

SCRep. 490**Judiciary on H.B. No. 1263**

The purpose of this bill is to provide appropriate funds for the implementation and operation of a Hawaii drug court.

Your Committee received testimony in support of this bill from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii State Judiciary, the Honolulu Police Department, and the Hawaii State Bar Association.

Your Committee finds that offenders with substance abuse problems have imposed an enormous burden on both the court and correctional systems. Alternatives to incarceration involving drug rehabilitation programs are critical in stemming the tide of crime which often flows from drug abuse. Your Committee believes that if an offender's drug abuse problems are addressed quickly and effectively, then the likelihood of recidivism diminishes tremendously.

The Hawaii drug court is envisioned as an integral part of Hawaii's criminal justice system because it will allow for the prompt handling of drug cases and will hold persons with drug problems directly accountable for their progress in treatment programs through more intensive judicial involvement.

Your Committee was concerned that this bill was essentially an appropriation measure and that there were no specific guidelines set forth for implementation of the drug court. Your Committee's concerns were assuaged following submission of information regarding the drug court from the Judiciary.

The Judiciary has devised a plan whereby the drug court will consist of one sitting First Circuit Court judge assigned by the Chief Justice. The activities of the drug court judge will be supported by related case management and support services and by treatment and intensive supervision components. It is contemplated that appropriate candidates for the drug court will have frequent contact with the court in order for the court to intensively monitor the offender's rehabilitative progress.

The drug court will target pretrial and post conviction defendants who have assessed alcohol and drug abuse problems and who are genuinely desirous of rehabilitating themselves. Persons who have been convicted of class A felonies, except for drug offenses, will be excluded from participation in the drug court. It is contemplated that the drug court will also exclude those defendants who have committed offenses involving serious and/or substantial bodily injury. This bill has been amended by adding these guidelines in section 1.

Your Committee finds that drug courts have been implemented in other jurisdictions with great success. Your Committee believes that a drug court will be a cost effective measure with significant long-term benefits to the people of Hawaii.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1263, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1263, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa, Herkes, Menor and Saiki.

SCRep. 491**Judiciary on H.B. No. 1277**

The purpose of this bill is to increase the salaries of supreme court justices, intermediate appellate court judges, circuit court judges, and district court judges.

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

Your Committee finds that attracting and retaining exceptional persons to serve as justices and judges requires fair and just compensation. Hawaii's justices and judges have not had a pay raise since January, 1990. Since that time, justices and judges in forty-seven states have obtained salary increases. Also, within the past five years, Hawaii's professionally-categorized state government employees have received salary increases.

Your Committee finds that it is fair and just to increase the starting (base salary) of a justice or judge by four percent. Your Committee also believes that judge's should be compensated commensurate with their level of experience on the bench. Salary structures in private business and government usually consider the extent of an employee's tenure. Also, it is incongruous for a newly appointed circuit court judge to receive the same salary as a veteran circuit court judge who has devoted many years to public service.

This bill increases the salaries of justices or judges by one percent for each full year of service as a full-time judge prior to January 1, 1996. If a justice or judge has served for more than ten years, the salary of this person will be limited to a ten percent increase from the judge's base salary. For purposes of the percentage increase from the base salary, the number of years of service will be fixed as of January 1, 1996, and will not thereafter be increased by subsequent years of service.

Accordingly, your Committee has amended this bill by:

- (1) Increasing the salary of justices and judges by four percent and delineating this figure as the base salary.
- (2) Deleting reference to automatic increases based on the consumer price index or on salary increases obtained by white collar employees under the state collective bargaining agreement.

- (3) Providing for an increase in the salary of justices and judges based on their number of years of experience, with a maximum increase of 110 percent of the base salary.
- (4) Deleting provisions relating to a retroactive salary increase.
- (5) Adding a section which clarifies that a judge who is appointed to a higher judgeship will receive a salary based on the new position's base salary.

As affirmed by the record of votes of 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. 1277, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1277, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo, Menor and Yoshinaga.
(Representatives Yamane, Kawanakoa and Thielen voted no.)

SCRep. 492

Consumer Protection and Commerce on H.B. No. 2215

The purpose of this bill is to stabilize and ultimately reduce homeowner insurance costs by requiring the Board of Directors of the Hawaii Hurricane Relief Fund to develop plans and proposals for the establishment of a state reinsurance fund program, examine alternative financing methods to address the costs of future disasters, and explore the possibility of establishing incentives to encourage and broaden private reinsurance participation.

Your Committee finds that Hurricane Iniki caused an estimated \$1,600,000,000 in insured property losses to various parts of the State. Prior to the hurricane, homeowners' insurance covered losses from fire, windstorm, hurricane, and other causes. Immediately after the hurricane, homeowners' insurance which included hurricane coverage became difficult to obtain. Since that time, more than one-third of Hawaii's homeowners have lost their property insurance.

In 1993, the Legislature created the Hawaii Hurricane Relief Fund in an effort to encourage companies to resume writing homeowners' insurance policies in Hawaii. As a result of the law, insurance companies now issue homeowners' insurance policies that do not contain coverage for the hurricane risk. The Hurricane Relief Fund issues policies covering hurricane risk. The law makes the insurance companies liable for the first \$500,000,000 in losses in the event of another hurricane. Hurricane losses in excess of that cap will be assumed by the Hurricane Relief Fund. Despite the creation of the fund, however, homeowners are currently forced to pay premiums at levels three to four times the rate paid prior to Hurricane Iniki.

Currently, the amount paid in premiums by homeowners for coverage from private insurance carriers is difficult to ascertain. In contrast, the premiums paid by homeowners for the coverage provided by the Hurricane Relief Fund, plus the special mortgage recording fee, plus the annual assessment on insurance companies' property and casualty premiums totals approximately \$80,000,000 a year. At this rate, it is estimated that it will require seven years for the Hurricane Relief Fund to accumulate \$500,000,000.

In order to stabilize and reduce insurance rates, your Committee finds that the State should consider the feasibility of alternative sources of funding to satisfy the \$500,000,000 share of liability currently reinsured by the Hurricane Relief Fund. The Hurricane Relief Fund currently charges approximately \$1.75 per \$1,000 as its rate for hurricane coverage. Upon finding sources of funding to satisfy the Hurricane Relief Fund's liability, your Committee believes that there is the potential that this rate could be stabilized. In addition, the approximate \$80,000,000 a year that is currently collected by the Hawaii Hurricane Relief Fund will no longer be used for the purchase of reinsurance and will be left in the fund to accumulate over time.

