposing a penalty. In many instances, by the time the order is prepared, the violator has left the premises. Your Committee finds that this bill will allow the Department of Land and Natural Resources to issue citations immediately against violators and it will permit prosecution of those persons violating the rules regulating unencumbered public lands.

As affirmed by the record of votes of 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. 1673 and recommends that it pass Third Reading.

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

SCRep. 589 Judiciary on H.B. No. 1664

The purpose of this bill is to amend sections 396-3 and 396-10, Hawaii Revised Statutes (HRS), by adding a definition for a "wilful violation" to section 396-3, HRS, and by moving the definition for a "serious violation" from section 396-10(k), HRS, to section 396-3, HRS.

The Department of Labor and Industrial Relations testified in support of this measure. The Chamber of Commerce of Hawaii (Chamber) testified in support of the intent of this bill but opposed the definition of "wilful violation." The Chamber recommended that the word "or," that appears after the word "accidental" in the definition, should be changed to "and."

Your Committee disagrees with the Chamber's recommendation. Your Committee has not made any changes to the definition of "wilful violation." Your Committee believes that the definition of "wilful violation" is meant to cover not only intentional or deliberate acts but also those done with intentional disregard or plain indifference to any standard or rule. If the word "and" were inserted for the word "or," as suggested by the Chamber, it would mean that in order to prove a wilful violation by the employer, it would be necessary to show both intentional or deliberate acts and intentional disregard or plain indifference to any standard or rule. This would make the burden of proof for a "wilful violation" much higher than your Committee intends it to be.

Your Committee finds that Hawaii's present occupational safety and health law lacks a precise definition for "wilful violation." Such a situation makes it difficult for employers to understand the nature of such cited violations and it creates difficulties for the department's compliance inspectors, when they attempt to determine whether or not a violation is wilful. Thus, it is imperative that there be a clear definition for a "wilful violation."

Since it is more coherent to keep all of the definitions for a chapter in one section, this bill has moved the definition for a "serious violation" from section 396-10(k), HRS, to 396-3, HRS. Also, your Committee has amended this bill to provide 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. 1664, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1664, H.D. 1.

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

SCRep. 590 Judiciary on H.B. No. 1665

The purpose of this bill is to amend Section 396-8, Hawaii Revised Statutes (HRS), to make the State's Occupational Safety and Health law more consistent with the federal law. There are several specific reasons for the changes proposed by this measure. One of the primary reasons for this bill is that under the present State law, an employee could refuse to work on account of a minor recordkeeping or administrative rule violation. This was not the intent of the federal law or the Hawaii state law. Additionally, Hawaii's law regarding an employee's refusal to work is different from the federal law and the existing case law. Finally, the State Department of Labor and Industrial Relations (Department) has been directed by the federal authorities to rewrite and expand the State's administrative rules. Since the Department intends to promulgate administrative rules that are identical to the federal rules, it would be wise to amend the State law to more closely track the federal law in this area.

The Department of Labor and Industrial Relations testified in support of this measure. The Department recommended that the bill be amended by adding a new subsection to Section 396-8, HRS, to read as follows:

Private right of action. Nothing in subsection (e) shall preclude any employee or representative of an employee, from exercising any rights afforded under the provisions in part V, chapter 378, HRS.

According to the Department, this proposed new subsection (g) would support a private right of action for injunctive relief in accordance with the Whistleblowers' Act in Chapter 378, and it would amend the bill to reflect the dual remedies available to employees.

The International Longshoremen's and Warehousemen's Union (ILWU), Local 142, testified that it had no objection to the intent of this bill. However, it felt that this measure took away the right of a worker to seek injunctive relief, when discrimination takes place, until the administrative procedures provided in this bill are completed. The ILWU argued that the remedies provided by this measure alone are insufficient. Although an employee could proceed with the administrative procedures under this bill and await the director's final determination within 90 days, the employee might be without a job and income for those 90 days. Thus, the ILWU felt that it should be clear that an employee should be allowed to proceed with injunctive relief also. It proposed certain language to be added to this measure to provide for an injunctive relief option.

The Department was not opposed to allowing an employee the opportunity to pursue different remedies at the same time. However, the Department did not wish to confuse and obscure Chapter 396, by adding numerous references to other laws detailing the various remedies available to employees.

Also, the ILWU requested that a private right of action be placed in this bill rather than a mere reference to the Whistleblowers' Act. The Department opposed this request.

The Chamber of Commerce of Hawaii testified that it had not submitted written testimony regarding this bill. However, based upon the testimony of the Department and the ILWU, they requested that they be allowed to comment on the proposed amendments or requested that another hearing be held on this bill.

Your Committee finds that it is not the intent of this bill to take away an employee's right to seek injunctive relief, as provided by law, when a discharge or discrimination against that employee occurs under Chapter 396, HRS. Nor is it the intent of this measure to limit the remedies available to an employee. Aside from the administrative procedures mentioned in this bill, an employee may proceed with any additional appropriate remedy, including injunctive relief or relief pursuant to the Whistleblowers' Act under Chapter 378, HRS.

Accordingly, your Committee has amended this bill by inserting language into the proposed new subsection (g) so that it will read as follows:

Private right of action. Nothing in subsection (e) shall preclude any employee or representative of an employee, from simultaneously pursuing injunctive relief in court pursuant to law and exercising any rights afforded under the provisions in part V, of chapter 378, in addition to the relief sought under this chapter.

As affirmed by the record of votes of 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. 1665, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1665, H.D. 1.

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

SCRep. 591 Judiciary on H.B. No. 1662

The purpose of this bill is to amend section 386-94, Hawaii Revised Statutes, by eliminating imprisonment as a penalty for persons who violate this section by receiving fees, that are not approved by the Director of Labor and Industrial Relations, for services under this chapter. Additionally, this measure allows the Director to fine those persons not more than \$10,000 for those types of violations.

The Department of Labor and Industrial Relations testified in support of this measure.

Your Committee finds that a monetary fine, rather than imprisonment, is a more appropriate penalty for a violation of this section.

Your Committee has amended this bill by deleting the word "such" on lines 11 and 16 and inserting the word "that" in its place.

As affirmed by the record of votes of 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. 1662, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1662, H.D. 1.

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

SCRep. 592 Judiciary on H.B. No. 1661

The purpose of this bill is to clarify that a circuit court may render judgments to enforce workers' compensation decisions made by the Director of Labor and Industrial Relations (DLIR) in awarding compensation, assessing a penalty, or both.

Testimony in support of this measure was submitted by DLIR.

Currently, existing law could be interpreted to mean that a circuit court can render a judgment to enforce compensation awards only. This measure corrects this oversight by mandating that judgments may be rendered to enforce penalties as well as compensation awards.

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. 1661, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1661, H.D. 1.

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

SCRep. 593 Consumer Protection and Commerce on H.B. No. 1628

The purpose of this bill is to provide a comprehensive set of laws applicable to financial institutions in this State that simplify, clarify, and modernize the laws regarding the regulation, organization, management, and activities of financial institutions.

Favorable testimony on this bill was received from the Department of Commerce and Consumer Affairs, the Hawaii League of Savings Institutions, the Hawaii Bankers Association, the Hawaii Credit Union League, the Corporate Trustees Association of Hawaii, the Hawaii Financial Services Association, Inc., and a representative speaking on behalf of various depository financial services loan companies.

Your Committee finds that many of the laws applicable to banks, savings banks, savings and loans associations, trust companies, depository and non-depository financial services loan companies and other financial institutions in Hawaii, (Chapters 401 through 411), were enacted in the 1930's, and except for periodic piecemeal amendments, have undergone little revision. These laws are in large measure archaic, obsolete, and sometimes inconsistent with each other.

Thus, your Committee finds that there is a need to organize and unify the laws which affect all financial institutions, strengthen the regulatory framework for these institutions, and to make these laws compatible with federal regulation. In addition, regulation relating to the imposition of sanctions, the application or approval process, and the ability to change the organization or structure should be consistent. Your Committee further finds that the laws must be sufficiently flexible to allow financial institutions to meet changes in products, services, and technology.

Accordingly, your Committee has amended this bill as follows:

- (1) Added a new Chapter to the Hawaii Revised Statutes (HRS) to be known as the Code of Financial Institutions. This chapter is a recodification of the laws applicable to financial institutions in the State;
- (2) Decreased the minimum paid-in capital and surplus requirements for all financial institutions in Article 3, part II on pages 85-86;
- (3) Repealed Chapters 401, 402, 403, 404, 405, 405A, 405D, 406, 407, 408, 409, 410 and 411, HRS;
- (4) Amended:
 - (a) Sections 53-18, 92-28, 201E-56, 201E-192, 206-33, 207-11, 207-12, 219-8, 241-1, 241-3.5, 356-33, 415-3, 431:10D-211, 432:1-104, 435E-15, 476-28, 478-5, 478-8, 514A-106, 516-40, and 554-6, HRS;
 - (b) Subsections, 155-6(c), 415-106(c), 412H-4(a), 432:1-501(a), 432:1-502(c), 441-41(a), 478-4(a), (b) and (d), 490:9-203(4), 514A-95(a), 514A-97(c), and 560:3-601(b), HRS; and
 - (c) Act 106, Section 10(1), SLH 1992;

to replace all references to repealed Chapters of HRS with the appropriate reference to the Code of Financial Institutions; and
- (5) Made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1628, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1628, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Herkes, Hiraki, Hirono and Takamine.

SCRep. 594 Transportation and Intergovernmental Relations and International Affairs on H.B. No. 152

The purpose of this bill is to require the State Department of Transportation and the Public Works Branches of the respective counties to notify the public of roadside herbicide applications by posting a warning sign at the application site and on the motor vehicle used to apply the herbicide.

Your Committees received testimony from the State Department of Transportation, the State Board of Agriculture, the State Department of Health, and the West Hawaii Sierra Club.

Your Committees find that due to the varying degrees of sensitivity in the general populace to the exposure of roadside application of herbicides, it is important for individuals to be forewarned of potential exposure to such herbicides. Your Committees further find that twenty-three other states have a variety of notification programs, most of which have been instituted within the past five years.

Your Committees have amended this bill to be applicable to all pertinent State and County agencies conducting herbicide applications.

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. 152, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 152, H.D. 2.

Signed by all members of the Committees except Representatives Alcon, Hagino and Yonamine.

SCRep. 595 Transportation and Intergovernmental Relations and International Affairs on H.B. No. 1139

The purpose of this bill is to require all anti-speed bumps on public and private highways to be made visible in all daily weather and traffic conditions.

Your Committees received testimony from the State Department of Transportation, Hawaii Bicycling League, and other concerned citizens.

Your Committees find that anti-speed bumps that are not visible can lead to accidents, damaged property, and injury. Even the most attentive individuals are not always aware of these unmarked speed bumps. This bill would assist in the prevention of potential accidents by better alerting persons to the forthcoming speed bump.

Your Committees have amended the bill as follows:

- (1) Added a new section to Chapter 291C, Hawaii Revised Statutes (HRS), to require that the State, the Counties, and private landowners make all anti-speed bumps on roadways or land under their respective jurisdictions sufficiently visible to an ordinarily observant person;
- (2) Deleted the amendment to Section 264-14, HRS; and
- (3) Changed the effective date of this Act to January 1, 1994.

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. 1139, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1139, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Alcon, Hagino and Yonamine.

SCRep. 596 Transportation on H.B. No. 310

The purpose of this bill is to amend the responsibilities and duties of the Statewide Transportation Council.

Your Committee finds that the transportation planning process includes cooperative and continuing participation by all levels of government. The county planning and public works directors are essential to the respective policy and technical advisory committees which are integral parts in the statewide transportation planning process.

Your Committee has amended this bill to add the Director of the Department of Hawaiian Home Lands as a member of the Statewide Transportation Council.

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. 310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 310, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 597 Transportation on H.B. No. 1191

The purpose of this bill is to add a new section to Chapter 261, Hawaii Revised Statutes, to designate the airport situated at Keahole-Kona as the Keahole-Kona International Airport.

Your Committee finds that the State Department of Transportation is in the process of improving the facilities at Keahole Airport to accommodate international traffic. The completion of the enhanced facilities, which include the strengthening and extension of the runway, is envisioned to generate an influx of international and domestic flights to West Hawaii. Your Committee finds, in anticipation of the international flights, that redesignating the name of this airport is appropriate.

Your Committee received testimony from the State Department of Transportation, the Kona Coast Resort Association, and the Kona-Kohala Chamber of Commerce.

Your Committee has amended this bill by deleting "Kona" from line five.

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. 1191, as amended herein, and recommends that it

pass Second Reading in the form attached hereto as H.B. No. 1191, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 598 Transportation on H.B. No. 8

The purpose of this bill is to amend the definition of a total loss insurance salvage rebuilt vehicle.

Your Committee finds that automobiles with damage to only the engine or transmission have been labeled as a total loss if the cost of repair to the automobile exceeds the value of the vehicle. Unlike the repair of a vehicle which sustained structural damage and requires specialized equipment and expertise to repair, the entire engine or transmission may be replaced without affecting the structural integrity of the vehicle. Your Committee finds labeling such vehicles as an "Insurance Salvage Rebuilt Vehicle" is unnecessary.

Your Committee received testimony from the State Department of Transportation, and the City and County of Honolulu Department of Finance.

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. 8 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 Hagino.

SCRep. 599 Transportation on H.B. No. 20

The purpose of this bill is to authorize the issuance of a four-year driver's license, to persons between eighteen and seventy-four years of age. This bill also establishes a two-year driver's license for those persons fifteen to seventeen years of age, and seventy-five years of age or older.

Your Committee finds that motor vehicle drivers between the ages of fifteen and seventeen are continuing to develop their driving skills. The requirement that the license of these young drivers be renewed every two years was mandated to ensure an individual's driving knowledge and ability would improve. However, statistics indicate that the two-year driver's license renewals currently required of persons eighteen to twenty-four years of age and persons sixty-five years of age or older does not change driving habits and thereby lower accident rates.

Your Committee received testimony from the State Department of Transportation, and the City and County of Honolulu Department of Finance.

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. 20 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 Hagino.

SCRep. 600 Judiciary on H.B. No. 747

The purpose of the bill, as received by your Committee, was to reduce the penalties for driving under the influence of intoxicating liquor for first offenders, so as to emphasize the Legislature's intent that no right to jury trial attaches to the offense as to first offenders. The bill also provided for a new offense relating to the infliction of damage to a person while driving under the influence of intoxicating liquor.

Testimony in support of the bill, as it relates to reducing penalties as to first offenders, was received by your Committee from representatives of the Attorney General of the State of Hawaii, the Office of the Prosecuting Attorney for the City and County of Honolulu, and Mothers Against Drunk Driving (MADD).

Your Committee also heard testimony from a Circuit Court Judge and a District Court Judge relating to the current status of DUI cases awaiting jury trial. Your Committee notes that in the First Circuit there are presently 3,000 DUI cases awaiting jury trial, while there are only 800 non-DUI cases awaiting trial.

There are usually 40 to 50 requests for jury trials in DUI cases filed per week, although very recently the number has fallen to about 20 per week. Apparently this is part of a cycle, and not an overall trend.

Your Committee finds that it would take 5 to 6 Circuit Courts handling nothing but DUI jury trials to clear the backlog and keep up with new cases coming into the system, simply because a jury trial is a very time consuming process.

At the same time, the District Court in the First Circuit is capable of disposing of non-jury DUI cases at the rate of 14 to 16 per day, per courtroom, for the reason that there are many changes of plea when it is apparent that trial is ready to begin, as well as the fact that bench trials do not require the process of selecting a jury, impaneling the jury, settling jury instructions, etc.

Your Committee finds that the District Court in the First Circuit previously used three courtrooms to handle DUI bench trials but the District Court now has reduced that number to a single courtroom for bench trials because many of the cases

have been transferred to Circuit Court due to the demand for jury trials. The Circuit Court currently has one courtroom available to handle DUI jury trials. Your Committee finds that the District Court would be capable of expeditiously handling both the backlog of DUI cases as well as new cases coming into the system.

It is your Committee's firm intention, as expressed unequivocally in the purpose clause of the bill, as amended, to express this Legislature's intent that DUI first time offenders have committed a "petty offense" as that term is used in a Constitutional sense. Your Committee finds that recent appellate cases have expressed concern with whether previous Legislatures intended DUI cases to be deemed a "petty offense".

In 1985, the Hawaii Supreme Court, in *State v. O'Brien*, 68 Haw. 38, 704 P.2d 883 (1985), stated that driving under the influence is a constitutionally serious offense essentially because of the increasingly severe sentencing provisions enacted by the Legislature beginning in 1982. The Court noted that it might be persuaded that the offense is not constitutionally serious if a first-time offender were to be subject to a possible incarceration lasting no more than five days.

In 1992 the Hawaii Supreme Court re-examined the DUI jury trial issue in light of Act 188 of 1990 which reduced the maximum jail time for first and second DUI offenses from six months to thirty and sixty days respectively. In that case, *State v. Jordan*, 825 P.2d 1065 (1992), the Supreme Court determined that the right to jury trial still applied under the Hawaii State Constitution, noting that Act 188 imposed an additional penalty for a first offense (the installation of an ignition interlock system) and that the legislative history of Act 188 of 1990 and Act 1 of the Special Session of 1991 (which amended some of the provisions of Act 188) indicated that the Legislature continues to regard DUI offenses as a very serious crime and a very serious social problem.

Your Committee notes that in its amended form, this bill specifically sets forth the Legislature's view that it regards the repeat offenders as the serious social problem, for it is the repeat offenders who have demonstrated an unwillingness to modify their behavior. The amended bill sets forth the Legislative finding that the first-time offender is of lesser concern because most first-time offenders will respond to treatment, will modify their behavior, and will cease to be a hazard to the general public. Repeat offenders, on the other hand, require firmer action and represent a serious social problem for by their actions they demonstrate that they are less likely to reform their behavior and hence represent a continuing danger to other motorists, passengers, pedestrians and the public in general.

Further, your Committee believes that the ameliorative provisions of the bill should be applicable to all first offender cases which are currently pending, and, since those accused first offenders will be facing reduced penalties for what is clearly a Constitutionally "petty" offense, there should be no right to jury trial. Upon appropriate motion, those cases should be transferred back to District Court for a bench trial.

Your Committee notes that the Hawaii Supreme Court in *State v. Von Geldern*, 64 Haw. 210, 638 P.2d 319 (1981) indicated that where a new act is ameliorative in nature, i.e. it authorizes the trial court to impose less than the current mandatory minimum sentence, it is not an ex post facto law, and may be applied retrospectively to give defendants the advantage of the new acts "more enlightened sentencing provisions."

Section 1-3 of the Hawaii Revised Statutes, however, provides that no law has any retrospective application unless otherwise expressed or obviously intended. Your Committee, therefore, believes that the expression of retroactivity in the bill, as amended, is appropriately included so that there can be no uncertainty that the Legislature intends the reduced penalty provisions to be applied retrospectively.

Your Committee also finds that because there are other statutes relating to negligent infliction of injury there is no present need to create the new offense of inflicting damage to another person while driving under the influence of intoxicating liquor.

Your Committee, therefore, has amended the bill by eliminating the previous Section 2 dealing with the new offense, eliminating that section of the purpose clause in Section 1 dealing with the new offense, and adding new language to the purpose clause in Section 1 to re-emphasize the Legislature's intent with regard to the Constitutionally "petty" nature of the first-time offense. The purpose clause was also amended to show that the Legislature regards the repeat offender as the serious social problem.

Lastly, 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 747, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, Herkes, Menor, Peters and Takamine.

SCRep. 601

Judiciary on H.B. No. 1062

The purpose of the bill is to conform the definition of blood alcohol concentration contained in the offense of driving under the influence of intoxicating liquor, §291-4 Hawaii Revised Statutes, with that of the administrative revocation law, §286-251.

Your Committee received testimony in support of the bill from representatives of the Department of the Prosecuting Attorney for the City and County of Honolulu, the Police Department of the City and County of Honolulu, and the Department of Transportation of the State of Hawaii.

Your Committee finds that the proposed definition will lend clarity and consistency to our laws relating to drunk driving.

Your Committee has noted that the failure to delete the term "per cent" from the statute was an error.

Your Committee has therefore amended the bill by deleting the term "per cent".

As affirmed by the record of votes of 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. 1062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1062, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, Herkes, Menor, Peters and Takamine.

SCRep. 602 Judiciary on H.B. No. 929

The purpose of the bill is to reduce the limitations period for actions relating to improvements in real property.

Testimony in support of the bill was received by your Committee from representatives of the Consulting Engineers Council of Hawaii, the Hawaii State Council of the American Institute of Architects, and the Construction Industry Legislative Organization.

Your Committee finds that lawsuits arising out of the construction of improvements to real property represent a unique problem for those involved in the design or construction of the improvements, for the reason that damage to property or injury to persons may occur at any time during the life of the building. Previous Legislatures have addressed this problem with the adoption of Section 657-8 of the Hawaii Revised Statutes.

Your Committee notes, however, that Section 657-8 does not apply to bodily injuries or wrongful death. In case of such an injury, any firm which helped design or construct the improvement could be sued at any time during the life of the building.

This potential liability works a hardship on those who are involved in the construction industry for they must continue to insure against these potential injuries indefinitely.

Your Committee finds that the Legislature should, as a policy decision, determine when the burden of responsibility should be shifted from those who constructed the building to the owner of the building. It is apparent that at some point in time responsibility for the injury should fall on those who are responsible for maintenance and inspection of the building and not on those who designed or constructed the improvement.

Because your Committee believes that bodily injury actions should be treated differently than actions involving damage to property, different limitation periods should apply to each.

Your Committee also believes it to be appropriate to follow the policy decisions of previous Legislatures that this statute should not specifically refer to the State and its agencies.

Therefore, your Committee has amended the bill by providing for an outside limit of seven years for damage to property and an outside limit of twenty years for bodily injury. In addition, your Committee has amended the bill by eliminating its application to the State and its agencies, changing its effective date to June 1, 1995, thereby giving ample opportunity for the public to familiarize themselves with the measure, and by making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 929, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 929, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Peters and Takamine.
(Representatives Amaral and Hirono voted no.)

SCRep. 603 Judiciary on H.B. No. 1466

The purpose of this bill is to limit a notary public's liability for failure to exercise ordinary care in performing a notarial act.

Currently, there are 4,300 notaries in Hawaii to attest and certify to certain documents or witness other actions such as the taking of depositions and affidavits. Despite the extremely important and valuable service provided by notaries to the public, there is no errors and omissions insurance available to protect notaries from malpractice lawsuits. Hence, the passage of this measure.

Testimony in support of this measure was submitted by 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. 1466 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, Hirono, Menor and Takamine.

SCRep. 604**Judiciary on H.B. No. 1564**

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes pursuant to chapter 23G, to correct errors, update references, clarify language, and delete obsolete or unnecessary provisions. All amendments are of a purely technical nature and contain no substantive changes to the law.

The reasons for the technical amendments made in the bill are as follows:

Section 1. L 1992, Act 181 amended chapter 9 of the Hawaii Revised Statutes (HRS), regarding the state foundation on culture and the arts, by designating sections 9-1 through 9-5 as Part I (general provisions) and enacting a new part II (foundation grant program), consisting of eight new sections. Newly designated section 9-13 refers to rules adopted pursuant to section 9-2; however, the foundation's authority to adopt rules is contained in section 9-5. The incorrect cross-reference to section 9-2 is deleted and replaced with the correct statutory reference.

Section 2. As in section 1 of this bill, newly designated section 9-15 contains an erroneous cross-reference to section 9-2 as the statutory source of the foundation's rulemaking authority, and is replaced with the correct reference to section 9-5.

Section 3. L 1970, Act 26, amended the election law by allowing circuit courts to compel the attendance of witnesses, punish contempts, and other powers in election contests in section 11-175, HRS. L 1973, c 217 amended that section, *inter alia*, by replacing the reference to circuit courts with the supreme court, but failed to amend the section title accordingly. The title is amended by deleting the reference to "courts" and substituting "supreme court" in its place to conform the title to the 1973 amendment.

Section 4. Section 26-14.6(f), HRS, which transferred the functions, authority, and obligations exercised by sheriffs and deputy sheriffs to the department of public safety effective July 1, 1990, cross-references every HRS section referring to "sheriff", "sheriffs", "sheriff's deputy", and similar references. However, two of these cross-references, sections 329-55 and 653-6, no longer contain references to sheriffs or deputy sheriffs, and are deleted from the list of cross-references in section 26-14.6.

Section 5. L 1989, c 80 repealed chapter 47, HRS (bonds: county and municipal) and enacted a new chapter 47 (county bonds). Repealed section 47-6 (use of proceeds) made reference to the "redemption or retirement of ... bonds". However, the new section on the same subject matter, section 47-5, incorrectly refers in paragraph (1) to the "redemption of retirement of bonds" (emphasis added). This manifest clerical error in section 47-5(1) is amended by deleting the first occurrence of the word "of" and the insertion of the word "or" in its place.

Section 6. L 1992, c 39, §1 amended HRS section 88-29 by, *inter alia*, deleting the reference to the secretary of the Employees' Retirement System (ERS), and substituting an administrator in its place; section 2 of L 1992, c 39 permitted the board to appoint the incumbent secretary as administrator. However, the reference to the secretary of the ERS in §88-211(4), HRS, was not similarly changed to administrator. This oversight is corrected by substituting "administrator" for "secretary" in that HRS section.

Section 7. Section 132-12, HRS, allows county fire chiefs to invoke the aid of any court of competent jurisdiction to enforce lawful actions or orders of the fire chief. Prior to its amendment and renumbering by L 1978, c 241, §2(15), however, that section contained several other provisions relating to notices, rehearings, appeals, and the record. See Revised Laws of Hawaii 1955, §184-14, as amended by L 1965, c 96, §127. Because the provisions of that section relating to notices, rehearings, appeals, and the record were deleted by the 1978 amendment, the title to that section is amended accordingly.

Section 8. L 1987, c 336, §7 sought, *inter alia*, to replace all references in the HRS to "director of planning and economic development", "director of department of planning and economic development", or like terms with "director of business and economic development". L 1990, c 293, §8 subsequently sought to replace all HRS references to "director of business and economic development", "director of the department of business and economic development", or similar terms, with "director of business, economic development, and tourism". However, both acts failed to amend the reference to "director of planning and economic development" in HRS §189G-1, relating to the establishment of the Hawaii aquaculture advisory council and its membership. That HRS section is amended by deleting the obsolete reference and substituting the correct reference in its place.

Section 9. Section 286-116(a), HRS, refers to certificates of self-insurance issued by the "commissioner of motor vehicle insurance" pursuant to sections 431:10C-107 and 431:10G-103. However, the office of the commissioner of motor vehicle insurance became obsolete on May 21, 1980, the effective date of L 1980, c 86. That Act, *inter alia*, established the director of regulatory agencies as the insurance commissioner and provided that the incumbent commissioner of motor vehicle insurance was to serve as the assistant insurance commissioner until the termination of that person's term of office. (The insurance commissioner is now appointed by the director of commerce and consumer affairs with the approval of the governor pursuant to HRS §431:2-102.) Section 286-116(a) is amended by deleting the obsolete reference to "commissioner of motor vehicle insurance" and inserting the correct reference in its place.

Section 10. L 1992, c 120, §1 amended section 287-36, HRS, regarding the proof of financial responsibility required under the motor vehicle safety responsibility act, but inadvertently omitted the word "to" following the words "bodily injury" in the first sentence of subsection (b). The word "to" is inserted to correct that omission.

Section 11. L 1992, c 120, §3 amended section 287-40, HRS, also relating to motor vehicle safety responsibility, but inadvertently omitted both a semicolon from the section title (following the word "proof"), as well as the words "the death of" following the words "In the event of" in paragraph (2). The revisor of statutes editorially corrected these manifest clerical or typographical errors pursuant to section 23G-15(7), HRS, by substituting a semi-colon in place of the comma in the title and by inserting the omitted language in brackets in paragraph (2). The re-insertion of the inadvertently omitted language is ratified by deleting the brackets in paragraph (2).

Section 12. The part IX heading of chapter 321, HRS, contains two errors. The first is a misspelling of the word "screening" in the 1992 HRS supplement (although the word is correctly spelled in the 1985 replacement volume). The second is a change in program name brought about by the amendment of section 321-101, HRS, by L 1992, c 312, §1, which changed the "vision and hearing screening program" to the "systematic hearing and vision program". Part IX, which consists only of section 321-101, is amended by amending the title to reflect the change in the name of the program.

Section 13. Section 353-63, HRS refers to the service of members of the Hawaii paroling authority, their compensation, and expenses. A semi-colon is inserted in the title after the word "members" to provide for greater clarity in the description of the contents of that section.

Section 14. Section 373F-2, HRS, regarding the tourism training council, refers to the "state commission on employment and human resources". However, the correct name of that commission, in accordance with §202-1, HRS, is the "advisory commission on employment and human resources" (emphasis added). The section is amended accordingly to achieve clarity and consistency.

Section 15. L 1987, c 347, repealed section 431-318, HRS, regarding taxation of insurers, and enacted a new section on the same subject matter, section 431:7-202, in its place. Section 386-154.5(a), HRS, contains a cross-reference to section 431-318(a), and is amended by deleting that obsolete reference and inserting the new reference to section 431:7-202(a) in its place.

Section 16. Section 394-5, HRS, regarding the administration of human resource development and training programs, contains an incorrect reference to the "state commission on employment and human resources". As in section 14 of this bill, amending section 373F-2, that reference is amended by deleting the word "state" and inserting the word "advisory" in its place to conform the name of the commission to section 202-1, HRS, to achieve clarity and consistency.

Section 17. L 1987, c 377 amended section 394B-2, HRS (the definition section in the chapter regarding dislocated workers), but failed to insert commas following the words "industrial" and "commercial" in the definition of "relocation". Commas are inserted in that definition to correct the omissions.

Section 18. L 1992, c 176, enacted a new article of the insurance code, chapter 431, HRS, and was codified as article 9B (reinsurance intermediary), in which "reinsurance intermediary-broker" is defined in section 431:9B-101. The title to section 431:9B-104, however, refers to "reinsurance intermediary brokers" without any hyphenation. The title to that section is amended to conform to the definition of that term in section 431:9B-101 to achieve consistency.

Section 19. As in section 18 of this bill, the term "reinsurance intermediary-manager" is defined in section 431:9B-101, HRS. The title to section 431:9B-104, however, refers to "reinsurance intermediary; managers". The title of that section is amended to conform to the definition of that term in section 431:9B-101 to achieve consistency.

Section 20. L 1992, c 124, §11 amended section 431:10C-304, HRS (obligation to pay no-fault benefits), but inadvertently omitted a comma following the words "or use of the vehicle", and substituted the word "defendant" in place of the word "dependent" following the words "surviving spouse and any" in paragraph (1)(C). The revisor of statutes editorially corrected these manifest clerical or typographical errors pursuant to section 23G-15(7), HRS, by inserting a comma in the place where it was omitted, and inserting the word "dependent" in brackets in the place omitted in paragraph (1)(C). The re-insertion of the inadvertently omitted language is ratified by deleting the brackets in paragraph (1)(C).

Section 21. L 1989, c 378, pt of §1 enacted the state health insurance program act, codified as chapter 431N. Section 431N-6 of that chapter contains two errors. The sentence immediately following the title to that section contains a reference to "this act", which should more appropriately be to "this chapter" and which is amended accordingly. The second error is contained in paragraph (3) of that section, which incorrectly refers to the "department of labor". That reference is amended to conform to the correct name of the department, "the department of labor and industrial relations", as provided in section 26-20.

Section 22. L 1992, c 202, §87 amended section 448H-4 (meetings of the elevator mechanics licensing board) by, inter alia, deleting the provision of that section specifying how many members of the board constitute a quorum, but failed to delete the corresponding reference to "quorum" in the title of that section. The word "quorum" is deleted from the title to correct that omission.

Section 23. L 1991, c 291, pt of §2 enacted a new chapter regarding petroleum industry information reporting, codified as chapter 486I. Section 486I-5 contains a reference in subsection (a) to "the current legislature session". This error is corrected by deleting "legislature" and substituting the word "legislative" in its place.

Section 24. L 1992, c 290, §1 amended section 580-10 (restraining orders; appointment of master) by amending subsection (d) to include, inter alia, mandatory minimum jail sentences for violations of restraining orders in subparagraphs (A) and (B) of paragraph (1) of that subsection. That subsection, however, contains an erroneous reference in paragraph (1) to "the mandatory sentences under paragraphs (1) and (2)". Subsection (d) is amended by deleting the incorrect reference to "paragraphs (1) and (2)" and substituting "subparagraphs (A) and (B)" in its place.