Your Committee finds that an aggressive strategy must be developed to secure funds to satisfy the Hurricane Relief Fund's share of liability. In this regard, your Committee has amended this bill by authorizing the Director of Finance to secure the necessary funds from several possible sources:

- (1) State revenue bonds;
- (2) Loan commitments from the federal government or any agency of the federal government, including federal disaster relief agencies;
- (3) Loan commitments such as lines-of-credit or standby bank facilities from financial institutions or other private sources; and
- (4) Any combination of the above.

Your Committee wishes to note that the loan commitments from the federal government or any of its agencies will be drawn only in the event of a hurricane. Funds may not be requested unless projected losses are in excess of the policyholder deductibles, plus the initial \$500,000,000 liability borne by insurance companies. If moneys are drawn in the event of a hurricane, they will be repaid in accordance with any loan commitment agreements.

Your Committee wishes to specifically emphasize that this bill will provide the Director of Finance with a mechanism to seek funding in an aggregate amount of \$500,000,000. Although the bill authorizes revenue bonds to cover the full aggregate amount, the bond proceeds ultimately utilized may be considerably less than the total amount authorized. The bond proceeds utilized will be contingent on the commitments aggregated by the Director of Finance from all other sources.

Your Committee finds that this bill represents a bold and creative measure that could help to alleviate Hawaii's property insurance crisis. Although concerns were expressed by several Committee members that the enactment of this bill

into law could expose the State to enormous financial risks, your Committee believes that this measure could lead to the stabilization or reduction of property insurance rates and therefore deserves further serious consideration.

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. 2215, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2215, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 493 Consumer Protection and Commerce on H.B. No. 1687

The purpose of this bill is to amend the law relating to the Hawaii Public Employees Trust Fund to enable the Board of Trustees of the Hawaii Public Employees Health Fund (Board of Trustees) to negotiate or use other competitive methods when choosing a carrier or third-party administrator for any benefit plan.

Your Committee believes that allowing the Board of Trustees this flexibility to negotiate and requiring guidelines on carrier selection are sound business practices and therefore, in the best interest of the fund's members.

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. 1687, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 494 Hawaiian Affairs and Housing on H.B. No. 564

The purpose of this bill is to appropriate funds to develop plans and strategies to address the housing needs of the former employees of the Waialua Sugar Company.

ILWU Local 142 submitted testimony in support of this measure. The Office of State Planning submitted testimony in support of the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 564 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Stegmaier and Kawananaoka.

SCRep. 495 Hawaiian Affairs and Housing on H.B. No. 1825

The purpose of this bill is to provide measures to assist native Hawaiians attain a level of self-determination by:

- (1) Require the Department of Hawaiian Home Lands (DHHL) to:
 - * Enter into a contract upon the request of any native Hawaiians or native Hawaiian homesteader organization,
 - * Provide written objections to requestors who were declined,
 - * Assist requestors who have been declined in overcoming objections and provide the beneficiary with a hearing and the opportunity to appeal;
- (2) Authorize the DHHL to make grants to native Hawaiians or native Hawaiian groups;
- (3) Require the DHHL to give preference to native Hawaiians or native Hawaiian organizations to the greatest extent possible when awarding contracts or grants; and
- (4) Providing audit requirements for recipients of DHHL assistance.

The only testimony received by your Committee was from the DHHL. The DHHL expressed support of the intent yet opposed the passage of the bill. The department's current policy is to give preference to native Hawaiians. Statutory mandates would not be necessary.

Upon careful consideration of the issues, your Committee recognizes the concerns expressed by the DHHL yet feel this bill could act as a vehicle to assist native Hawaiians in achieving self-sufficiency and self-determination.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1825 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami and Stegmaier.

SCRep. 496 Hawaiian Affairs and Housing on H.B. No. 2330

The purpose of this bill is to appropriate funds for an emergency shelter for the increasing number of homeless people in Waikiki.

Your Committee received testimony in support of the general intent of the bill from the Executive Director of the Hawaii Housing Authority. Your Committee also received testimony in support of the bill from the Department of Housing and Community Development of the City and County of Honolulu, as well as the Executive Director of the Waikiki Health Center and Medical Clinic, who requested that his organization be involved in helping to bring the bill's purposes to fruition.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2330 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Stegmaier and Kawanakoa.

SCRep. 497 Hawaiian Affairs and Housing and Education on H.B. No. 102

It is recognized that the Hawaiian language is critical to the identity, culture, and traditions of the indigenous Hawaiian people. The 1978 Constitutional Convention designated Hawaiian as one of the official languages of the State of Hawaii. To ensure perpetuation of the native Hawaiian language, the Department of Education conducts educational courses in the context of a Hawaiian language immersion environment.

The purpose of this bill is to appropriate funds to the Department of Education for the expansion of the Hawaiian Language Immersion Program in the public school system.

Your Committees received testimony supporting the intent of this bill from the Office of Hawaiian Affairs, the Department of Education, Keaukaha Immersion School, Kapa'a Immersion School, Ka Papa Kaiapuni Hawaii, Waiau Immersion School, Democratic Party of Hawaii, Association of Hawaiian Civic Clubs, Malama Mo'okuauhau 'O Kukaniloko, and from a large number of private citizens, parents, and children.

The Department of Education, though in support of the intent of the bill, expressed concern regarding the funding for the expansion of the Hawaiian language program.

The large numbers of testimony indicated overwhelming public support to expand the current programs. There was pressing concern that as elementary students graduate from upper grades, there may not be additional grades to allow them to continue studies within the immersion environment. Expanding the programs would address this concern as well as diminish the extensive waiting lists of students wishing to enroll in the immersion schools.

Your Committees agree that the Hawaiian Language Immersion Program is important to build and perpetuate the Hawaiian language. Your Committees also recognize the benefits to the children who are educated in an immersion program and learn the native language and culture of Hawaii as a result.

In conclusion, your Committees are in full agreement and support of the intent of this measure to expand the Hawaiian Language Immersion Program in the public school system. They have amended this bill to insert \$1 as an appropriation for the purpose of continuing discussion.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 102, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 102, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hamakawa, Lee, Pepper, Saiki, Shon, Takamine, Tarnas and Yonamine.

SCRep. 498 Hawaiian Affairs and Housing and Education on H.B. No. 419

It is recognized that the Hawaiian language is critical to the identity, culture, and traditions of the indigenous Hawaiian people. The 1978 Constitutional Convention designated the Hawaiian as one of the two official languages of the State of Hawaii. To ensure perpetuation of the native Hawaiian language, the Department of Education established schools which teach all courses in the context of a Hawaiian language immersion environment.

The purpose of this bill is to appropriate funds to:

- (1) Increase and fund staff positions in the Hawaiian language immersion schools;
- (2) Cover operating costs for curriculum development and various other costs to expand the programs; and
- (3) Establish a task force to make recommendations to the Legislature on how to establish a single Hawaiian immersion school campus system.

Your Committees received testimony supporting the intent of this bill from the Office of Hawaiian Affairs, the Department of Education, Keaukaha Immersion School, Kapa'a Immersion School, Ka Papa Kaiapuni Hawaii, Waiau Immersion School, Ka Hui Makua o Punana Leo o Kona, and from a large number of private citizens, parents, and children.

The Department of Education, though in support of the intent of the bill, expressed concern regarding the funding for the expansion of the Hawaiian language program.

Testimony on the part of Ka Hui Makua o Punana Leo o Kona stated that the Punana Leo will be graduating students with no other school to pursue public education within the immersion program. They requested that a public Kula Kaiapuni be established at Holualoa Elementary School in Kona. This would preclude the need for the graduating students to travel 120 miles to the closest immersion school in Hilo.

The large numbers of testimony indicated overwhelming public support to expand the current programs. There was pressing concern that as elementary students graduate from upper grades, there may not be additional grades to allow them to continue studies within the immersion environment. Expanding the programs would address this concern as well as diminish the extensive waiting lists of students wishing to enroll in the immersion schools.

Your Committees agree that the Hawaiian Language Immersion Program is important to build and perpetuate the Hawaiian language. Your Committees also recognize the benefits to the children who are educated in an immersion program and learn the native language and culture of Hawaii as a result.

In conclusion, your Committees are in full agreement and support of the intent of this measure to expand the Hawaiian Language Immersion Program in the public school system. A section was added which calls for the establishment of a Kula Kaiapuni program at Holualoa Elementary School in Kona. Your Committees have further amended this bill to insert \$1 appropriations for the purpose of continuing discussion.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 419, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 419, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hamakawa, Lee, Pepper, Saiki, Shon, Takamine, Tarnas and Yonamine.

SCRep. 499 Health on H.B. No. 1242

The purpose of this bill is to give pharmacists the flexibility to streamline the process of filling prescriptions. The bill specifies categorical instances when the notation "take as directed" may be used in lieu of written instructions on a container label.

This bill received favorable testimony from the Department of Health and the Department of Public Safety. The Committee amended the bill in order to make a spelling correction and two corrections in regard to dosage amounts as advised by the Hawaii Pharmaceutical Association.

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. 1242, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1242, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Saiki, Stegmaier and Anderson.

SCRep. 500 Health on H.B. No. 1260

The purpose of this bill is to require hospitals to report attacks on staff to the police within forty-eight hours of the incident. Hospitals will also be required to conduct security and safety assessments of their facilities.

The Hawaii Nurses Association and the Hawaii Government Employees Association submitted testimony in favor of this bill. The Committee believes that this legislation is necessary to help protect hospital staff, visitors, and patients, and felt that the bill could be strengthened further by reducing the time allowed for reporting to the local law enforcement agency any act of criminal assault that results in injury or involves the use of a firearm or other dangerous instrument. Consequently, the Committee amended the bill to shorten the reporting requirement from 72 hours to 48 hours.

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. 1260, as amended herein, and recommends 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 Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 501 Health on H.B. No. 1555

The purpose of this bill is to eliminate the sunset provision originally placed on the Community Based Teenage Health Clinic Demonstration Program.

The Committee believes very strongly this program which provides medical care services to street and runaway youth has been successful and should continue.

This bill was amended to correct a technical error.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1555, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1555, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Stegmaier and Anderson.

SCRep. 502 Public Safety and Military Affairs on H.B. No. 147

The purpose of this bill is to implement the State Auditor's 1994 recommendation that the Department of Public Safety implement a test program to avoid extensive employee overtime expenses by increasing the shift relief factor at the Oahu Community Correctional Center. The bill further requires the Department of Public Safety to continue to develop its information and control systems to provide reliable data for determining the shift relief factor.

Your Committee received testimony in support of this bill from the Department of Public Safety. According to the Department of Public Safety, increasing the shift relief factor at Oahu Community Correctional Center from 1.65 to 1.88 as recommended by the State Auditor and stated in the bill, would result in an almost total elimination of overtime at the Oahu Community Correctional Center. The Department of Public Safety also stated that the shift relief factor has not been increased in over 25 years, despite mandatory measures such as the Family Leave Act that allow employees to take more time off from work.

In discussion with the Department of Public Safety, it was determined that increasing the shift relief factor at the Oahu Community Correctional Center would result in a net savings to the State. This is because hiring and paying the additional staff necessary to increase the shift relief factor would be less expensive than continually paying the current staff overtime. The implementation of a test program to increase the shift relief factor from 1.65 to 1.88, would require hiring 52 new employees. For expediency, and to save costs, the Department of Public Safety recommended that these new positions be emergency hire and not civil service. An emergency hire position would cost \$23,673 per year. The total cost of funding the 52 emergency hire positions would be \$1,230,996 per year. This is far less than what the Department of Public Safety now pays in overtime at the Oahu Community Correctional Center.

Based on this information, your Committee has amended this bill by adding a new section appropriating \$1,230,996 to implement a test program increasing the shift relief factor at Oahu Community Correctional Center from 1.65 to 1.88. In addition, your Committee made technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 147, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 147, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom and Meyer.

SCRep. 503 Public Safety and Military Affairs on H.B. No. 149

The purpose of this bill is to require the Department of Public Safety to implement all elements of a model system for managing its security staff.