Section 25. Rule 608 of the Hawaii Rules of Evidence (part of section 626-1 of the HRS), relating to evidence of character and conduct of witnesses, contains two errors in subsection (b). The word "provided" is changed to "proved" in the first sentence of that subsection to correct a manifest clerical error made in the enactment of amendments to subsection (b) in L 1992, c 191, §2(6). The word "proved" (also in the phrase "proved by extrinsic evidence") is correctly set forth in the second complete sentence of that subsection as amended. The 1992 amendments to subsection (b) also added an incorrect reference to "paragraph (a)"; the word "paragraph" is deleted and "subsection" inserted in its place.

Section 26. L 1989, c 210, inter alia, amended chapter 464, HRS (professional engineers, architects, surveyors, and landscape architects) by replacing the registration of practicing engineers, etc., with licensure. Accordingly, the "board of registration of professional engineers, architects, surveyors, and landscape architects" in section 464-6, HRS, was amended by deleting the words "registration of" from the board's name. See L 1989, c 210, §8. However, section 672-3, HRS, regarding the design professional conciliation panel, still retains the obsolete reference to the "board of registration" in subsection (b). That subsection is amended by deleting the words "of registration" in the name of the board.

Section 27. As in section 26 of this bill, section 672-7, HRS, is amended to correct the obsolete reference to the "board of registration" in subsection (a) by deleting the words "of registration".

Section 28. The prefatory language in L 1992, c 197, §7 purports to amend section 502-25 in its entirety. However, only the title (which is not amended) and subsection (a) are set forth in section 7. The effect of the prefatory language, as currently worded, is to repeal the remainder of section 502-25, i.e., subsection (b) of that section. Both the committee and the revisor regard the prefatory language, as worded, as simply an oversight or clerical error. The prefatory language is therefore amended to provide that section 502-25 is amended "by amending the title and subsection (a)", so that subsection (b) of that section is not repealed.

Section 29. The prefatory language to L 1992, c 198, §1 purports to amend only subsection (a) of section 408-14. However, both the title and subsection (a) of section 408-14 are set forth and amended in section 1. The prefatory language therefore is amended to include the title as an additional provision of section 408-14 to be amended by that 1992 amendment.

As affirmed by the record of votes of 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. 1564 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, Oshiro and Takamine.

SCRep. 605 Judiciary on H.B. No. 1587

The purpose of this bill is to change the Department of Agriculture's form of mailing the five day written notice to the landowner and the occupier of any private property of the Department's intention to enter the property for the control or eradication of a pest, from registered mail to certified mail.

Registered mail is normally used for documents of obvious value, where documentation is required for each phase of the delivery process. The notice required by this section has no cash value. Should documentation of delivery be required, a return receipt can be requested with certified mail delivery. In addition, utilizing certified mail rather than registered mail for written notices will save the Department \$3.60 for each notice mailed by certified mail.

Testimony was received in support of this measure from the Department of Agriculture.

As affirmed by the record of votes of 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. 1587 and recommends that it pass Third Reading.

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

SCRep. 606 Judiciary on H.B. No. 2026

The purpose of this bill is to decrease the period of time from sixty to forty-five days during which the public may comment on permit applications, to give the Director of Health authority to establish a standard of performance for a "covered source", and to amend the definition of "modification" to include sources other than major sources.

A representative of the Department of Health testified in support of the bill, but was concerned that the bill failed to completely amend the definition of "covered source". A representative of Chevron USA supported the bill, while a representative of the Sierra Club, Hawai'i Chapter testified as to a concern with reducing the public comment period to 45 days.

Your Committee finds that the failure to completely amend the definition of "covered source" was a drafting oversight. Your Committee further finds that the standard public comment period with regard to similar types of permit applications is only thirty days, and that reducing the public comment period from 60 days to 45 days still gives more than ample time for public comment.

Your Committee, therefore, has amended the bill by inserting into the definition of "covered source" language which gives the Director of Health the authority to establish standards for three types of covered sources.

In addition, 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2026, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2026, H.D. 2.

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

SCRep. 607 Judiciary on H.B. No. 51

The purpose of this bill is to prohibit the possession or use of gill nets in an embayment, estuary, or marine life conservation district.

Testimony in support of this measure was submitted by the Department of Land and Natural Resources and private citizens.

Your Committee has amended this bill by:

- (1) Mandating that a person engaged in gill net fishing must not leave the net unattended for a period of not more than two hours;
- (2) Providing definitions for gill net, embayment, estuary, and marine life conservation district; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 51, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 51, H.D. 1.

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

SCRep. 608 Judiciary on H.B. No. 1647

The purpose of this bill is to allow out-of-state laboratories certified by the Substance Abuse and Mental Health Services Administration and approved by the Director of Health to perform substance abuse testing on Hawaii samples.

Currently, only a limited amount of out-of-state laboratories that are licensed in the laboratory's resident state are allowed to test samples from Hawaii. While many businesses prefer that testing samples be sent to one of the 92 operational laboratories located on the mainland that are certified by the Substance Abuse and Mental Health Services Administration, they are currently prohibited from doing so. The passage of this measure would allow these businesses to exercise their preference.

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

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. 1647, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1647, H.D. 2.

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

SCRep. 609 Judiciary on H.B. No. 1538

The purpose of this bill is to amend Chapter 291, Hawaii Revised Statutes (HRS), to add a new part concerning a Nonresident Violator Compact, which relates to procedures for traffic violations involving nonresident motorists. Additionally this bill makes changes to two sections of Chapter 287, HRS, to show the effect of the Nonresident Violator Compact upon these sections.

The City and County of Honolulu's Department of Finance, the Department of the Prosecuting Attorney, and Honolulu Police Department testified in support of this measure. Also, the Kauai Police Department supported this bill.

Your Committee finds that presently, when a motorist is arrested in a state other than the motorist's home state, the motorist must post collateral or a bond, be taken into custody, or be taken directly to court for arraignment. This is done to ensure compliance with that state's traffic laws. Otherwise, the motorist might disregard the citation upon returning home. This practice has resulted in unnecessary inconvenience and hardship for the motorist. Also, law enforcement uses an undue amount of time arresting the nonresident motorist.

Your Committee notes that the states, which become parties to the Nonresident Violator Compact, will work together to promote the motorists' compliance with the other states' laws, ordinances, and administrative rules. When applicable, there will be reciprocal recognition among the states of the right of motorists to accept a citation. Each motorist ignoring

or refusing a citation from a party state will be deemed, by all of the parties to the compact, to be an unfit or irresponsible person to hold a license to drive. This will eliminate the problems inherent in the posting of collateral or a bond, being taken into custody, or being taken to court for arraignment. Finally, it will result in a more effective utilization of law enforcement resources.

As noted by the Honolulu Police Department, Hawaii had over six million visitors last year. Your Committee finds that this bill will permit Hawaii's Traffic Violations Bureau to send suspension orders to party states to ensure collection of fines as a condition precedent to the renewal of the violator's out-of-state license.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1538, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1538, H.D. 2.

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

SCRep. 610 Judiciary on H.B. No. 1276

The purpose of the bill as received by your Committee was to require lead acid battery wholesalers to accept used batteries collected as part of solid waste management programs and to notify consumers that the price of a new battery includes disposal of the old battery.

Representatives of the Department of Health of the State of Hawaii and the Department of Public Works of the City and County of Honolulu testified in support of the measure.

A representative of the Legislative Information Services of Hawaii, Inc., testified that a voluntary commitment from wholesale dealers was being pursued which would result in those dealers accepting batteries from a county waste management operation in lieu of having the requirement in the statutes.

Your Committee finds that a voluntary program to resolve the problem of collecting and disposing of used batteries is preferable to a government imposed mandate, and has therefore amended the bill by eliminating, both from the purpose clause and the body of the bill, the requirement that sellers of new batteries accept, in proportion to the number of batteries they sell, all lead acid batteries.

In addition, 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1276, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1276, H.D. 2.

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

SCRep. 611 Judiciary on H.B. No. 1655

The purpose of the bill is to clarify the definition of "restaurant" in section 328K-1 of the Hawaii Revised Statutes.

Testimony in support of the bill was received by your Committee from representatives of the Department of Health, the American Cancer Society and the American Lung Association.

Currently, section 328K-1 provides that the Department of Health authorizes the operation of restaurants. Your Committee finds that technically the Department of Health authorizes the operation of "food service establishments", of which restaurants are a sub-category. Therefore, in order to be technically correct, it is necessary to amend the definition of "restaurants" to make reference to "food service establishments." 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1655, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1655, H.D. 1.

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

SCRep. 612 Judiciary on H.B. No. 2020

The purpose of this bill is to amend Section 209(a) of the Hawaiian Homes Commission Act to authorize:

- (1) 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) 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.

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 the list of eligible relatives. Notably, situations have arisen where parents were displaced from a home due to the death of a homestead lessee. Given no reason for the omission of parents from the list of eligible relatives, this measure corrects this oversight as well as allow the Hawaiian Homes Commission (Commission) to designate a native Hawaiian relative of a deceased lessee to succeed to the homestead lease. The designation by the Commission would include parents and other relatives if the designee dies without designating a successor and does not leave a surviving qualified spouse or child.

Testimony in support of this measure was submitted by the Department of Hawaiian Home Lands.

Your Committee has amended this measure by 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. 2020, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2020, H.D. 1.

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

SCRep. 613 Judiciary on H.B. No. 179

The purpose of this bill is to amend Chapter 291C, Hawaii Revised Statutes, by adding a new part dealing with "high occupancy vehicle lanes." This bill authorizes the issuance of citations by mail to the registered owners of vehicles which violate this part. A "high occupancy vehicle lane" means a lane of a roadway which is restricted primarily to vehicles carrying at least two persons. Additionally, the bill makes amendments to other sections of the Hawaii Revised Statutes in order to conform those sections to the purposes of the new part dealing with "high occupancy vehicle lanes."

The Department of Transportation, the Honolulu Police Department and the Chamber of Commerce of Hawaii testified in support of this measure. Also, the Honolulu Police Department recommended two changes to this bill as follows:

- (1) Changing the method for the mailing, of the summons or citation to the registered owner, from certified or registered mail to ordinary mail; and
- (2) Changing the period of time for the registered owner to respond to the summons or citation from 14 days to 7 days.

Your Committee notes that this bill will permit a summons or citation, for an offense under this part, to be issued either by presenting it to the violator at the scene of the offense or by having the officer identify the violator's license plate number and thereafter issue a summons or citation to the registered owner of the vehicle. Initially, your Committee was concerned that, unlike most of the traffic violations where the officer cites the violator at the scene, this bill would hold the registered owner responsible for a violation, under this part, whether or not the registered owner was in fact the violator.

The Honolulu Police Department (Department) presented testimony that the choice of whether to cite the registered owner of the vehicle, instead of the actual violator, is necessary. It stated that a violation under this part would be similar to the carpool violations that are presently being enforced. The Department declared that on certain highways, during rush hours, it is quite dangerous for the police to attempt to stop someone for this kind of violation. There have been instances where an offender, upon seeing the police, will dart from one lane into another lane to avoid the police. Thus, because of safety concerns to the driving public, the police, and the offender, the department has requested this alternative method of citation or summons.

Your Committee noted that some members of the driving public may become inclined to violate this law, if they see that the Department is not stopping violators. The Department acknowledged that this could become a concern. However, as a policy matter, the Department told your Committee that, whenever feasible, it first would seek to enforce this part by stopping the violator. It would only resort to the alternative of citing the registered owner by mail in those instances where the safety concerns dictate against stopping and citing the violator. Based upon these representations from the Department, your Committee decided to give the Department the choices of citing the violator at the scene or citing the registered owner under this part. However, your Committee also noted that, should it receive complaints relative to the practice of citing the registered owner, it would revisit this matter in the future.

Your Committee does not agree with the Department's recommendations regarding changes to this bill. Although your Committee understands the Department's concerns as to mailing expenses, your Committee believes that the citation or summons should be sent by registered or certified mail rather than by ordinary mail. Otherwise, there would be no tangible proof that the registered owner had received this document. Since a failure to respond to the summons or citation could result in a penal summons being issued for the registered owner, it would be a better practice to use certified or registered mail to give notice to the registered owner. Also, your Committee disagrees with the Department's suggestion to reduce the response time for the registered owner from 14 days to 7 days. We note that this bill anticipates having the citation or summons sent by mail to the registered owner and then having the registered owner respond by

mail to this document. Your Committee feels that 7 days may not leave enough time for the registered owner to contemplate a response and respond by mail to the citation or summons.

There are two sections of this bill, on pages 3 and 7 of H.D. 1, that discuss the sending of the citation or summons, by certified or registered mail, to the "legal and registered owner" of the vehicle. Your Committee notes that, in numerous instances, the legal owner of the vehicle may be a financial institution, that is not concerned with violations of this part. Since your Committee believes that such mail should be sent to the registered owner only, your Committee has amended the bill by deleting the words "legal and" from these sections of the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 179, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 179, H.D. 2.

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

SCRep. 614 Judiciary on H.B. No. 1797

The purpose of this bill is to grant the Director of Health emergency authority to ensure the uninterrupted supply of electricity on the island of Hawaii.

Your Committee received testimony from representatives of the Department of Health, the Department of Business, Economic Development & Tourism, and Hawaiian Electric Company, Inc. in support of the bill.

Your Committee finds that the shutdown of Hamakua Sugar Company's power generation facility would seriously threaten the reliability of the electric power system on the Big Island. Your Committee further finds that to ensure continued generation of electricity it is prudent to grant the Director of the Department of Health specific authority to transfer environmental permits related to Hamakua Sugar operations.

Your Committee has amended the bill by specifically limiting the new powers granted to the director, so that they may be used solely for the purpose of ensuring the continued generation of power from the Hamakua Sugar Company's operations. Further, your Committee has placed the requirement for publication of notice to the public in the statute itself, as opposed to the purpose section of the bill, and has corrected an obvious error by changing the phrase "public consent" to "public comment".

In addition, 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1797, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1797, H.D. 2.

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

SCRep. 615 Finance on H.B. No. 246

The purpose of this bill is to establish the Molokai Water Resource Advisory Committee to provide input to the Commission on Water Resource Management (Commission) regarding the management of the Molokai water management area.

Section 174C-41, Hawaii Revised Statutes, requires that when the Commission determines that an area may be threatened by existing or proposed withdrawals or diversions of water, the Commission shall designate that area as a water management area. In May, 1992, the Commission designated the entire island of Molokai as a water management area due to concerns that the area may be threatened by withdrawals or diversions of water.

A member of Maui's County Council, the State Council of Hawaiian Homestead Associations, and two Molokai residents submitted testimony in support of this measure. Testimony supporting this bill noted that the establishment of the Advisory Committee is necessary to assure Molokai residents that their concerns will be heard.

The Department of Land and Natural Resources and the Department of Hawaiian Home Lands submitted testimony in opposition.

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. 246, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 616 Finance on H.B. No. 656

The purpose of this bill is to appropriate funds for the promotion and marketing of tourism in Hawaii.

Testimony in support of the intent of this measure was submitted by the Department of Business, Economic Development, and Tourism; the Hawaii Visitors Bureau; the Chamber of Commerce of Hawaii; the Hawaii Hotel Association; the Maui Hotel Association; Aloha Tower Associates; the Hilton Hotels Corporation; Aston Hotels and Resorts; and United Airlines.

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. 656, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 617 Finance on H.B. No. 1047

The purpose of this bill is to extend the existence of the Convention Center Authority from June 30, 1994, to June 30, 1998.

Testimony in support of this bill was submitted by the Convention Center Authority, the Hawaii Convention Park Council, the Chamber of Commerce of Hawaii, and the Hawaii Hotel Association.

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. 1047, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 618 Finance on H.B. No. 1374

The purpose of this bill is to appropriate funds for a dialysis machine for North Hawaii.

The Department of Health testified that it supports improving the accessibility of important health services, such as dialysis treatment, to the residents of the Neighbor Islands. However, because of the State's fiscal situation, the Department cannot support the funding proposed by this bill.

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. 1374, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Santiago.

SCRep. 619 Energy and Environmental Protection and Economic Development and Business Concerns on H.B. No. 673

The purpose of this bill as received by your Committees is to encourage recycling by amending Chapters 342G and 342H of the Hawaii Revised Statutes, which encompass integrated solid waste management and solid waste pollution, to include a definition of "post-consumer recyclable materials" that assumes that recycling is not a service, but rather, is an integral part of a manufacturing process aimed at producing a marketable product. This measure also amends Chapters 342G and 342H by defining composting as an agricultural activity, specifying that the recycling database includes only those businesses involved in recycling and bioconversion of post-consumer recyclable material, and requiring that the Director of Health encourage recycling of post-consumer recyclable materials and composting.