Your Committee has heard testimony submitted by the Department of Public Safety pursuant to, and acknowledging the recommendations in the Auditor's 1994 report, entitled "A Follow-Up Review of Security Staffing in the Department of Public Safety".

Your Committee is in agreement that the combined elements of the model system of security management, when fully implemented, will lead to its improvement within the state's correctional facilities.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 149 and recommends that it pass Second Reading and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Saiki, Tom and Meyer.

SCRep. 504 Public Safety and Military Affairs on H.B. No. 1369

The purpose of this bill is to authorize the issuance of general obligation bonds and make appropriations for renovating, planning, designing, and constructing various correctional facilities and community correctional centers.

Testimony in support of this measure was received from the Department of Public Safety, the Corrections Population Management Commission, and the City and County of Honolulu Department of the Prosecuting Attorney.

Your Committee recognizes the need for adequate correctional facility space to maintain public safety. Currently, the total amount of inmates housed in state correctional facilities exceeds the operating capacity by 300 inmates. By the year 2000, the inmate population is expected to increase by nearly 1,500. Considering the length of time involved in selecting a prison site, and the time necessary for planning and construction, there is an urgent and immediate need to appropriate funds for expansion of correctional facilities.

Upon consideration, your Committee has amended this bill by:

- (1) Reducing the appropriated amounts for selected projects;

- (2) Deleting the appropriation for a boot camp correctional facility; and
- (3) Making technical, nonsubstantive amendments for purposes of accuracy, clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1369, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1369, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Meyer.

SCRep. 505 Public Safety and Military Affairs on H.B. No. 2306

The purpose of this bill is to provide an appropriation for operating funds to accommodate a shortage of approximately 350 beds in our correctional facilities. H.B. 2306 addresses the need for a detention facility on Oahu which could be built quickly, at minimum cost, and still satisfy county building code requirements.

Testimony submitted by the Department of Public Safety and by both the Department of the Prosecuting Attorney and Office of the Managing Director of the City & County of Honolulu, support the development, construction, and staff for a minimum security detention facility. The lack of such a facility creates a dilemma for the ability of law enforcement to ensure that offenders, who present a low security risk, are not prematurely released as a result of the shortage of bed space.

The Committee recognizes the reluctance of communities to accept correctional facilities within their respective neighborhoods. Therefore, your Committee encourages continuing dialogue and negotiations to establish the willingness of the Department of Public Safety to be "good neighbors" at any site under consideration.

However, a site for a minimum security detention center at Barbers Point would not be available, if at all, before 1997. Development time from construction to occupancy would require an additional four to five years. As a result, your Committee suggests considering the Waiawa location as the most feasible approach to providing such a detention center.

This measure has been amended to incorporate the concerns of location, feasibility, and necessity and by making technical, nonsubstantive amendments for the purpose of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. 2306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. 2306, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Meyer.

SCRep. 506 Public Safety and Military Affairs and Judiciary on H.B. No. 158

The purpose of this bill is to establish and implement a crime reduction pilot program in the County of Hawaii. This initiative would incorporate the services of volunteer police officers, private investigators, per diem prosecutors, per diem judges and provide for overtime funding for additional law enforcement persons.

Testimony in support of H.B. 158 was received from the Hawaii County Police Department. That testimony emphasized the benefits of, and need for an innovative crime reduction package which would encompass the geographical scope of an island the size of that county. The State of Hawaii Organization of Police Officers (SHOPO) also submitted testimony in support of the measure.

After full and free discussion on the merits of the bill, your Committee on Public Safety and Military Affairs and your Committee on Judiciary have amended this bill to provide for an appropriation of \$1. It has been further amended in order to clarify the waiver of civil liability for volunteer police officers involved in the program, to exclude from the waiver, any willful acts of gross negligence.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 158, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 158, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Saiki.

SCRep. 507 Tourism on H.B. No. 1374

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism to facilitate the development of health-related tourism.

Your Committee received testimony in support of this bill from the Hawaii Hotel Association and a concerned individual, and comments on the bill from the Department of Business, Economic Development and Tourism.

Your Committee finds that the health-related segment of the tourism industry has experienced one of the fastest growth rates, and offers proportionally greater economic benefit to destinations by expanding health facilities for local residents and creating greater opportunities for high-technology and high-salary employment.

Your Committee revised the bill by:

- (1) Adding freestanding outpatient surgery center, chronic pain treatment centers and diagnostic facilities to the list of examples of types of physical facilities to be identified as appropriate candidates for health tourism support according to the criteria established by the department; and
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

Despite the emphasis on facilities for overseas visitors, the Committee does not intend that locals be excluded from treatment.

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. 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 placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Lee and Takai.

SCRep. 508 Consumer Protection and Commerce on H.B. No. 1920

The purpose of this bill is to make technical corrections and substantive changes to Section 431P, Hawaii Revised Statutes.

This bill corrects grammatical mistakes and technical errors in the law relating to the Hawaii Hurricane Relief Fund (HHRF). Moreover, this bill clarifies the law governing HHRF by adding and amending definitions and includes provisions that will improve the administration of the fund.

Testimonies in support of this bill were received from several parties, including the executive director of the HHRF and the Mortgage Bankers Association.

Your Committee amends this bill by deleting the phrase "for residential property" from line 12 on page 6.

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. 1920, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1920, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Tom and Meyer.

SCRep. 509 Economic Development and Business Concerns on H.B. No. 471

The purpose of this bill is to encourage and facilitate further development of the state's telecommunications industry by:

- (1) Requiring the Public Utilities Commission (PUC) to adopt rules requiring telecommunications carriers, including local exchange carriers, to provide interconnection to carriers' telecommunications facilities and nondiscriminatory access to carriers' telecommunications network functions, among other things;
- (2) Requiring telecommunications carriers to contribute to the preservation and advancement of universal service;
- (3) Mandating the PUC to ensure:
 - (a) Consumers are given the necessary information to make informed telecommunications choices; and
 - (b) The local exchange carrier does not cross-subsidize services with revenue from the rate base;
- (4) Requiring telecommunications carriers to compensate each other on a reciprocal and equivalent basis for the termination of telecommunications services on each other's networks; and
- (5) Allowing telecommunications carriers to have pricing flexibility for services that the PUC deems competitive.