Your Committees heard testimony from the Department of Health that the definition of "post-consumer recyclable materials" in H.B. No. 673 was inaccurate and in conflict with existing definitions used by the Department of Accounting and General Services. The Department of Health proposed that the term "post-consumer recyclable materials" be replaced with an amended definition of "recycling." In addition, the Department of Health suggested that the term "secondary resources" be included and be defined as feedstock, which is the raw material supplied to a machine or processing plant. The Department of Health testified that its definitions would more clearly define recycling as part of a manufacturing process, thereby fostering an economic climate supportive of collection and processing of recyclable materials by giving recycling economic benefits currently afforded the manufacturing industry and allowing recycling industries to avoid the higher taxes levied on services.

Your Committees also heard testimony from the City and County of Honolulu that recycling databases would be unnecessarily restricted if it were specified that recycling or bioconversion should involve post-consumer recyclable material, because this would exclude information on the recycling or bioconversion of pre-consumer recyclable materials.

Your Committees agree with the purpose of H.B. No. 673, but also recognize that any definition of recyclable materials added to the Hawaii Revised Statutes should also be compatible with existing definitions used by the Department of Accounting and General Services. In addition, your Committees agree with the testimony of the City and County. We have accordingly amended H.B. No. 673 to replace the definition of "post-consumer recyclable materials" with the Department of Health's proposed definitions of "recycling" and "secondary resources," and to delete the term "post-consumer recyclable material" from the section of 342G establishing the recycling database. Your Committees have also deleted the term "post-consumer recyclable material" from Section 5 of H.B. No. 673.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection 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. 673, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 673, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Hirono and M. Ige.

SCRep. 620 Energy and Environmental Protection on H.B. No. 66

The purpose of this bill is to amend the current law relating to the procurement, control, distribution, and the sale of petroleum products. The bill expands the definition of aviation fuels to include Jet A, Jet A-1, and aviation gasoline. The bill also increases from five percent to ten percent, the percentage of petroleum products that the Governor or the Governor's authorized representative may set aside to alleviate hardship when a shortage of petroleum products exists.

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

The testimony recommended several amendments to the language, including incorporating the majority of the text from a similar emergency fuel bill, H.B. No. 1599, Regular Session of 1993. Incorporating the language of H.B. No. 1599 would provide for inclusion of emergency and essential intrastate air transport services into the present State fuel set-aside program.

Your Committee finds that H.B. No. 1599 directly addresses the need to provide emergency gasoline procurement and distribution. Your Committee, therefore, recommends that the body of this bill be replaced by the body of H.B. No. 1599, and passed out of committee as amended.

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. 66, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 66, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 621 Ocean Recreation and Marine Resources; Water and Land Use Planning; and Economic Development and Business Concerns on H.B. No. 723

The purpose of this bill, as received by your Committees on Ocean Recreation and Marine Resources, Water and Land Use Planning, and Economic Development and Business Concerns, is to require state and county agencies to assume that there will be a 0.3 meter sea level rise over the next hundred years when planning for coastal areas.

Your Committees find that there is no documentation to support the assumption that a projected 0.3 meter sea level rise over the next century is a valid estimate. However, your Committees recognize that potential sea level rises must not be disregarded, and that they should be considered among other hazards in the coastal management program.

Your Committees received testimony in support of this bill from the Office of State Planning, and the Public Access Shoreline Hawaii. The Office of State Planning supports extending the shoreline setback line to help ensure that structures are not damaged by coastal hazards such as storm events and sea level rises. Public Access Shoreline Hawaii, a public interest coastal zone advocacy organization, urged adoption of this bill as a long term measure to protect private property and public resources along the shores of our island state from the damaging consequences of a rising sea level. A State Representative reported that the Pacific Congress of Marine Science and Technology International (PACON) urges its membership to plan ahead for pending sea level rises in coastal areas. The Land Use Research Foundation testified in opposition to this bill, stating that theories about sea level rises are still debatable, and that planning for more than twenty years in the future is unrealistic.

Your Committees have amended this bill by deleting references to Section 205-4, Hawaii Revised Statutes, and amending Sections 205A-2(b)(6) and 205A-2(c)(6) to include "sea level rise" as a one of the potential coastal hazards about which adequate information must be developed and communicated, and the risks of which must be reduced by controlling development and implementing other measures.

Your Committees further amended this bill by 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 Ocean Recreation and Marine Resources and Water and Land Use Planning 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. 723, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 723, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bainum, Beirne, Cachola, Herkes and Tam.

SCRep. 622 Ocean Recreation and Marine Resources on H.B. No. 1669

The purpose of this measure is to amend Section 188-35(a), Hawaii Revised Statutes, in order to correct the spelling of the name of a body of water located in Kapaa, Kauai.

Section 188-35(a), Hawaii Revised Statutes, makes it unlawful for any person to fish or take aquatic life from specified waters. When this provision was amended in 1957, the name of a body of water on the island of Kauai was misspelled. This bill will correct that error by replacing the statutorily referenced mythical name, "Waikaena Canal," with the correct name, "Waikaea Canal."

The Department of Land and Natural Resources testified in support of this measure, and stated that based on staff discussions with fishermen and residents in the area, it has been determined that the proper and familiar name of the location in question is "Waikaea Canal."

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. 1669 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, Hirono and Tajiri.

SCRep. 623 Ocean Recreation and Marine Resources on H.B. No. 1721

The purposes of this measure are to strengthen the Coastal Zone Management Program, enlarge its scope, and provide for greater public participation in the planning and review process to ensure that coastal resources are used extensively, as well as adequately protected.

Your Committee finds that this bill will accomplish the following:

- (1) Provide for greater public participation in coastal zone management plans and policies;
- (2) Add to coastal resource areas which have recreational value;
- (3) Give priority to public recreational use of coastal resources over private commercial use;
- (4) Require that point and nonpoint source pollution be minimized, and that there be an effective response to oil spills;
- (5) Require periodic updates of plans for the use of coastal zone management funds to address problems not adequately addressed by existing laws;
- (6) Require that the Office of State Planning advocate agency compliance through testimony, and if appropriate, litigation;
- (7) Provide for monitoring of state and county enforcement activities related to coastal zone management;
- (8) Clarify the definition of "department" as used in Part II of Chapter 205A; and
- (9) Expand the definition of "shoreline area" in Part III of Chapter 205A to account for structures that violate coastal zone restrictions or which fix or significantly affect the highest annual wash of the waves.

Your Committee received testimony in support of this bill, together with several suggestions, from the Office of State Planning. An interested citizen testified that counties need greater flexibility in granting permits in coastal zone management areas.

Your Committee has amended this bill by:

- (1) Adding point and nonpoint source pollution to the hazards encompassed by Sections 205A-2(c)(6)(A) and 205A-2(c)(6)(B);
- (2) Adding the requirement to Section 205A-2(c)(6)(F) that oil and other hazardous spills and discharges be dealt with promptly;
- (3) Identifying the county planning departments included under the definition of "department" in Section 205A-22;
- (4) Specifying that private facilities or improvements and sand moving activities granted variances under Sections 205A-46(a)(9) and 205A-46(a)(10) must be planned in coordination with a professional with special education and experience in wave hydrodynamics and sediment transport.
- (5) Making technical, nonsubstantive changes for purposes 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. 1721, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1721, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 624 Finance on H.B. No. 82

The purpose of this bill is to increase the general excise tax rate imposed on wholesalers or dealers of tobacco products from forty to fifty per cent of the wholesale price.

The Department of Taxation submitted testimony in opposition to this bill, instead favoring a tax of 4.5 cent per cigarette and enabling the State to pass the tax on to military bases. The Healthcare Association of Hawaii also preferred a per cigarette tax.

The American Lung Association and the American Cancer Society indicated that the proposed increase was not a sufficient deterrent to reduce cigarette use in the State.

Testimony supporting the passage of this measure was submitted by the Department of Health and the Hawaii Medical Association.

The Tobacco Institute and interested citizens submitted testimony in opposition to this measure. The Tax Foundation of Hawaii also submitted comments.

After careful consideration, your Committee has amended this bill by adopting the recommendations proposed by the Department of Taxation and the Healthcare Association of Hawaii. Specifically, your Committee deleted the substance of this measure and instead inserted the provisions of H.B. No. 2048, H.D. 1., which:

- (1) Provides that every wholesaler or dealer of cigarettes and tobacco products shall pay an excise tax of 4.5 cents per cigarette sold;
- (2) Establishes reporting requirements for wholesalers and dealers to keep track of cigarettes and tobacco products sold and the taxes chargeable;
- (3) Appropriates unspecified amounts for fiscal year 1993-1994 and fiscal year 1994-1995 for health education and prevention programs related to smoking to be expended by the Department of Health; and
- (4) Requires the tax to apply after June 30, 1993, or after the last day of any month 90 days after a federal law is enacted that would allow the State to impose a general excise tax on cigarettes sold in military installations in 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. 82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 625 Finance on H.B. No. 120

The purpose of this bill is to provide that the determination of the amount of public assistance be based on the poverty level established by the federal government in 1991.

The Department of Human Services (DHS) testified in support of the intent of the bill to address the escalating cost of money payment programs in light of the State's economic situation. However, in its testimony, the DHS recommended maintaining the public assistance allowance at the 1992 federal poverty level to prevent financial loss to individuals and families.

In addition, your Committee received opposing testimony from several organizations including the State Planning Council on Developmental Disabilities; National Association of Retired Federal Employees in Hawaii; ILWU Local 142; Committee on Welfare Concerns; National Association of Social Workers, Hawaii Chapter; Hawaii Advocates for Children and Youth; Kalihi-Palama Health Center; and Palama Settlement. The administrator of the Single Parent Advocacy Network at the YWCA and a former welfare recipient also testified against this measure.

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

- (1) Providing that the determination of the amount of public assistance allowance be based on the 1992 federal poverty level;
- (2) Clarifying the method required to determine the assistance allowance by conforming the rounding down process to the federally prescribed method;
- (3) Changing the repeal date of the bill from June 30, 1996, to June 30, 1994; and
- (4) 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 120, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 120, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Santiago.

(Representative Ward voted no.)

SCRep. 626 Finance on H.B. No. 122

The purpose of this bill is to generate revenue to cover health care payments for the federally-funded Medicaid program and to earn federal matching funds on the revenue by levying and assessing a Hospital and Nursing Facility Tax of ten percent on all nursing facility income.

The bill also establishes the Health Care Revolving Fund, into which will be deposited all Hospital and Nursing Facility tax collections and tax revenues paid from the general fund and which will be used to match federal Medicaid program funds.

Your Committee received testimony in favor of the bill from the Department of Human Services, the Department of Taxation, and several long-term care providers. The Hawaii Long Term Care Association and the Healthcare Association of Hawaii supported the intent of the bill but expressed some reservations about particular provisions of the bill. The Tax Foundation of Hawaii submitted comments on the bill.

Testimony in opposition to the bill were submitted by the Chamber of Commerce and concerned citizens.

Upon further consideration, your Committee amended the bill by:

- (1) Changing the amount of the tax to be assessed on nursing facility income from ten percent to six percent;
- (2) Including a provision stating that the tax program will not be instituted until the Department of Human Services determines the allowable reimbursement costs for facilities subject to the tax;
- (3) Providing for a repeal of this chapter on June 30, 1997; and
- (4) Making other technical, nonsubstantive amendments for the purposes of clarity and style.

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. 122, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 122, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Santiago.
(Representative Ward voted no.)

SCRep. 627 Finance on H.B. No. 1710

The purposes of this bill are to:

- (1) Create a Procurement Task Force to submit a proposed Procurement Code;
- (2) Amend the advertised bid requirements as a short-term solution to the current procurement laws while awaiting the Task Force's recommendations; and
- (3) Repeals Chapter 103, part II, Hawaii Revised Statutes, on June 30, 1994, to ensure that a new Procurement Code will be in effect by July 1, 1994.

Although agreeing that the procurement laws need to be simplified, clarified, and modernized, the Department of Accounting and General Services testified that the Department favored the Administration's proposal contained in H.B. No. 2000.

It is your Committee's intent to implement a new procurement law that will ensure that government purchasing and contracting are performed with uniformity and consistency.

However, your Committee has several concerns about the new Procurement Code proposed by the State Administration. One concern is that the Code itself does not take into effect until July 1, 1994. The second concern is that various complex issues contained in the proposed Code must still be considered and resolved. Moreover, there are several provisions in the Code that are uncertain and need to be thoroughly reviewed and possibly revised. And finally, the Administration's proposal requires several steps be taken before the Code itself can be implemented, including the establishment of a Temporary Committee to develop and draft all rules; the creation of the Office of the Inspector General; and the establishment of the Public Procurement Policy Council to adopt the rules proposed by the Temporary Committee and to review policies, practices and concerns necessary to implement the Code.

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

- (1) Changing the bid level that require public advertisement before a contract can be let to:
 - (a) \$10,000 for goods and services; and
 - (b) \$25,000 for construction; and

- (2) Adding to the list of items that are exempted from the public bidding requirements:
 - (a) Emergency medical services purchased by the Department of Health; and
 - (b) Personal services contracts that allow contractors to perform their duties concurrently with their private businesses or professions.

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. 1710, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1710, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Kanoho and Tajiri.
(Representative Marumoto voted no.)

SCRep. 628 Finance on H.B. No. 2156

The purpose of this bill is to facilitate local school reform initiatives by:

- (1) Removing obstacles to local funding and planning;
- (2) Encouraging greater community participation in schools;
- (3) Improving accountability of schools to citizens and their elected representatives at the state and local level; and
- (4) Using creative methods to finance quality school facilities and equipment for the education of Hawaii's children.

Your Committee received extensive testimony supporting the intent of this bill from the Board of Education, the Chamber of Commerce of Hawaii, the Hawaii State PTSA, the Kauai District PTSA, and concerned citizens.

The Department of Taxation opposed the provision designating 7.5 percent of the general excise tax revenues realized in each fiscal year to the credit of the State Educational Facilities Improvement Special Fund. And the Tax Foundation of Hawaii and the Department of Budget and Finance submitted comments.

Upon further consideration, your Committee amended the bill by:

- (1) Deleting the sections making appropriations for school-based incentive and innovation grants and adjustments for the pay of public school administrators;
- (2) Removing the provision designating 7.5 percent of general excise tax revenues for the school facilities special fund and reinstating provisions regarding the disposition of taxes derived from the sale of liquid fuel;
- (3) Making permanent the State Educational Facilities Improvement Special Fund;
- (4) Requiring the Department of Education, with regard to provisions relating to the hiring of temporary personnel, to hire such personnel for terms not exceeding one year and to report hirings to the Department of Budget and Finance as they occur;
- (5) Providing that the consideration of a longer school day or longer school year period would relate to state and local school initiatives included in proposals for the incentive and innovation grant review process; and
- (6) Making extensive technical, nonsubstantive amendments to correct drafting errors and for the purposes of clarity and style.

While improving school facilities is extremely important for the quality of education in the State, your Committee believes that the Legislature should review the facilities improvement plan required by this bill before considering future increases in facilities funding.

In addition, your Committee intends that the Board of Education should have an opportunity to review any proposal reviewed by the Incentive and Innovation Grant Review Panel, which has statewide policy implications.

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. 2156, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2156, H.D. 2.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 629 Finance on H.B. No. 1975

The purpose of this bill is to assist residents of the Hamakua Coast on the Big Island affected by the recent closing of the Hamakua Sugar Company.

This bill provides these residents with needed information about governmental relief services by appropriating funds to distribute this information in a newsletter format.

The provision for needed information about governmental relief services is but one of many types of assistance required by Hamakua residents in their time of need. In terms of the broader picture, negotiations have been underway to develop an overall strategy to address the effects of the closing of the Hamakua Sugar Company, now scheduled for March 31, 1993. To date, this anticipated "package" has not yet been finalized.

Some believe that the final "package", among other things, will address the following:

- (1) Housing - the need to ensure that the four hundred plus families currently residing in employee housing will not become homeless;
- (2) Health - the need to ensure that employees, family members, and pensioners will continue to receive affordable medical services; and
- (3) Temporary employment - the possibility of extending harvesting operations for an additional eighteen-month period to permit the final harvest of the existing crops. A February, 1993, Hawaii Sugar Planters' Association (HSPA) inspection team estimates that if operations were extended for eighteen months, Hamakua Sugar Company could harvest some 16,000 acres of remaining sugar cane that could provide some \$42 million in income (based on 7.5 tons of sugar per acre; and \$355/ton). Electrical power income could add another \$7.5 million. In summary, extending operations for another eighteen-month period could produce approximately \$50 million in income. At the same time, HSPA projects expenditures estimated at \$37 million.

When the final "package" is developed, it is essential that the Legislature has a "vehicle" to incorporate the proposed legislation, and thereby allow for public input through the regular legislative process. Of utmost importance then is having an appropriate bill available for this purpose. It is your Committee's intent that this bill serve as the primary "vehicle" for incorporating the final Hamakua "package", given the bill's broad title. To achieve this objective, your Committee has replaced the contents of this bill with the following:

- (1) Section 1 provides background information about the demise of the Hamakua Sugar Company;
- (2) Section 2 appropriates \$1 to meet the housing needs of Hamakua residents;
- (3) Section 3 appropriates \$1 to meet the health needs of Hamakua residents;
- (4) Section 4 appropriates \$1 to be deposited into the agricultural loan revolving fund. The purpose of this appropriation is to help extend operations for an additional eighteen-month period to allow harvesting of existing sugar cane crops; and
- (5) Section 5 establishes an effective date of July 1, 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. 1975, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1975, H.D. 2.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 630 Finance n H.B. No. 1194

The purpose of this bill is to establish a six cents per barrel tax on petroleum products imported to the State, to be deposited into the Environmental Response Revolving Fund, to support oil spill planning, prevention, preparedness, training, removal, remediation, education, research, and establishing accessible oil drop off stations.

Your Committee received testimony supporting the intent of this measure from the Department of Health, the Environmental Center, the University of Hawaii Sea Grant College Program, and the BHP Petroleum Americas (Hawaii), Inc. The Tax Foundation of Hawaii submitted comments.

The Department of Taxation submitted testimony in opposition to this bill. The Department noted that the requirement to notify taxpayers of the discontinuation of the tax after \$7,000,000 is transferred to the Environmental Response Revolving Fund and the reimposition of the tax when the balance of the fund is \$3,000,000 represents an impossible burden for the Department.

Your Committee has amended this measure by making technical, nonsubstantive revisions to correct numerous drafting errors and for the purposes of clarity and style.

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. 1194, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1194, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 631 Education n H.B. No. 816

The purpose of this bill is to eliminate the panel formed by the Board of Education to select schools for initial participation in school/community-based management.

H.B. No. 816 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, and which is primarily used to introduce a general idea of the purpose of a bill. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the action to report out H.B. No. 816, as amended herein, and recommends that it be recommitted to the Committee on Education for the purpose of holding a public hearing, in the form attached hereto as H.B. No. 816, H.D. 1.

Signed by all members of the Committee except Representatives Apo, Arakaki, Beirne, Hagino, M. Ige, Stegmaier and Yonamine.

SCRep. 632 Education on H.B. No. 815

The purpose of this bill is to appropriate funds for the Department of Education's School Information System (SIS).

H.B. 815 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, and is primarily used to introduce a general idea. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be held to properly review its substantive contents.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the action to report out H.B. 815, as amended herein, and recommends that it be recommitted to the Committee on Education for the purpose of holding a public hearing, in the form attached hereto as H.B. 815, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Hagino, M. Ige, Isbell, Lee, Yonamine and O'Kieffe.

SCRep. 633 Tourism and Intergovernmental Relations and International Affairs on H.B. No. 625

The purpose of this bill is to create the honorary Ambassador of Hawaii status, to be bestowed upon residents and visitors providing great service to the state.

Your Committees received testimony in support of this bill from the Department of Business, Economic Development and Tourism, the Office of International Relations, Aloha Festivals and the Chamber of Commerce of Hawaii.

Your Committees find that this bill would provide an opportunity to honor distinguished individuals and also promote Hawaii at little or no cost.

Your Committees further find that the name "Ambassador of Hawaii" could possibly create some confusion with official U.S. diplomats.

Your Committee revised the bill by:

1. Removing references to "Ambassador of Hawaii," to avoid confusion with U.S. diplomats;
2. Creating an "Aloha Hall of Merit" and a selection committee administratively attached to the Office of International Relations;
3. Specifying the composition of the selection committee;
4. Stating general guidelines for induction into the Aloha Hall of Merit and for the selection of inductees;
5. Providing that the Governor may request members of the Aloha Hall of Merit to represent the state as an Honorary Goodwill Ambassador;
6. Providing that the Office of International Relations shall conduct a survey of suitable sites for a collection of displays commemorating the individual members of the Aloha Hall of Merit; and
7. Making technical, non-substantive changes for the purposes of style and clarity.

Possible sites for the collection of displays includes Honolulu International Airport.

Examples of people who have achieved wide recognition for their work, such as making pioneering achievements, and have devoted themselves to betterment of the state, provided extraordinary service and brought honor to the state include:

1. Danny Kaleikini, the State of Hawaii Ambassador of Aloha, who has devoted decades of his life to service at home and promotion of Hawaii around the world, providing immeasurable contributions to the visitor industry and the state of Hawaii;

2. Chad Rowan, also known as Akebono, the first non-Japanese sumo wrestler to earn the rank of yokozuna, or grand champion, the highest rank and honor in that sport;
3. Jesse Kuhaulua, also known as Takamiyama, the first prominent non-Japanese sumo wrestler, who pioneered the way for other successful non-Japanese in that sport; and
4. Carolyn Sapp, the first Miss Hawaii to win the Miss America Scholarship Pageant.

Although all of the above come from Hawaii, persons need not be of Hawaii to be inducted into the Aloha Hall of Merit.

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. 625, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 625, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Alcon, Lee and Shon.
(Representative Hagino voted no.)

SCRep. 634 Housing on H.B. No. 1897

The purpose of this bill is to amend several incorrect citations in Chapter 201E, Hawaii Revised Statutes.

Your Committee recognizes the urgency in providing affordable homes to those whose income is eighty percent and below the median income. These are often the people who cannot qualify for a home loan, but who need affordable housing. Your Committee believes that HFDC should concentrate on rentals for these people, keeping the projects reflective of the community.

There is a general consensus among local developers, that we need to develop an educational program to change the NIMBY (Not In My Back Yard) attitude into a WIMBY (Where In My Back Yard) attitude if we are to build affordable housing for Hawaii's residents.

Your Committee, upon careful consideration, has amended the bill to direct the Housing Finance and Development Corporation (HFDC) to:

- (1) Utilize the statistical income information available from the counties to determine the percentage of residents in the various income levels within the counties to project the housing needs of the residents;
- (2) Put its efforts into building rental units for those whose income levels fall below the 80 percent median income level of the county rather than single family units and to develop incentives for the private sector to build such units;
- (3) Adopt a mixed-use housing program including townhouses, and duplexes which would be considered important mechanisms in order for HFDC to deliver housing to those unable to afford single family residential units;
- (4) Develop an educational housing program by providing a "sticker price list" for each housing unit, similar to the sticker prices shown on new automobiles, which would graphically illustrate the costs involved in developing the housing unit; and
- (5) Accept material house bonds from issuers who have demonstrated financial responsibility.

The bill has been further amended to:

- (1) Extend Act 15 for one year, until more information is received on the impact of the Act;
- (2) State findings and declaration of necessity; and
- (3) Require that each development in which HFDC is involved shall be subject to the competitive bidding laws when requests for proposals (RFP) are not utilized.
- (4) Exempt the following projects:
 - (A) The villages of Kapolei in Ewa, Oahu;
 - (B) The Lahaina master planned community in Lahaina, Maui; and
 - (C) The villages of La'i'opua in Kealahou, Hawaii.

These amendments are not intended to effect any other projects which have been certified and begun before April 20, 1994.

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. 1897, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1897, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 635 Public Safety and Corrections; Human Services; and Judiciary on H.B. No. 1338

The purpose of this bill is to enable the State of Hawaii to comply with the federal Juvenile Justice Delinquency Prevention Act of 1974 (JJDP), as amended, by promoting a more humane treatment of juveniles through removal of status offenders from secure juvenile detention facilities, the removal of all juveniles from adult jails and lockups, and the separation of incarcerated juveniles from adult detainees.

The State of Hawaii is currently in non-compliance with the jail removal mandate of the JJDP and as a result, nearly \$1,000,000 in federal funds are being withheld from the State. In order for Hawaii to resume receipt of the JJDP funds, the first step is to pass legislation that prohibits the incarceration of children accused or adjudicated of committing non-criminal offenses and limits the use of jails and lockup facilities for juveniles accused of a crime. The federal Office of Juvenile Justice Delinquency Prevention (OJJDP) has indicated that this action by the Legislature will release the funds in question. In addition, passage of this measure will not only make federal funds available to develop program alternatives to achieve compliance, but it will also provide needed money to improve the juvenile justice system.

Testimony in support of this measure was submitted by the Office of Youth Services, the Juvenile Justice State Advisory Council, the Office of the Public Defender, the Hawaii Youth Services Network, and a volunteer guardian ad litem.

After free and open discussion, your Committees have amended the bill by:

- (1) Amending the standard for detentions from "reasonably believed" to "probable cause", for consistency with the current practice of the court.

In recommending this amendment, your Committees would like to make it very clear that the adoption of this single phrase does not constitute an intent to make the Family Court a "mirrorimage" of the adult criminal court. To do so would go against the legislative purpose for the creation of the Family Court and would be a disservice to the children and families of Hawaii;

- (2) Re-inserting the phrase "after the filing of a petition", in the appropriate statutory section to provide the court with an opportunity to make a probable cause determination;
- (3) Inserting language that specifies that an alleged status offender may be held in a shelter but not be detained in a detention facility for juveniles for longer than twenty-four hours;
- (4) Inserting language that further specifies that a child who comes within section 571-11(2) or section 281-101.5, may only be detained longer than twenty-four hours following a court appearance in a detention facility if the child is subject to the Interstate Compact on Juveniles, is allegedly in violation of a valid court order, or has been adjudicated for a violation of a valid court order; and
- (5) Other technical, nonsubstantive revisions have been 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 Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1338, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1338, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bunda, Ishii-Morikami, Oshiro, Peters, Takamine and O'Kieffe.
(Representative Amaral voted no.)

SCRep. 636 Public Safety and Corrections and Judiciary on H.B. No. 1690

The purpose of this bill is to clarify Chapter 353, Hawaii Revised Statutes (HRS), by adding the definition of "committed person", which includes a person committed to the custody of the Director of Public Safety for imprisonment pursuant to Chapter 706, HRS. The bill also makes technical, nonsubstantive amendments.

Your Committees received testimony in support of the bill from the Department of Public Safety (DPS). In its testimony, the DPS stated that this bill will give its Department the flexibility needed to manage inmates and to deal with overcrowding. Supporting testimony was also received from the Office of the Public Defender.

Your Committees have amended this bill by reformatting the bill for clarity, consistency, and style. No substantive amendments were made to the bill.

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. 1690, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1690, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bunda, Cachola, Hirono, Ishii-Morikami, Peters, Takamine and Thielen.

SCRep. 637 Public Safety and Corrections on H.B. No. 1467

The purpose of this bill is to require the Hawaii Paroling Authority to parole a prisoner in the county of commitment unless the prisoner can establish to the satisfaction of the Hawaii Paroling Authority that the prisoner had a permanent residence and occupation or employment in another county or jurisdiction prior to commitment.

Testimony was submitted by the Hawaii Paroling Authority and the Office of the Public Defender.

After free and open discussion, your Committee has amended this bill by incorporating revisions which have the concurrence of both the Hawaii Paroling Authority and the Department of Public Safety. Under these revisions, a prisoner could be paroled in a county other than the county of commitment if:

- (1) The prisoner can establish to the satisfaction of the Hawaii Paroling Authority that the prisoner had a permanent residence and occupation or employment in another county, prior to incarceration; or
- (2) The prisoner will reside in a county in which the population exceeds 800,000 persons; or
- (3) The prisoner will be released for immediate departure from the State.

In recommending these amendments, your Committee would like to make it clear that the adoption of these amendments does not constitute an intent to restrict or preclude the Hawaii Paroling Authority from requiring or imposing as a condition of parole, the participation of the prisoner in a treatment or counseling program in an appropriate county. Nor is it the intent of your Committee to restrict or preclude the Hawaii Paroling Authority from considering victim concerns when determining the parole of a prisoner to a particular county.

Technical, nonsubstantive amendments were also made for 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. 1467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1467, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 638 Public Safety and Corrections on H.B. No. 1688

The purpose of this bill is to waive the thirty day notification requirement to the prosecutors and police of placement of a parole violator who is to be placed directly into a work furlough program upon revocation of parole.

The intent of this bill is to allow a parole violator the benefit of direct placement into a work furlough or similar program upon revocation of parole. The Hawaii Paroling Authority, on a selective basis, will place a parole violator in a structured, low security, and least restrictive environment to allow the offender (under an inmate status) to continue their employment on the outside, but live in prison for a determinate sentence.

Testimony in support of this measure was submitted by the Hawaii Paroling Authority and the Office of the Public Defender.

The Department of the Prosecuting Attorney of the City and County of Honolulu expressed concerns that the language in the bill is alarmingly broad. They also expressed concerns regarding the elimination of the notice requirement, as notification is essential to ensure progressive law enforcement and is an opportunity for the Prosecutors or Police Department to express their position as to the suitability of an offender for these programs.

Your Committee shares the concerns expressed by the Prosecuting Attorney, and after free and open discussion, has amended the bill to address these concerns by inserting language requiring the Department of Public Safety to notify the county prosecutors and police chiefs of parole violators who are recommitted to prison for less than thirty days or who are placed on a work furlough, conditional release, or similar program in writing on the next working day after recommitment or placement in a program.

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

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. 1688, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1688, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 639 Public Safety and Corrections and Judiciary on H.B. No. 1687

The purpose of this bill is to authorize the release of a copy of the presentence report or investigative report to any psychiatrist, psychologist, or mental health practitioner who is treating the defendant or offender pursuant to a parole order for mental health care.

The Hawaii Paroling Authority testified in favor of the measure. Your Committees also received testimony from the Office of the Public Defender.

Your Committees have amended this bill by reformatting the bill for clarity, consistency, and style. No substantive amendments were made to the bill.

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. 1687, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1687, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bunda, Cachola, Hirono, Ishii-Morikami, Peters, Takamine and Thielen.

SCRep. 640 Finance on H.B. No. 1691

The purpose of this bill is to ensure continued conformity of Hawaii's income tax law with changes to the Internal Revenue Code.

Among other things, this bill:

- (1) Allows Hawaii residents who live and work outside the State to claim the income tax credit for expenses for household and dependent care services necessary for gainful employment;
- (2) Increases the maximum withholding rate on wages from eight to ten percent, which is the top tax rate for individuals to prevent under-withholding;
- (3) Increases the minimum tax liability for which estimated taxes need not be filed from \$100 to \$500;
- (4) Requires corporations to pay the estimated taxes in four installments, and to prepay the lesser of 97 percent of the tax shown on the return for the taxable year or 100 percent of the corporation's tax for the preceding year; and
- (5) Requires individual or noncorporate taxpayers who have to pay the estimated taxes to prepay the lesser of 90 percent of the tax shown on the taxpayer's return or 100 percent of the taxpayer's return for the preceding taxable year.

In supporting this measure, the Department of Taxation testified that continued conformity with the federal tax law minimizes the taxpayer's burden in complying with Hawaii's tax laws. 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. 1691, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Santiago.

SCRep. 641 Finance on H.B. No. 125

The purpose of this bill is to comply with the requirements of Article VII, section 6, of the Constitution of the State of Hawaii. This section requires the Legislature to provide either a tax refund or a tax credit to qualified taxpayers whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of the general fund revenues for each of the two fiscal years.

Your Committee finds that these factors have been met for the twelfth consecutive year, and the tax credit established by this bill complies with the constitutional requirements.

The Department of Taxation and the Tax Foundation of Hawaii submitted comments on this measure.

Upon further consideration, your Committee has amended this measure by establishing the amount of the tax credit at \$1 per resident individual taxpayer.

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. 125, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 125, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 642 Finance on H.B. No. 1855

The purposes of this bill are to:

- (1) Authorize the establishment of the Traffic Computer System Revolving Fund by the Administrator of the Traffic Violations Bureau of the Judiciary;
- (2) Authorize the establishment of the Citation System Revolving Fund by the mayors of each county;
- (3) Allow the Traffic Violations Bureau to collect a fee not to exceed \$4, of which \$2 shall be deposited into the Traffic Computer System Revolving Fund; and
- (4) Impose and collect an administrative fee of ten percent of the amount of any fine or forfeiture upon conviction or forfeiture of bail of any person charged with a violation of any state traffic law. Of this amount, fifty percent shall be deposited into the Automated Citation System Revolving Fund of that county. The remainder shall be deposited into the Traffic Computer System Revolving Fund.