Your Committee notes the efforts of the parties involved in Docket No. 7702, the communications infrastructure docket, toward developing the framework necessary to support the deployment of new technologies and the orderly introduction of competition in the telecommunications industry in the state. While your Committee recognizes that the development of Hawaii's telecommunications industry must proceed in an efficient, orderly, and prudent manner, it is your Committee's belief that the vast economic potential and opportunities of the telecommunications industry necessitate that the state move forward immediately to reap the benefits of this industry.

Your Committee recognizes that the regulatory process cannot keep abreast of the vast technological advances taking place in the telecommunications industry. In the highly competitive telecommunications market, any delay in developing Hawaii's local infrastructure would impede the state's role in the international telecommunications market.

In this regard, your Committee believes that sound regulatory policy decisions be made to support effective competition of the telecommunications industry through rules that are fair to all parties. It is the intent of your Committee to facilitate efforts to improve the quality of communications services and offer a greater diversity of service options to consumers for the public good.

Testimony in support of the bill was received from Oceanic Cablevision and its telecommunications affiliate, Oceanic Communications. Your Committee also received testimony in support of the intent of the bill from the Executive Director of the Division of Consumer Advocacy (Consumer Advocate), Department of Commerce and Consumer Affairs. Comments were received from AT&T and Honolulu Cellular Telephone Company. Other comments were also received from the PUC, which requested that the bill be deferred pending the outcome of the infrastructure docket. GTE Hawaiian Telephone Company Incorporated (Hawaiian Tel) submitted testimony requesting that the bill be held.

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

- (1) Including in the findings of the bill, that:
 - (a) Telecommunications services be available to all persons at fair, just, reasonable, and nondiscriminatory rates; and
 - (b) It is in the public interest that all consumers share in the benefits of effective telecommunications competition;
- (2) Defining "telecommunications carrier," "telecommunications common carrier," "telecommunications service," and "telecommunications";
- (3) Requiring telecommunications carriers, upon bona fide request, to provide information services to entities seeking to provide intrastate telecommunications;
- (4) Including the following services to be provided to entities seeking to provide intrastate telecommunications:
 - (a) Current interstate tariff to be used as the rate base until the PUC can adopt a new intrastate tariff;
 - (b) Nondiscriminatory and equal access to any carrier's telecommunications facilities and functions;
 - (c) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the carrier; or the PUC will authorize access to electric utilities' poles; and
 - (d) Nondiscriminatory access of consumers to the carrier of their choice without the need to dial additional digits or access codes;
- (5) Establishing the Universal Service Fund to be administered by the PUC; and
- (6) Requiring the PUC to:
 - (a) Advance and preserve universal service;
 - (b) Identify services, including business dial tone line and exchange access for interisland toll, and the rate that each provider shall pay to be deposited into the Universal Service Fund;
 - (c) Ensure that telecommunications carriers are compensated on a fair basis for termination of telecommunications services on each other's networks;
 - (d) Determine the methodology and frequency with which providers calculate long-run incremental cost and fully distributed cost; and
 - (e) Ensure that consumers are provided nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities.

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. 471, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 471, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 510

Education on H.B. No. 1423

The purpose of this bill is to appropriate \$49,616 for fiscal year 1995-1996 for projects relating to the transfer of the Makiki Park District Library into the state library system.

The Director of the Municipal Reference and Records Center of the City and County of Honolulu submitted testimony in support of this measure. The President and a librarian of the Friends of Makiki Library submitted comments on this measure. The State Librarian submitted testimony in opposition to this measure.

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

- (1) Clarifying that the appropriation of \$49,616 for fiscal year 1995-1996 is for staffing of the Makiki Park District Library; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

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

Signed by all members of the Committee except Representatives Lee, Takamine and Yonamine.

SCRep. 511 Education on H.B. No. 160

The purpose of this bill is to develop a voyaging program within the Department of Education (DOE), through which students will actively explore Hawaii's marine environment.

Your Committee received testimony in support of this bill from the DOE, the Polynesian Voyaging Society, a teacher and students who participated in a voyage on the canoe E'ala.

Your Committee amended this bill by adding "Na Kalaiwaa Moku O Hawaii" as a group with whom the DOE shall collaborate in developing the voyaging 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. 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 referred to the Committee on Finance.

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

SCRep. 512 Energy and Environmental Protection on H.B. No. 224

The purpose of this bill is to authorize the Director of Health to order counties to enforce or revoke any erosion control permits issued by a county agency.

Testimony was presented by the State of Hawaii (Department of Health and the Office of State Planning), the City and County of Honolulu's Department of Public Works, land use organizations, and the environmental community.

While, support for enforcing erosion control methods was evident with all testifiers, the bill as written raised concerns over the state forcing actions upon the individual counties.

Additional discussion raised the issues of inconsistent enforcement processes among the counties, and the need to develop a more cooperative involvement in the state's and counties' dealings with one another.

In order to satisfy those concerns, your Committee has amended H.B. No. 224 to foster a more cooperative, consistent approach to erosion control, both on the state and county levels.

The bill has also been amended to acknowledge the need for baseline information pertaining to the more nebulous areas of non-point source pollution control, such as background erosion levels, stream turbidity standards, and unusually heavy rainfall occurrences, all of which can contribute to confusion in attempting to enforce erosion control standards.

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. 224, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 224, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Santiago, Takamine, Yamane and Yoshinaga.

SCRep. 513 Energy and Environmental Protection on H.B. No. 730

The purpose of this bill is to authorize the Department of Land and Natural Resources to establish an Aloha Aina extension service to provide environmental education and outreach and various other types of assistance to the Department, relating to conservation and resource protection.

Testimony was presented by the State of Hawaii (Department of Land and Natural Resources), by the Natural Resources Defense Council, and a concerned citizen; it was universally supportive of the concepts underlying the bill.

Discussion took place between your Committee members and testifiers regarding whether 'extension agent' was too narrow a term to use in this bill to fulfill its intent, and how the Department would reallocate its internal funding to support development of the Aloha Aina program.

Because the Department of Land and Natural Resources' budget has not yet been determined, no resolution of the internal funding rearrangement was achieved. By passage of this bill, however, the Department will achieve the latitude it needs to assign funds from its internal budget, at the option of the Chair.

Minor revisions were made to the bill to delete reference to 'extension agents,' with replacement language promoting the concept of an 'extension service.'

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. 730, as amended herein,

and recommends that it pass Second Reading in the form attached hereto as H.B. No. 730, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 514 Energy and Environmental Protection on H.B. No. 731

The purpose of this bill is to provide further clarification of Act 202 which, if enacted, will:

- (1) Give the Department of Business, Economic Development, and Tourism the necessary authority to carry out its provisions;
- (2) Make the Clean Hawaii Center and its board fully operational with authority to guarantee loans (through the Small Business Administration) and manage recycling parks; and
- (3) Provide that any remaining balances in the Clean Hawaii Fund when the Center is disbanded are transferred to the Hawaii Capitol Loan Program.

When the Legislature enacted Act 202, Session Laws of Hawaii 1994, which created the Clean Hawaii Center, it envisioned a partnership between business and government to help foster further growth of environmental businesses and technologies through the creation, development and expansion of commercial markets for recyclable products. The Center has since provided technical and financial assistance to both counties and businesses in the use of recycling as one way to significantly reduce the levels of solid waste produced in this state.

Your Committee heard testimony from the Department of Business, Economic Development, and Tourism, which reiterated the administration's support for this measure and offered several non-substantive amendments for purposes of further clarification. Accordingly, your Committee voted to adopt the department's recommendations and incorporate them into H.B. No. 731, H.D. 1.

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. 731, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 731, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 515 Energy and Environmental Protection on H.B. No. 745

The purpose of this bill is to appropriate funds to improve the effectiveness of the nonpoint source pollution (NPSP) program by allowing the acceptance of a larger federal grant.

Testimony was presented by the State of Hawaii's Office of State Planning, Department of Health, and University of Hawaii College of Tropical Agriculture; the City and County of Honolulu's Department of Public Works and Board of Water Supply, a Neighborhood Board; the environmental community; and private industry and individuals.

Because another appropriations-related NPSP bill was being heard at the same, your Committee has chosen to combine the two (H.B. No. 745 and H.B. No. 1711) so that your Finance Committee can examine the two separate components of Hawaii's NPSP funding mechanisms at the same time.

As H.B. No. 745 was originally drafted, it requested an appropriation from the general fund that will be matched under the federal government's Clean Water Act of 1987 on a 40%/60% state/federal basis. Those moneys would be applied to the state's ongoing NPSP management program, administered by the Department of Health, that was begun in 1988.

Having chosen to hold H.B. No. 1711, your Committee has inserted its provisions into H.B. No. 745, H.D. 1. Those additional provisions cover a separate source of NPSP funding.

The federal Coastal Zone Management Act provides funding for NPSP program development on a one-to-one matching funds basis. The funds generated by this component are managed by the Office of State Planning, and also require an appropriation from the state's general fund.

Your Committee recognizes that the moneys appropriated from general funds for the NPSP programs will be more than doubled by these matching federal funds, and has chosen to support fully the intent of both program components, as combined in H.B. No. 745, H.D. 1.

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. 745, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 745, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Takamine, Tarnas and Yoshinaga.

SCRep. 516 Energy and Environmental Protection on H.B. No. 1108

The purpose of this bill is to provide a mechanism for the review of oil spill emergency response preparedness exercises in the State of Hawaii by:

- (1) Giving the Hawaii State Emergency Response Commission the authority to monitor, review and analyze the procedures used during the conduction of these exercises in the state; and
- (2) Providing for annual reports of the findings of the commission to the Governor and the Legislature.

The original intent of H.B. No. 1108, as first envisioned, was to create an oversight committee to perform the functions as set forth above. However, while the testimony received supported the intent of the bill, there was a clear reluctance, both in the testimony and by the members of your Committee, to create another body to do the work that properly belonged within the purview of the already existing Hawaii State Emergency Response Commission.

Your Committee, conscious of the present need to deter further redundancy in our state government, therefore decided to amend H.B. No. 1108 by removing the text, save for lines 10 through 15 on page 2, and inserting in its stead section 128E-2 of the Hawaii Revised Statutes, which was in turn amended by adding lines 10 through 15 to subsection (g) of that statute which, if effected, will give the authority and responsibility for the review of, and subsequent report on, oil spill contingency plans for the Hawaiian Islands to the Hawaii State Emergency Response Commission.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1108, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1108, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 517 Judiciary on H.B. No. 1045

The purpose of this bill is to propose an amendment to the Constitution of the State of Hawaii to require the Commission on Government Organization and Efficiency to convene in the year 2005, and every tenth year thereafter.

A member of the City Council of the City and County of Honolulu testified in support of this measure. The Director of the Department of Budget and Finance testified in opposition.

Your Committee finds that it is important for the State to ensure that its agencies and subdivisions are functioning in an efficient and cost effective manner.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1045 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yamane, Yoshinaga and Thielen.
(Representative Kawanakoa voted no.)

SCRep. 518 Judiciary on H.B. No. 1851

The purpose of this bill is to appropriate funds to satisfy claims for judgments against the State and settlements.

The Attorney General of the State of Hawaii testified in support of this measure.

Your Committee recognizes the necessity of paying judgments and settlements against the State.

Your Committee has amended this bill by:

- (1) Adjusting the judgment amount for the claim brought by Sharla C. Simpson from \$69,142.67 to \$68,038.40;
- (2) Adjusting the settlement amount for the claim brought by Eric Schroeder from \$140,000.00 to \$143,528.76; and
- (3) Adding two new claims brought by Tanya Felix and Hawaiian Cement.

Your Committee has made 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. 1851, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1851, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo, Menor and Yoshinaga.

SCRep. 519 Judiciary on H.B. No. 1853

The purpose of this bill is to authorize the Hawaii Criminal Justice Data Center (HCJDC) and other state and county criminal justice agencies acting on behalf of HCJDC to charge fees for services related to criminal history record information.

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

The demand for criminal history record information has escalated tremendously due to increased requests from criminal justice agencies, private entities, and from the general public. It is estimated that assessment of fees will generate over \$200,000 of revenue. Testimony received stated that passage of this bill would enhance the State's qualification for federal moneys funded by Congress for criminal data collection and dissemination.

The bill has been amended by:

- (1) Deleting the establishment of a revolving fund, thereby providing that the fees will be deposited into the general fund.
- (2) Allowing an exemption in cases of hardship, in addition to the exemption for child care facilities.
- (3) Deleting HCJDC's authority to adjust the fees while retaining their rule-making authority to provide for further exemptions.
- (4) Changing the effective date to July 1, 1995.