It is the intent of your Committee to promote compatibility and uniformity in technology throughout the State. Once the automated citation system for Oahu is operational, it will become the standard model to be duplicated in the counties of Hawaii, Kauai, and Maui. It is also the intent of your Committee to use the traffic violations computer system for Oahu as the primary system and main database to which the traffic violation bureaus in all other counties will link-up.

Your Committee received testimony in strong support of this measure from the Police Department of the County of Kauai. The Judiciary had no objections to the intent of the bill, however, it did voice concerns regarding the impact of the bill on the Judiciary's general fund appropriations, the control and administration of the Traffic Computer Revolving Fund, and the adequacy of funding to accomplish the bill's objectives.

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

- (1) Changing the name of the "Traffic Computer System Revolving Fund" to read the "Traffic Violations Computer System Revolving Fund";
- (2) Authorizing only the Mayor of the City and County of Honolulu to establish an Automated Citation System Revolving Fund; and
- (3) 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. 1855, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1855, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tajiri.

SCRep. 643 Finance on H.B. No. 2008

The purpose of this bill is to change the legal rate of interest to the prime rate that is posted in the Wall Street Journal on a quarterly basis when there is no express written contract establishing a different rate of interest rate.

The bill also sets a ceiling of ten percent on the legal rate.

Under current law, when there is no express written contract fixing a different rate, the legal rate of interest is ten percent.

In supporting this measure, the Department of Budget and Finance testified that this bill is to set the legal rate of interest to adequately reflect the cost of money. However, the Hawaii Bankers Association opposed this measure.

Upon further consideration, your Committee finds that this change in the legal rate of interest should only apply to obligations of the State and not to personal and corporate obligations. Accordingly, your Committee has amended this measure by clarifying that the prime rate only apply to obligations of the State.

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. 2008, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2008, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 644 Finance on H.B. No. 1607

The purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism to transfer up to \$2,000,000 from the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund, the Hawaii Small Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund, the Hawaii Capital Loan Revolving Fund, and the Hawaii Innovation Development Revolving Fund into the State Disaster Revolving Loan Fund.

This measure provides that moneys may be transferred only upon the declaration of a state disaster and the granting of specific approval by the Governor.

In supporting this measure, the Department of Business, Economic Development, and Tourism testified that this measure would promote the Department's efficiency in providing immediate financial assistance to businesses and individuals with disaster relief and rehabilitation needs.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1607, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1607, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 645 Finance on H.B. No. 1495

The purpose of this bill is to establish a State lottery within the State by creating a new chapter in the Hawaii Revised Statutes entitled "State Lottery". Among other things, this bill:

- (1) Creates the State Lottery Commission (Commission) within the Department of Budget and Finance;
- (2) Authorizes the Governor, with the approval of the Senate, to appoint a Director to be responsible for managing the affairs of the Commission;
- (3) Requires the Attorney General and the Hawaii Criminal Justice Data Center to provide to the Commission information to assure security, honesty, fairness, and integrity in the operation and administration of the lottery;
- (4) Requires the Director to keep books and records that accurately and fairly reflect the distribution of tickets;
- (5) Provides for the initiation and operation of the lottery;
- (6) Establishes provisions and specifications relating to lottery game retailers;
- (7) Prohibits the sale of lottery game tickets to persons under the age of eighteen;
- (8) Provides for lottery vendors and lottery contractors, which includes requirements for lottery vendor disclosures for major procurements;
- (9) Establishes a special fund to be known as the "State Lottery Fund" (Fund);
- (10) Bases the payment of prizes on a specified percentage of the total projected revenue computed for each lottery game accruing from the sales of all lottery tickets from that lottery game;
- (11) Requires that the net revenues of the lottery be transferred from the Fund periodically into the general fund;
- (12) Establishes penalties for any violation of the new chapter;
- (13) Appropriates moneys for the Fund for start-up costs for the State Lottery; and
- (14) Provides that the following be undertaken pursuant to this new chapter:
 - (a) Requires the Commission to make quarterly and annual reports of the operation of the lottery;
 - (b) Requires the Commission to prepare an annual study of the economic and social impact of the lottery to the State;
 - (c) Requires the Director to make an ongoing study of the operation and the administration of lotteries in operation in other states or counties;
 - (d) Requires the Commission to submit quarterly and annual financial reports to the Governor, the Comptroller, and the Legislature;
 - (e) Requires the Director to engage an independent firm to conduct an annual audit of all accounts and transactions of the lottery;
 - (f) Requires the Comptroller to conduct quarterly and annual post-audits of all accounts and transactions of the Commission and other special post-audits as the Comptroller deems necessary; and
 - (g) Requires the Director, after the first six months of the first lottery, to engage independent firms to conduct: (1) A special study which shall ascertain the demographic characteristics of the players of each lottery game; (2) A special study of the effectiveness of communication activities by the lottery; and (3) A comprehensive study and evaluation of all aspects of security in the operation of the lottery.

Your Committee received testimony in opposition to the bill from: the Police Department of the City and County of Honolulu, the Chamber of Commerce of Hawaii, the Concerned Women for America of Hawaii, the Hawaii State Chapter of the National Rainbow Coalition, the American Freedom Coalition of Hawaii, the Hawaii Association of Evangelicals, The Church of Jesus Christ of Latter-day Saints, the Christian Voice of Hawaii, various religious organizations, and private citizens. Your Committee also received written comments from the Hawaii Food Industry Association and supporting testimony from a private citizen.

Your Committee recognizes the appeal of a state lottery to a wide cross-section of the community. However, your Committee further recognizes that the economic well-being and long-term viability of a state lottery depends in large part on those individuals with discretionary income.

Upon further consideration, your Committee amended this bill by:

- (1) Lowering the maximum sum of any prize in a lottery game from \$100,000 to \$50,000;
- (2) Substituting the word "bond" for "ticket" throughout the bill; and
- (3) Making technical, nonsubstantive amendments to correct drafting errors and for the purposes of clarity, consistency, and style.

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. 1495, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1495, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tam.
(Representatives Morihara, Santiago, Marumoto and Ward voted no.)

SCRep. 646 Finance on H.B. No. 2000

The purpose of this bill is to promote efficiency and effectiveness in the procurement of goods and services and the construction of public works for the State and the counties by establishing the Hawaii Public Procurement Code (Code).

Among other things, this bill:

- (1) Establishes the Public Procurement Policy Council (Council) within the Department of Accounting and General Services (DAGS) to review all procurement concerns, policies, and practices; revise or develop new policies to implement the Code; recommend amendments to the Code; and adopt rules to govern the procurement of goods, services, and construction;
- (2) Creates an Office of the Inspector General within DAGS to initiate and investigate reports of non-compliance with the Code; issue subpoenas; and report violations to the employing authority, the Attorney General, and prosecutors;
- (3) Establishes the criteria and requirements for source selection and contract formation, including:
 - (a) Competitive sealed bids;
 - (b) Multi-step sealed bids;
 - (c) Competitive sealed proposals;
 - (d) Small purchases;
 - (e) Sole source procurements;
 - (f) Emergency procurements; and
 - (g) Competitive selection procedures for aesthetic, professional, and advisory services, and architect-engineer, landscape architect, and land surveying services;
- (4) Specifies certain goods, services, or construction that are exempted from the Code;
- (5) Provides legal and contractual remedies, including:
 - (a) Allowing aggrieved bidders, offerors, and contractors to protest in writing to the Comptroller or head of purchasing agency;
 - (b) Authorizing the Comptroller or head of purchasing agency, or designee to settle and resolve grievances and protests;
 - (c) Authorizing the Comptroller or head of purchasing agency to debar or suspend a person for cause from consideration for award of all public contracts;
 - (d) Specifying causes for debarment or suspension;

- (e) Establishing remedies prior to award of contract and after award of contract; and
- (f) Authorizing aggrieved party to apply for judicial review;
- (6) Establishes a temporary committee within DAGS to develop and draft all of the rules necessary to implement the provisions of the newly created chapter;
- (7) Requires the Comptroller to develop a comprehensive training and development program for procurement professionals;
- (8) Requires the Department of Personnel Services to draft or reclassify job descriptions in light of the provisions of the Code; and
- (9) Appropriates funds to be expended by DAGS:
 - (a) For a comprehensive training and development program for procurement professionals;
 - (b) For the Office of the Inspector General; and
 - (c) To carry out the general purposes contained in the bill.

Testimony in support of the bill was received from the University of Hawaii, the Department of Education, and the Department of Finance of the City and County of Honolulu. DAGS and a private citizen submitted written comments on the bill.

In its testimony, DAGS indicated that this bill is based in part on the American Bar Association's Model Procurement Code for State and Local Governments, and the recommendations from a study conducted by the consultants Lallatin and Associates and the State Legislative Auditor.

Your Committee finds that there is a need to improve and update the State's laws relating to government procurement.

It is your Committee's intent to implement a new procurement law that will ensure that government purchasing and contracting are performed with uniformity and consistency. It is also your Committee's intent to ensure fair and equitable treatment of all persons who deal with the procurement system of the State and the counties; to foster broad-based competition; and to ensure fiscal integrity, responsibility, and efficiency in the procurement process.

Your Committee commends the State Administration for the extensive effort and hard work that went into drafting this proposed Code. However, there are several concerns that your Committee wishes to express about the new Procurement Code proposed by the Administration. One concern is that the Code itself does not take effect until July 1, 1994. The second concern is that various complex issues contained in the proposed Code must still be considered and resolved. Additionally, there are several provisions in the Code that are uncertain and need to be thoroughly reviewed and possibly revised. Moreover, the Administration's proposal requires that several steps be taken before the Code itself can be implemented, including the establishment of a Temporary Committee to develop and draft all rules; the creation of the Office of the Inspector General; and the establishment of the Public Procurement Policy Council to adopt the rules proposed by the Temporary Committee and to review policies, practices, and concerns necessary to implement the Code.

Of particular concern to your Committee are bid specifications. Your Committee recognizes the complexities and difficulties that are involved in writing bid specifications. There are instances where special knowledge or unique understanding of a particular area may be critical, especially in health and life threatening situations. Your Committee urges that in those instances, bid specifications be written to take into account special knowledge or unique understanding of a particular program or area.

However, to continue dialogue on this important bill, your Committee will be reporting out this measure to the Senate.

Your Committee has amended this bill by:

- (1) Adding a new section setting forth the legislative findings and purpose;
- (2) Deleting the Office of the Inspector General and the appropriations to establish this Office;
- (3) Establishing Internal Post-Audit Programs within the executive branch to audit, monitor, and investigate the implementation of the requirements and provisions of the Code; and
- (4) Making numerous 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. 2000, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2000, H.D. 1, and be placed on the calendar for Third Reading.

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

The purpose of this bill is to authorize the issuance of general obligation bonds in accordance with constitutional requirements, and to declare that the total amount of principal and interest estimated and calculated for all bonds issued and outstanding will not cause the State's debt limit to be exceeded at the time of issuance.

This bill is intended to meet the requirements of Article VII, Section 13, of the Constitution of the State of Hawaii, which specifies that the Legislature must include a declaration of findings that the debt limit will not be exceeded by legislatively authorized general obligation issuances.

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. 126 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 Santiago and Tajiri.

SCRep. 648 Judiciary and Consumer Protection and Commerce on H.B. No. 966

The purpose of this bill is to make fraudulent encoding of a credit card a criminal offense.

Your Committees received testimony in support of the bill from the Police Department of the City and County of Honolulu. The Office of the Public Defender also testified, noting that certain drafting errors had been made in defining the offense.

Your Committees find that criminals are becoming more sophisticated in the fraudulent use of credit cards and have been tampering with the information stored on the magnetic strip of the credit card, causing the charges to be placed on another person's account.

Your Committees find that this type of crime is more serious than simple credit card fraud or simple theft as it evidences a sophisticated scheme and pattern of criminal activity. Hence your Committees find that classification of this new offense as a Class B felony is appropriate.

Your Committees have amended the bill by:

- (1) Deleting references to "attempts" and "conspiracy" as those conducts are covered under Sections 705-500 and 705-520 of the Penal Code, Hawaii Revised Statutes;
- (2) Specifying the state of mind necessary to commit the offense;
- (3) Deleting the term "newly created" from paragraphs (b) and (c), as the language would have created confusion as to the true nature of the offense;
- (4) Clarified that the offense, when concerned with the "use" of the credit card, is based on the unlawful obtaining of money, goods, services, or anything else of value; and
- (5) Deleting possession from the prohibitions contained in the act for the reason that this Act, and its heavy penalties, are directed towards those devious enough to be unlawfully making, selling, and using these altered credit cards.

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

As affirmed by the records of votes of the members of your Committees on Judiciary 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. 966, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 966, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Herkes, Hiraki, Oshiro, Peters and Takamine.

SCRep. 649 Judiciary and Consumer Protection and Commerce on H.B. No. 1639

The purpose of this bill is to remove language in the Uniform Securities Act (Modified), Section 485-12, Hawaii Revised Statutes, which limits to issuers of securities not domiciled in this state, the requirement that issuers of securities consent to service of process on the Commissioner of Securities.

During the 1992 Legislative Session, the Legislature amended Section 415-14 of the Hawaii Business Corporation Act to omit language providing that in the event that an officer or other person in charge of the property of the corporation could not be found, the Director of Commerce and Consumer Affairs would be served in place of the corporation. The Legislature provided that service would, instead, be made on the secretary of the corporation at its principal office. However, Section 485-12 of the Uniform Securities Act (Modified) continued to provide that prior to registering securities, issuers not domiciled in the state were required to consent to service of process on the Commissioner of Securities, who is appointed by and serves at the pleasure of the Director of Commerce and Consumer Affairs. As a result of the 1992 amendments, it became unclear as to whether or not issuers or broker dealers domiciled in Hawaii were being treated equally with out-of-state issuers or broker dealers, because it appeared that service of the Commissioner of Securities could only be made with regard to corporations not domiciled in the state. Removing language appearing to restrict the consent provisions of Section 485-12 to non-domiciled issuers of securities makes clear that both non-domiciled and domiciled

issuers of securities may be given notice of the possibility that service will be made on the Commissioner of Securities, and that it is possible to obtain both non-domiciled and domiciled issuers' consent to such service.

Testimony in support of this bill was submitted by the Department of Commerce and Consumer Affairs.

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

As affirmed by the records of votes of the members of your Committees on Judiciary 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. 1639, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1639, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Herkes, Hiraki, Oshiro, Peters and Takamine.

SCRep. 650 Judiciary and Consumer Protection and Commerce on H.B. No. 928

The purpose of this bill as received by your Committees is to make permanent the 1989 moratorium on liability insurance rates, the limited repeal of joint and several liability and the limitation on pain and suffering damages in certain tort actions.

Testimony in support of the bill was received by your Committees from representatives of the State Attorney General, Consulting Engineers Council of Hawaii, Hawaii Insurers Council, Chamber of Commerce of Hawaii, Hawaii State Council of the American Institute of Architects, Construction Industry Legislative Organization and Hawaii Independent Insurance Agents Association.

Your Committees note that the Judiciary Committee has recently voted favorably on H.B. 1088, H.D.1, which provides for a major readjustment in the area of joint and several liability. Hence, your Committees find that section 17 and section 20 of Act 2, First Special Session Laws of Hawaii 1986 should be permitted to expire.

However, your Committees also note that sections 2 to 7 of Act 2 concern an insurance rate moratorium and should be extended for one year, pending a review at that time.

Therefore your Committees have amended the bill by extending sections 2 to 7 of Act 2 for one year and allowing sections 17 and sections 20 to expire as scheduled on October 1, 1993.

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

As affirmed by the records of votes of the members of your Committees on Judiciary 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. 928, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 928, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Hirono, Ishii-Morikami, Peters and Takamine.
(Representatives Amaral and Thielen voted no.)

SCRep. 651 Judiciary and Consumer Protection and Commerce on H.B. No. 1631

The purpose of this bill is to enable investigators of the Department of Commerce and Consumer Affairs (DCCA) to serve documents other than administrative subpoenas.

To enforce licensing laws, the DCCA has the authority to file complaints in Circuit Court and petitions with the Office of Administrative Hearings. The filing of complaints or petitions also require the service of legal documents such as civil subpoenas and judgments upon the defendant as well as the witnesses. By allowing the investigators to serve documents other than administrative subpoenas, this measure would encourage more efficiency in the usage of time and resources by the DCCA. Generally, investigators are in a better position to effect service because of their knowledge of the case, the person's whereabouts, and other identifying information.