As affirmed by the record of votes of 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. 1853, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1853, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Menor, Saiki and Yoshinaga.

SCRep. 520 Judiciary on H.B. No. 2038

The purpose of this bill is to adopt the federal standards and penalties for the prosecution of tax offenses.

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

The Office of the Public Defender submitted testimony in opposition to this bill.

Your Committee finds that the State's criminal tax penalties need to be strengthened. Your Committee believes that stronger penalties will deter persons from committing acts in violation of the tax laws. Therefore, your Committee finds that the penalty provisions and criminal standards in Title 26 of the United States Code should be incorporated into Title 14 of the Hawaii Revised Statutes.

Your Committee was concerned that permitting the government to commence prosecution within ten years after discovery of an offense was unreasonable. Your Committee believes that if the state tax penalties are to comport with the federal penalties, then the state statute of limitations period should also be consistent with its federal counterpart. Accordingly, this bill has been amended to reflect the federal statute of limitations time period.

Your Committee also believes that because there is abundant federal case law interpreting the federal criminal tax laws, that our state courts should interpret the equivalent state laws in accordance with the federal decisions. Therefore, this bill has been amended by adding a section pertaining to interpretation. Further, this additional section defines "wilfully".

As affirmed by the record of votes of 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. 2038, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2038, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Menor and Thielen.

SCRep. 521 Judiciary on H.B. No. 2054

The purpose of this bill is to authorize the Department of Transportation (DOT) to require a criminal history record check to be conducted by the Federal Bureau of Investigation (FBI) for all persons performing armed security services at Hawaii airports.

The Department of the Attorney General and the Department of Transportation testified in support of this measure.

Your Committee finds that the State is required by the Federal Aviation Administration to provide armed security at our airports.

Federal and State law prohibit a person convicted of a felony from possessing a firearm. The Hawaii Criminal Justice Data Center conducts criminal history record checks for convictions within the state.

Your Committee finds that it is also necessary to conduct criminal history record checks at the national level for armed airport security personnel. The FBI is the agency with the capabilities and expertise to perform these checks.

Your Committee has amended this bill by:

- (1) Replacing the term "perjury" with "false swearing" because the offense of perjury can only be committed in official proceedings; 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. 2054, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2054, H.D. 1.

Signed by all members of the Committee except Representatives Case, Menor and Thielen.

SCRep. 522

Judiciary on H.B. No. 2094

The purpose of this bill is to amend the campaign spending law to bring about major reform. The bill amends the existing law and adds new provisions in the areas of the commissioners' duties and independence from participation in political campaigns; disclosure requirements for government contractors and non-candidate committees; registration requirements for contributions or expenditures in excess of \$1000; electronic filing of disclosures; setting contribution limits from individuals and political parties; thresholds for public financing; open hearings for contested determinations of probable cause; and encouragement of public financing.

Your Committee finds that rapidly increasing costs of political campaigns have forced many candidates to raise larger amounts of money from interest groups with specific financial interests in government matters. This has caused the perception that votes are being improperly influenced by contributions. Disclosure of contributions and expenditures is needed to maintain the integrity of the electoral process. It is apparent that public confidence in elective officials has diminished markedly over the years. The mandate is clear that comprehensive reform is long overdue as a first step to re-instill public confidence in elected officials.

Testimony was received from the Campaign Spending Commission, the Democratic Party of Hawaii, Common Cause Hawaii, and the League of Women Voters. All were in agreement that substantive changes are needed in the campaign spending laws to instill public confidence in the elective process. This bill introduces those changes by way of this major reform vehicle. In the words of Common Cause of Hawaii, H.B. 2094 represents a "major step forward".

The significant amendments made by your Committee are as follows:

- (1) Commissioners are prohibited from taking part in political management or campaigns.
- (2) Contractors who receive more than \$150,000 in government contracts during the four years before an election must file a report with the Commission.
- (3) Loans for more than \$100 must be documented and reported.
- (4) Any organization, association, or individual which makes a contribution or expenditure in the aggregate of more than \$1,000 per election for a candidate or for a political purpose must file a detailed disclosure report with the Commission.
- (5) Individual contributions to a candidate are limited to \$2,000 for a two year nonstatewide office, \$3,000 for a four year nonstatewide office, and \$6,000 for a statewide four year office.
- (6) Individual contributions to a non-candidate committee are limited to an aggregate of \$1,000.
- (7) The \$50,000 aggregate contribution limit by a candidate to his own campaign excludes contributions by the candidate's family, and includes any loans made from the candidate's family.
- (8) Contribution limits by political parties to candidates are limited to \$50,000 for Governor, \$40,000 for Lieutenant Governor, \$25,000 for Mayor and Prosecuting Attorney, \$20,000 for Senator and County Council, \$15,000 for Representative, and \$1,000 for Board of Education and other offices.
- (9) Spending limits per election period, multiplied by the number of registered voters, are \$2.50 for Governor, \$1.40 for Lieutenant Governor, \$2.50 for Mayor, \$1.40 for Senator, Representative, Council, and Prosecuting Attorney, and \$.20 for Board of Education and others.
- (10) Intentional, knowing or reckless violations may be referred by the Commission to the Attorney General or Prosecuting Attorney in lieu of an administrative determination.
- (11) Any hearings to contest the determination of probable cause shall be open, and conducted pursuant to Chapter 91.
- (12) If a final determination is made that there was no violation, the complaint will be dismissed, and the determination will be made public.
- (13) A final determination by the Commission can include orders to return any contribution, reimbursement of any unauthorized expenditure, or payment of any administrative fine payable to the Hawaii Election Campaign Fund.
- (14) Five per cent of the annual receipts of the Hawaii Election Campaign Fund shall be appropriated annually to the Commission for administrative costs.
- (15) Maximum amounts of public funds available to any candidate, except Board of Education and other offices is twenty per cent of the spending limits. For the Board of Education and other offices, the maximum amount shall not exceed \$100 in any election year.