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

Your Committees have amended this bill by making technical, non-substantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Judiciary 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. 1631, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1631, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Herkes, Hiraki, Hirono, Ishii-Morikami, Peters and Takamine.

SCRep. 652 Judiciary and Consumer Protection and Commerce on H.B. No. 740

The purpose of the bill is to limit the circumstances under which a civil tort action based on negligence may be maintained against persons licensed to practice, or practicing, public accountancy.

Your Committees received testimony in support of the bill from representatives of the Hawaii Society of Certified Public Accountants and the Hawaii Association of Public Accountants. Private accountants also testified in favor of the measure.

Your Committees recognize that unlike most professions, the work product of an accountant is often distributed to and relied upon by many persons without the accountant's knowledge or permission. Hence, accountants cannot accurately estimate the exposure to liability which may result from their work.

However, your Committees also recognize that often the only purpose of an accountant's work is to inform potential creditors and investors of the financial strength of the client.

Hence, your Committees find that a proper balance must be found between these competing interests, and believes the fairest approach is to further limit accountant's liability for negligence to third persons only when the accountant has prominently noted on the financial document that the accountant's liability is limited under law unless there is a written acknowledgment that the accountant is aware that the individual intends to rely on the information.

Therefore, your Committees have amended the bill by providing that the statute shall not apply unless a specific disclaimer referring to Chapter 663, Hawaii Revised Statutes, is prominently displayed on the face of the financial statement.

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

As affirmed by the records of votes of the members of your Committees on Judiciary 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. 740, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 740, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Hirono, Ishii-Morikami, Peters and Takamine.

SCRep. 653 Judiciary on H.B. No. 1798

The purpose of this bill is to amend section 607-18, Hawaii Revised Statutes (HRS), to make this section consistent with section 554A-3(c), HRS, regarding court authorization and the employment of persons for the benefit of the estate.

The Corporate Trustees Association of Hawaii, which identified this as a "housekeeping measure," testified in support of this measure. This association requested that the bill be changed by inserting the words "charitable trusts, nor to" after the words "shall not apply to" at page 3, line five of this bill.

Your Committee finds that this bill precludes a trustee from receiving additional compensation only to the extent that the trustee employs others to do bookkeeping and clerical services at the expense of the estate. Also, it eliminates the requirement for court authorization regarding the trustee's compensation or the trustee's employment of persons to assist in administrative duties.

Your Committee has amended this bill as follows:

1. Added after the words "shall not apply to" at page 3, line 5 of the bill, the words "charitable trusts, nor to." This language clarifies that the annual fee on the principal applies only to private trusts and not to charitable trusts; and
2. Made other technical and non-substantive changes to this measure 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. 1798, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1798, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 654 Judiciary on H.B. No. 1088

The purpose of the bill is to abolish joint and several liability for a joint tortfeasor where that tortfeasor's degree of fault is less than or equal to the degree of fault of the person seeking recovery of damages.

Your Committee received testimony in support of the bill from representatives of the State Attorney General, the Department of Transportation, the Corporation Counsel of the City and County of Honolulu, Hawaii Hotel Association, State Farm Insurance Companies, Hawaii Federation of Physicians & Dentists, National Federation of Independent Business, Hawaii Insurers Council, Chamber of Commerce of Hawaii, Hawaii Resort Developers Conference, Hawaii Association of Realtors, Kaiser Permanente and a private attorney. Testimony in opposition was received by the Hawaii Academy of Plaintiff's Attorneys and a private attorney.

Your Committee finds that the present system of joint and several liability frequently leads to unfair and oppressive results. For example, if a Plaintiff were deemed to be 40% responsible for the Plaintiff's own injury, one defendant 59% responsible for the injury and a second defendant 1% responsible for the injury, the amount the 1% defendant would pay to the Plaintiff depends solely on the financial responsibility of the 59% defendant. In such a situation, the 1% defendant could pay fully 60% of the total amount for Plaintiff's injuries, even though the Plaintiff was forty times more responsible for the injury than was that defendant.

Such an anomalous result suggests that the concept of joint and several liability as presently applied fails the test of fundamental fairness to all parties.

Yet simply adopting a "threshold" percentage below which defendants will not be held jointly (but still severally) liable only encourages collusion between defendants to try to lay blame upon the "judgment proof" defendant who has nothing to lose.

Your Committee believes that a better solution can be found, one which upholds the concept that as between an innocent plaintiff and a defendant who bears fault, public policy should tilt towards the innocent injured plaintiff, while at the same time recognizing that no defendant should be required to bear a disproportionate share of the judgment when that defendant shoulders less blame than the plaintiff.

Your Committee believes the solution proposed in this bill represents a logically consistent approach to the problem of fairness. Where a defendant's degree of fault is less than or equal to the degree of fault of the plaintiff, the defendant is liable only for the percentage of the judgement assessed to that defendant. If the defendant's degree of fault is more than that of the Plaintiff, public policy tilts toward protecting the interests of the less blameworthy injured Plaintiff, and the defendant is jointly and severally liable.

Your Committee believes the same concept should apply to the government, both as plaintiff or defendant, yet your Committee believes that it is appropriate, in very limited circumstances and because of the unique responsibilities of the government, to continue the practice of providing some shielding to the government from joint and several liability in certain highway cases where the government has had no notice of a defect.

Your Committee wishes to emphasize that this bill is not about insurance premiums, or the insurance industry. Your Committee notes that often persons do not carry insurance or are underinsured in many cases. This measure is intended to be fair to the parties to the lawsuit, regardless of whether or not insurance is involved. Your Committee finds that the measure before it injects the concept of fairness into a tort system that has lended itself to justifiable criticism in the past.

As affirmed by the record of votes of 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. 1088, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 655 Judiciary on H.B. No. 199

The purpose of this bill is to amend the Substance Abuse chapter of the Hawaii Revised Statutes (HRS), Chapter 329B, by adding a new section which exempts specified testing from Chapter 329B requirements. Exempted tests include alcohol and substance abuse testing conducted under Chapter 286, Highway Safety, and Chapter 291, Traffic Violations.

The Judiciary, the Department of Public Safety, the Hawaii Paroling Authority, and the Office of Youth Services of the Department of Human Services testified in support of this measure. The American Civil Liberties Union of Hawaii opposed this bill.

Your Committee finds that the enactment of Chapter 329B, HRS, in 1992, interfered with the drug testing efforts of the criminal justice system agencies. As a result of this law, the Department of Health promulgated administrative rules adding requirements for a higher level of confirmation of testing results. The chapter mandated the use of quantitative gas chromatography mass spectrometry (GCMS), and the review of positive results by a medical review officer. Since criminal justice system agencies do not have a medical review officer on staff and do not possess GCMS equipment, the result was a greatly increased financial burden upon the agencies.

Your Committee has been told that criminal justice agencies, in 1992, anticipated conducting approximately 40,000 drug tests. The Judiciary estimated that the increased cost of complying with the new state regulations, at \$22 per test, would result in an expenditure of \$880,000. Since approximately eighty percent of the individuals tested cannot afford to pay for the tests, the Judiciary is left to pay this bill.

Additionally, your Committee notes that on the national level, drug testing for offenders has been excluded from the Clinical Laboratory Improvement Amendments of 1988, the federal law that was the basis for Chapter 329B, HRS. Furthermore, your Committee finds that Hawaii has existing substance abuse testing guidelines with regard to specimen collection, chain of custody, test accuracy and reliability, and confirmation, that will continue to protect the individuals tested.

The Office of Youth Services, of the Department of Human Services, and the Hawaii Paroling Authority requested that this measure be amended to exclude their substance abuse testing from Chapter 329B, HRS. Accordingly, your Committee has amended this bill by:

1. Adding substance abuse testing by the Hawaii Paroling Authority and the Office of Youth Services to those tests exempted from Chapter 329B, HRS; and
2. Making technical and 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. 199, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 199, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 656 Water and Land Use Planning and Intergovernmental Relations and International Affairs on H.B. No. 321

The purpose of this bill is to protect and reaffirm the public interest in access to coastal and inland recreational areas under Chapter 115, Hawaii Revised Statutes, and to make clear that access to Hawaii's shores and mountains is an important public interest that may not be unduly restricted.

Recently, questions have been raised by the public concerning the time restrictions imposed by a county on the use of a right of way. While your Committees recognize that the counties may have a legitimate interest in restricting access to a public right of way where it is being used for purposes that are illegal or otherwise detrimental to the public health, safety, or welfare, your Committees want to make clear that the counties' rationales for regulating use must be balanced against the State's interest in preserving and enlarging public access. It is therefore your Committees' intent that restrictions on public access to a right of way shall not be imposed unless they are fitted to, or justified by, a county's legitimate, regulatory concerns. The following examples illustrate your Committees' intent.

The first example illustrates when a time restriction on use would be appropriate. There is a public access to the beach between two hotels in Waikiki. This access has been taken over by certain undesirables who commit robbery or sell drugs on this access route, however it is at night that the access becomes dangerous to the public and during which the police have difficulty enforcing the laws. As a result of arrests on this access route there have been several convictions for robbery and the possession and sale of drugs. Your Committees would find the county justified in denying public use of the access during the night. However, it is your Committees' intent that the denial of access be temporary, and that restrictions are lifted once the undesirable activities are controlled or eliminated.

The second example illustrates when a county may not impose a time restriction. There is a public access trail in a residential district. The public uses this access during the day to surf, fish, and relax. During the evening, fishermen use this trail extensively to reach their fishing areas. Several residents have called police to complain about people making noise and illegally consuming alcohol. Several residents claim that this illegal and noisy activity is occurring on the streets near the access trail. It is your Committees' intent that use of this trail not be denied because there is legitimate use of the access trail and illegal activity is not directly related to that use.

Your Committees recognize that each factual situation will differ, and that the measures taken to regulate access, if any, must also vary according to the strength of a county's justifications for regulation given the circumstances. Accordingly, your Committees have determined that at this time the best solution allowing representation of all interests involved would be to require that the counties pass a resolution before restricting public access. In this way, competing interests may be voiced by the public, heard by the county, and better reflected in any subsequent restriction.

It is your Committees' intent that a public right of way is an access trail, a route to mountain or shore recreational areas that is used for purposes of ingress or egress, and which may be considered part of a county park. Your Committees views access roads such as the road leading into Waipio Valley, to be unaffected by the provisions by this bill. These roads would not be considered public rights of way under Chapter 115, Hawaii Revised Statutes.

Your Committees on Water and Land Use Planning and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of H.B. No. 321 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, Beirne, Hagino, Kanoho, Tajiri and Ward.

SCRep. 657 Water and Land Use Planning and Intergovernmental Relations and International Affairs on H.B. No. 1176

The purpose of this bill is to preserve important agricultural lands by authorizing the counties to initiate their own land evaluation and site assessment (LESA) studies. The results of these studies may be used to:

- (1) Revise the county general plan;
- (2) Petition the State Land Use Commission (LUC) for reclassification of district boundaries; and
- (3) Obtain the LUC's approval for the reclassification.

This bill also authorizes the counties to proceed to rezone the remaining tracts of land after the LUC has approved the reclassification of boundaries of the agricultural district.

In supporting this bill, the Hawaii County Council pointed out that it is already in the process of developing a LESA system for the Big Island. According to the Office of State Planning (OSP), if the intent of the provision regarding rezoning of the remaining tracts of land is to urbanize lands in the agricultural district, then it would object to this particular provision. The Department of Agriculture (DOA) was also concerned that the same provision was unclear.

Your Committees concur with the concerns raised by OSP and DOA. It is the intent of your Committees that this bill merely provides the counties with the option to identify their own important agricultural lands in case the State cannot agree on a statewide strategy. Therefore, this bill is not intended to authorize the counties to urbanize lands within the agricultural district. Accordingly, your Committees have amended this bill by deleting the entire provision that authorizes the counties to rezone the remaining tracts of land (page 1, lines 13-15).

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning 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. 1176, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1176, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Alcon, Hagino, Kanoho, Tajiri and Ward.

SCRep. 658 Water and Land Use Planning on H.B. No. 1955

The purpose of this bill is to amend the historic preservation law to include the development and adoption of general rules specific and appropriate to significant cultural, historic, and prehistoric sites and monuments.

Your Committee received testimony in support of this measure from the Oahu Council of the Association of Hawaiian Civic Clubs, attesting to the need in general for cultural sensitivity, as well as the need for native Hawaiians to take an active role in identification and preservation of these sites.

The Department of Land and Natural Resources also testified as to the usefulness of establishing a cultural protocol for specific historic and cultural sites and concurs with the intent of this measure, however, is unable to support this measure at this time due to the anticipated shortfall of revenues to the State. Your Committee realizes that without the necessary resources, the effectuation of this measure may be delayed.

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. 1955 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 Tajiri.

SCRep. 659 Water and Land Use Planning on H.B. No. 1141

The purpose of this bill is to allow the Board of Land and Natural Resources to directly lease public campsites or other sites to war veterans eleemosynary corporations for appropriate activities.

Your Committee commends the veterans of foreign wars who gave of themselves to protect our nation and its people. They deserve our gratitude and praise for their heroism and unselfish nature during their tours of duty. Your Committee therefore agrees that war veterans eleemosynary corporations should be given similar favorable consideration as other such organizations in leases of state park areas or on land under the control of the Department of Land and Natural Resources.

The West Maui A.J.A. Veterans Club, Inc. and the Department of Land and Natural Resources submitted testimonies on this measure.

Your Committee has amended this bill by further clarifying the intent to provide war veterans eleemosynary corporations similar consideration for leases of campsites or other sites under State control for appropriate activities.

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. 1141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1141, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 660 Education and Labor and Public Employment on H.B. No. 1534

The purpose of this bill is to establish a teacher incentive and merit pay program to retain teachers at rural and "at-risk" schools.

Testifying in favor of the bill, was the Hawaii Business Roundtable and a parents' group representative, who noted that merit incentives can be very effective in attracting and retaining quality teachers at certain schools. The Hawaii Business Roundtable also suggested that the bill be targeted at special needs schools, which are already defined, rather than at rural and "at-risk" schools.

Your Committees also received testimony in opposition to the bill from the Department of Education and the Hawaii State Teachers' Association (HSTA). Both the Department and HSTA believe this issue should be addressed through the collective bargaining process.

Your Committees believe that maintaining quality teaching staff in schools with difficult learning environments is vital to improving student achievement in those schools. At the same time, your Committees recognize that issues relating to pay are complex, and that with the current state budget situation, it is difficult to fund new programs. In light of these concerns, your Committees have amended the bill by:

- (1) Deleting the provisions relating to a merit pay program;
- (2) Inserting a new provision allowing teachers to accept incentive packages that may be offered by the community to retain quality teachers in schools with high teacher turnover; and
- (3) Making other technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committees would also like to note that while the bill names particular communities as examples of those with high teacher turnover, the bill is not intended to apply only to those communities.

As affirmed by the records of votes of the members of your Committees on Education 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. 1534, as amended herein, and recommend that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 1534, H.D. 1.

Signed by all members of the Committees except Representatives Arakaki, Hagino, M. Ige, Isbell, Lee and O'Kieffe.

SCRep. 661 Finance on H.B. No. 182

The purpose of this bill is to establish a temporary State, county, and Office of Hawaiian Affairs task force within the Office of State Planning to:

- (1) Develop land use categories for cultural landscape districts;
- (2) Set specific criteria for designating sites as cultural landscape districts;
- (3) Specify activities criteria for designating sites as cultural landscape districts;
- (4) Specify activities and uses which fit into the theme of the districts; and
- (5) Develop administrative procedures that will enable the Land Use Commission to define sites and landscape districts and establish their boundaries.

Testimony in support of this bill was received from the Office of State Planning, the Department of Land and Natural Resources, and the Land Use Commission. However, each suggested that the appropriate lead agency for this program would be the Department of Land and Natural Resources.

Accordingly, your Committee has amended the measure by:

- (1) Placing the task force within the Department of Land and Natural Resources;
- (2) Deleting the reference to National Park Service criteria with regards to the development of categories for cultural landscape districts;
- (3) Expanding the membership of the task force to include representatives from the Office of State Planning, appropriate Hawaiian organizations, and large property landowners;
- (4) Removing the appropriation section from the bill; and
- (5) Making technical, nonsubstantive changes for purposes of style and clarity, and to correct drafting errors.

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. 182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 182, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 662 Consumer Protection and Commerce and Judiciary on H.B. No. 1732

The purpose of this bill is to establish permit requirements for, and regulatory oversight of out-of-state pharmacies. Specifically, the provisions of this bill would:

- (1) Require out-of-state pharmacies delivering drugs to Hawaii to obtain a permit from the Hawaii Board of Pharmacy;

- (2) Establish requirements for obtaining a permit;
- (3) Allow the Board of Pharmacy to establish additional requirements by rule; and
- (4) Provide for due process if an application for permit is denied.

The Hawaii Board of Pharmacy testified in favor of this bill, and suggested amendments to provide additional protection to the consumer.

Upon consideration, your Committees amended the bill by requiring an applicant to:

- (1) Provide the location, names, and titles of all principal corporate officers;
- (2) Provide verification of a valid, unexpired license to conduct a pharmacy;
- (3) Submit a copy of the most recent inspection report from the regulatory or licensing agency of the applicant's home state;
- (4) Operate a toll-free hotline between the hours of 8 a.m. and 5 p.m., Monday through Friday, and between 8 a.m. and 12 p.m. on Saturday and Sunday, Hawaiian Standard Time;
- (5) Disclose the phone number and hours of operation of the hotline on a label affixed to each container of drugs dispensed in the State;
- (6) Agree to maintain records of prescription drugs dispensed in the state;
- (7) Comply with State laws concerning drug product selection and formulation.

Your Committees also made 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 Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1732, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1732, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bainum, Hirono and Takamine.

SCRep. 663 Consumer Protection and Commerce on H.B. No. 1880

The purpose of this bill is to provide banks organized under the laws of the State of Hawaii, expanded powers in the areas of insurance and annuities, and securities. Specifically, the provisions of this bill would authorize banks organized in Hawaii to:

- (1) Underwrite and sell insurance and annuities as a general agent, subagent, broker, or solicitor;
- (2) Underwrite or sell insurance and annuities in any place outside this State; and
- (3) Engage in various securities activities including, among other things:
 - (A) The sale or purchase of securities;
 - (B) The organization, sponsorship, operation, control, and distribution of one or more investment companies;
 - (C) The provision of portfolio advice to customers; and
 - (D) The provision of investment and financial advice to government agencies, corporations, or partnerships.

Supportive testimony was submitted by the Bank of Hawaii. Testimony in opposition to this measure was submitted by the Hawaii Insurers Council, the Hawaii State Association of Life Underwriters, the Hawaii Independent Insurance Agents Association, and the Hawaii Association of Domestic Life Insurers. In addition, your Committee received comments on this bill from the Department of Commerce and Consumer Affairs.

Your Committee has learned that the Commissioner of Financial Institutions (Commissioner) is currently authorized to adopt rules to regulate the expanded banking powers proposed in this bill. In light of this, your Committee is satisfied that the Commissioner already has the necessary authority to impose safeguards to ensure that the above-mentioned activities will be conducted in a manner conducive to the welfare and safety of the consuming public.

After 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. 1880, H.D. 1, as amended

herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1880, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hirono, Menor, Oshiro and Tom.
(Representative Thielen voted no.)

SCRep. 664 Consumer Protection and Commerce on H.B. No. 1883

The purpose of this bill is to strengthen and clarify laws pertaining to the Hawaii's barbers. Specifically, this bill would:

- (1) Provide that applicants for a barber license must, among other things, have completed one thousand five hundred hours of barber training; and
- (2) Make various housekeeping amendments to Chapter 438, Hawaii Revised Statutes (Practice of Barbering).

Supportive testimony was submitted by the Board of Barbers and the Hawaii Institute of Hair Design.

Your Committee finds that a majority of the states require barber students to have completed at least one thousand five hundred hours of training prior to taking licensure examinations. However, under current Hawaii statutes, applicants must complete six months of training before qualifying to take the license exam.

Furthermore, your Committee has learned that a majority of Hawaii's barbers are in favor of expanding the educational and training requirements for licensure to levels in conformance with national standards.

After careful consideration, your Committee has amended this bill by making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1883, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bainum, Cachola, Takamine and Tom.

SCRep. 665 Consumer Protection and Commerce on H.B. No. 1735

The purpose of this bill is to:

- (1) Clarify definitions, requirements for licensure, and categories of pest control supervision requirements for fumigation;
- (2) Require written inspection reports to be prepared prior to commencing termite control services, and to exonerate licensees from responsibility where live infestation is not visible at the time of inspection; and
- (3) Expand the Pest Control Board's jurisdiction over non-chemical pest control devices.

Supportive testimony was submitted by the Pest Control Board. The Hawaii Pest Control Association testified in support of the intent of the bill as a housekeeping measure.

Your Committee finds that the provisions of this bill will strengthen the operations of the Department of Commerce and Consumer Affairs.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1735, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bainum, Cachola, Takamine and Tom.

SCRep. 666 Consumer Protection and Commerce on H.B. No. 1891

The purpose of this bill is to provide greater autonomy and flexibility to the Hawaii Public Broadcasting Authority (Authority) by expanding its funding base, and shortening the terms of its members.

In supporting this measure, the representative from the Authority suggested a minor amendment to this bill.

After careful consideration, your Committee has amended this bill as follows:

- (1) Added a provision allowing the public broadcasting revolving fund to receive monies from private sources, and from rental income; and
- (2) Made technical, non-substantive amendments 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. 1891, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1891, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 667 Consumer Protection and Commerce on H.B. No. 1887

The purpose of this bill is to:

- (1) Rename the title "assistant" to "pharmacy intern" for consistency with the more nationally accepted title;
- (2) Set forth that no person shall practice as a pharmacy intern without having first obtained a permit from the Board of Pharmacy; and
- (3) Provide the Board of Pharmacy with clear statutory authority to adopt rules to define the functions of a pharmacy intern and to establish the requirements for a pharmacy intern permit.

Supportive testimony was submitted by the State Board of Pharmacy and the Hawaii Pharmaceutical Association.

Your Committee finds that the name change from "assistant" to "pharmacy intern" is not only more specific in identifying the relationship of the student to the work status, but it is also in keeping with current terminology regarding students practicing for a particular profession. In addition, your Committee agrees with allowing the Board of Pharmacy to have complete jurisdiction over the practice and licensing of a pharmacy intern.

Your Committee made technical, nonsubstantive amendments to this bill 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. 1887, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1887, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Amaral, Bainum, Cachola, Takamine and Tom.

SCRep. 668 Consumer Protection and Commerce on H.B. No. 1889

The purpose of this bill is to permit current motor vehicle dealers and new applicants to obtain a bond, in lieu of a flooring or inventory line of credit, as an alternative form of security.

Your Committee finds that Act 153, enacted June 8, 1992, eliminated all bonding requirements for dealers and substituted line of credit requirements. However, a number of small used car and motorcycle dealers are having problems obtaining the \$50,000 flooring or inventory line of credit. Allowing the submission of a bond as a substitute for the inventory or flooring line of credit is a reasonable solution to a problem that was unforeseen with the enactment of Act 153.

The Motor Vehicle Industry Licensing Board and the Hawaii Automobile Dealers' Association submitted testimony in favor of the bill.

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. 1889 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, Menor, Peters and Takamine.

SCRep. 669 Consumer Protection and Commerce and Finance on H.B. No. 1890

The purpose of this bill is to add a new article to be known as the Hawaii Hurricane Property Insurance Fund Act to chapter 431, Hawaii Revised Statutes (HRS), to do the following:

- (1) Promote the availability of homeowners insurance in the State;
- (2) Provide a comprehensive and equitable system of sharing catastrophic losses due to a hurricane;
- (3) Provide a mechanism for prompt and assured payment of losses due to a hurricane; and

- (4) Prevent insurer insolvency arising out of losses due to a hurricane.

Your Committees received commentary on insurance coverage from the City and County of Honolulu, the Alliance of American Insurers, and a concerned private citizen.

Your Committees received generally favorable testimony on this bill from the Department of Commerce and Consumer Affairs, the Kauai County Council, the Hawaii Independent Insurance Agents Association, the Hawaii Association of Realtors, the National Association of Independent Insurers, the Land Use Research Foundation of Hawaii, the Hawaii League of Savings Institutions, the Hawaii Bankers Association, Allstate Insurance Company, State Farm Insurance Companies, the Hawaii Insurers Council, and a private law firm.

Based on testimony presented by the above-mentioned parties, your Committees understand that Hawaii is vulnerable to level four hurricanes, and it is noted that the destruction involved from the last hurricane of this magnitude was greater than projected, and the homeowners insurance market in Hawaii is too concentrated. In reassessing risks and exposures to loss, insurance companies are finding their reinsurance coverage is inadequate. In addition, it is also your Committees understanding that since additional reinsurance is difficult to obtain at this time, many insurers have elected to reduce exposure by curtailing new business or dropping property insurance coverage altogether. As a result, it is estimated that the impairment to the Hawaii property insurance market is now approaching thirty percent, causing hardships to many consumers.

As an immediate response to the availability problem, the Insurance Division of the Department of Commerce and Consumer Affairs turned to the Hawaii Property Insurance Association (HPIA) to provide a safety net. However HPIA does not have the required capital surplus or reserves to cover anticipated losses. Your Committees find that HPIA coverage is only a temporary measure, meant to provide some relief to consumers until a more effective, long-range solution can be implemented.

After hearing this bill and discussing it with concerned parties, the following concerns have been repeatedly raised about the proposal to create the Hawaii hurricane pool (pool):

- (1) The pool needs to be exempt from federal taxation. This may be achieved by eliminating insurer representation on the board of directors of the pool;
- (2) Increasing conveyance or franchise taxes to fund the pool is inequitable;
- (3) The pool may not be necessary if federal legislation in this area is enacted; and
- (4) Mandatory renewal of homeowners policies may discourage new entrants into the Hawaii homeowners insurance market, and may cause other insurers who are seriously considering leaving the homeowners insurance market to discontinue underwriting all lines of insurance in the State rather than remain in the homeowners insurance market.

Accordingly, your Committees have amended this bill as follows:

- (1) Enacted a new chapter to be designated and to be known as the Hawaii hurricane pool. The pool shall:
 - (a) Adopt a plan of operation and a manual of rules and rates necessary to ensure both the solvency and the equitable administration of the pool;
 - (b) Adopt actuarially sound rates based on assumptions relative to frequency and severity of hurricane expectations for all coverage insured under policies issued by the pool;
 - (c) Adopt any form of insurance policy necessary for providing hurricane property insurance by the pool;
 - (d) Require every insurer transacting property insurance to act as a servicing facility;
 - (e) Assess all property and casualty insurers amounts sufficient to meet all necessary obligations of the pool. Each property and casualty insurer shall be assessed an amount not to exceed three percent of the insurer's net direct written premiums in Hawaii for the preceding calendar year, or \$5,000, whichever is greater;
 - (f) Accumulate reserves or funds to be used for payment of expenses and valid claims for covered events insured by the pool;
 - (g) Borrow funds necessary to effect the purposes of this newly enacted chapter; and
 - (h) Collect and maintain statistical and other data as may be required by the insurance commissioner;
- (2) Created a board of directors for the pool to be appointed by the insurance commissioner;
- (3) Created a hurricane pool advisory board to provide technical advice. The composition of the hurricane pool advisory board shall include representatives from property and casualty insurers, mortgage lenders, realtors, and independent insurance agents;

- (4) Established a Hurricane Relief Trust Fund which is funded by special mortgage recordation fees and proceeds from general obligation and revenue bonds;
- (5) Provided a sunset provision requiring recommendations from the Insurance Commissioner regarding the continuing operation of the pool upon the enactment of federal legislation relating to hurricane disaster relief or the passage of five years from the effective date of this Act;
- (6) Added a new section to article 10E of chapter 431 to require insurers to renew property insurance policies that were in effect on September 11, 1992, except under limited circumstances;
- (7) Authorized the Department of Budget and Finance to issue revenue bonds and general obligation bonds for the purposes of the Hurricane Relief Trust Fund. Also authorized the Director of Finance to issue revenue bonds in the name of the Hawaii hurricane pool, pursuant to part III of chapter 39, in a sum equal to forty percent of the projected premiums required to adequately fund the pool;
- (8) Deleted \$20,000,000 in section 4 and inserted a principal amount of \$1 for purposes of continued discussion; and
- (9) Made 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 Finance that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1890, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1890, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Santiago and Takamine.
(Representatives Amaral, Hiraki, Hirono, Tam and Thielen voted no.)

SCRep. 670 Consumer Protection and Commerce and Judiciary on H.B. No. 1034

The purpose of this bill is to prohibit "price-gouging" in the markets for real estate and various essential commodities during a statewide disaster. Specifically, this bill, as received, would:

- (1) Prohibit the rent or sale of any essential commodity at an unconscionable price within a state disaster area;
- (2) Prohibit the imposition of an unconscionable price for the rental or lease of a dwelling unit or self-storage facility during a state disaster; and
- (3) Establish administrative and civil penalties for "price-gouging".

In supporting the intent of this measure, the Office of Consumer Protection of the Department of Commerce and Consumer Affairs noted concerns.

While your Committees acknowledge the merits of the proposal, as received, your Committees believe that substantial revisions are needed to ensure that the State will effectively prohibit the occurrence of unconscionable price increases during times of state disaster.

In light of this, your Committees have amended this bill as follows:

- (1) Deleted Section 1 of this bill;
- (2) Amended Section 209-9, Hawaii Revised Statutes (HRS), to provide that in the event of either a disaster declaration by the Governor, or a public notification of natural disaster watch by a State of civil defense agency with the approval of the Governor:
 - (A) Price increases on all commodities shall be prohibited in disaster or targeted areas; and
 - (B) Landlords shall be prohibited from terminating any tenancy for a habitable residential dwelling unit;
- (3) Directed the Rehabilitation Coordinator to identify all habitable residential dwelling units located within a disaster or targeted area, when necessary and appropriate, and authorized the adoption of rules to ensure public safety; and
- (4) Amended Section 209-1, HRS, to provide definitions of "commodity", "habitable residential dwelling unit", and "natural disaster watch".

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

Your Committees note that the lessons learned after the Hurricane Iniki experience of 1992 should be used as guides in the development of a strengthened disaster and emergency response system that will meet the needs of people affected by natural disasters or crisis situations.

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. 1034,

as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1034, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hirono and Takamine.

SCRep. 671 Consumer Protection and Commerce and Judiciary on H.B. No. 1630

The purpose of this bill is to authorize the use of administrative citations for unlicensed activity in the professions and vocations regulated under Chapter 436B, Hawaii Revised Statutes (HRS) -- the Professional and Vocational Licensing Act.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs (DCCA) and the Hawaii State Council of the American Institute of Architects.

Your Committees find that:

- (1) Unlicensed activities within the various professions and vocations regulated under Chapter 438B, HRS, such as chiropractic, engineering, architecture, surveying and landscape architecture, cosmetology, acupuncture, electrology, massage, physical therapy, real estate appraisal, and speech pathology and audiology, have increased significantly in recent years;
- (2) Unlicensed activities threaten the viability of Hawaii's professions and vocations, as well as jeopardize the welfare and safety of consumers; and
- (3) While DCCA's Regulated Industries Complaints Office (RICO) noted that 631 cases of unlicensed activity were recorded in the field of contracting alone, RICO was only able to issue citations in 106 of the aforementioned cases under the current administrative procedures.

In light of this, your Committees believe that the establishment of citation authority would streamline the current complaints process by immediately halting unlicensed activity through the issuance of a citation and the provision of an administrative hearing. This in turn would serve the interests of the professions and vocations regulated under Chapter 436B, HRS, as well as ensure the welfare and safety of the consuming public.

It is noteworthy to mention that the provisions of this bill were modelled after Section 444-10.5, HRS, pertaining to unlicensed activity in contracting.

While your Committees are in accord with the intent of this bill, your Committees have amended this bill by 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 Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1630, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1630, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Hirono and Takamine.
(Representatives Herkes and Thielen voted no.)

SCRep. 672 Consumer Protection and Commerce and Judiciary on H.B. No. 1638

The purpose of this bill is to clarify State law pertaining to business corporations, nonprofit corporations, and partnerships.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs (DCCA).

Your Committees find that the proposed amendments to Chapters 415, 415B, 425, and 425D, Hawaii Revised Statutes (HRS), are necessary for the following reasons:

- (1) To delete references to obsolete procedures; and
- (2) To update and conform provisions of the above-referenced chapters with other State laws.

In light of this, your Committees believe that the provisions of this bill will enhance the ability of DCCA to register and regulate business corporations, nonprofit corporations, and partnerships, as well as serve the interests of the consuming public.

While your Committees are in accord with the intent of this bill, your Committees have amended this bill by making technical, nonsubstantive revisions 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 Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1638, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1638, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Hirono and Takamine.