- (16) In order to qualify for public funding, a candidate shall have received \$50,000 for Governor, \$40,000 for Lieutenant Governor, \$30,000 for Mayor or Prosecuting Attorney (Honolulu), \$10,000 for Mayor or Prosecuting Attorney (outer islands), \$5,000 for County Council, \$2,500 for Senator, and \$1,500 for Representative.
- (17) The Commission may order an administrative fine of not more than \$1,000 per occurrence, or an amount equivalent to three times the amount of an unlawful contribution or expenditure, whichever is greater.
- (18) An order not complied with may be enforced in the circuit court.
- (19) Fines are deposited into the Hawaii Election Campaign Fund.
- (20) Knowing, intentional or reckless violations shall be punishable as a misdemeanor, and a person so convicted shall be disqualified from holding elective public office for four years from the date of conviction.
- (21) Tax deductibility increased to \$250 per individual to a central or county political committee, or to a candidate; or \$1,000 to a candidate who abides by the spending limits.
- (22) Technical and nonsubstantive changes for the purposes of clarity and style are also made.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2094, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2094, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hamakawa, Menor and Saiki.

SCRep. 523 Judiciary on H.B. No. 2120

The purpose of this bill is to make an appropriation to the Judiciary for domestic violence prevention.

The Hawaii State Commission on the Status of Women supports the intent of this measure. The Honolulu Police Department, Hawaii Lawyers Care, the Executive Director of the Legal Aid Society of Hawaii, the Hawaii Women's Political Caucus, the Hawaii State Coalition Against Sexual Assault, the Hawaii Justice Foundation, the Executive Director and members of the Domestic Violence Clearinghouse, The Hawaii Community Services Council, PACT, the Executive Director of the Family Peace Center, the Executive Director of Hope Domestic Violence Consultants, and members of the public testified in support of this measure.

Your Committee finds that telephone crisis counseling, community education, and the numerous other services provided through the Judiciary for the prevention of domestic violence and for the support of those suffering from domestic violence are necessary services and deserve the State's attention and support.

Your Committee has amended this bill by:

- (1) Appropriating the sum of \$2 for the purpose 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2120, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2120, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Menor and Thielen.

SCRep. 524 Judiciary and Consumer Protection and Commerce on H.B. No. 1264

The purpose of this bill is to provide additional revenues for the Judiciary's driver education and training program.

The Judiciary testified in support of this measure.

Your Committees find that there has been a revenue shortfall in the Judiciary's driver education program. Presently, HRS §286G-3 provides for an assessment penalty of \$5 for each traffic violation. This assessment is in addition to any fine imposed for the violation and is earmarked for the driver education and training fund. This bill increases the assessment for a violation of the traffic laws to \$8 per violation. The Judiciary estimates that the increase will result in the collection of an additional \$250,000 to the driver education and training fund.

Your Committees find that the driver education and training program must remain solvent through the driver education and training special fund. Your Committees believe that the Legislature should not be required to supplement the program through general fund appropriations. Instead, the Judiciary should enact measures to ensure the financial stability of their program. Accordingly, this bill has been amended by deleting the provision authorizing the use of general fund appropriations to accommodate cash flow deficits in the program.

Your Committees find that stringent punishment measures are already in place for persons convicted of violating HRS §291-4. A person convicted of a first offense of driving under the influence of intoxicating liquor must undergo a fourteen hour alcohol abuse rehabilitation program, must receive and pay for an alcohol abuse assessment, must perform seventy-two hours of community service or serve two days of imprisonment or pay a fine of not less than \$150 and not

more than \$1000, must pay the existing driver education and training fund fine, and must subsequently meet the proof of financial responsibility requirements.

Your Committees recognize the seriousness of driving under the influence of intoxicating liquor but believe that sufficient information was not presented to justify singling out these offenders in order to provide additional funds to the driver education and training program. Accordingly, your Committees have amended this bill by deleting the provision requiring persons convicted of DUI to pay an additional \$150 fine to the driver education and training fund.

The State Insurance Commissioner testified on behalf of the Department of Commerce and Consumer Affairs in opposition to the bill's provision increasing the fee on each motor vehicle insured from \$2 to \$3 and requiring that this fee be paid quarterly rather than annually. The Insurance Commissioner stated that the increased fee would be passed on to policyholders in the form of higher premiums. The administrative costs of insurance companies in submitting fees quarterly instead of annually would also be passed on to policyholders.

Additionally, the insurance division's workload would increase by a factor of four because the division would be required to collect fees on a quarterly basis. Your Committees believe that motor vehicle insurance premiums already pose financial burdens to the consumer. Therefore, the provisions relating to increases in fees on motor vehicle insurance policies have been deleted.

Your Committees received testimony in opposition to the decrease in driver education and training funds for youth traffic safety from the Department of Education. Your Committees find that the youth traffic safety education efforts of the Department of Education are important in promoting seat belt use, anti-drinking and driving measures, and other traffic safety measures. Your Committees believe that funds should not be decreased from these programs. Therefore, your Committees have deleted the provisions relating to the reallocation of fees earmarked for the Judiciary's driver education program and the Department of Education's driver education and safety program.

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. 1264, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1264, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, McMurdo and Meyer.

SCRep. 525

Health on H.B. No. 1557

The purpose of this bill is to authorize the Board of Nursing to define the scope of the practice of nursing and the delegation of nursing tasks based on professional nursing standards.

Testifying in support of the bill, the Hawaii Nurses' Association stated that the emphasis on cost containment in the field of health care has resulted in increased pressure to provide services as inexpensively as possible. Registered nurses are being replaced by unlicensed individuals. In some instances the replacement has been appropriate, and in others the replacement has been inappropriate. The issues of replacing registered nurses and the delegation of nursing tasks has been addressed by more than 20 states through the adoption of administrative rules.

The Board of Nursing testified that it could not support the bill unless certain amendments were made. In consideration of these recommendations, your Committee has amended the bill as follows:

- (1) Deleted the statement authorizing the Board of Nursing to adopt rules that include the scope of nursing practice and the delegation of nursing tasks since the practice of nursing for both registered nurses and licensed practical nurses is defined in Section 457-2, Hawaii Revised Statutes;
- (2) Added that advanced practice registered nurses are required to use certain identifying terms; and
- (3) Made technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1557, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1557, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 526

Energy and Environmental Protection on H.B. No. 1154

The purpose of this bill is to appropriate funds for the fiscal biennium 1995-1997 for the Pesticide Education Program.

Your Committee is very supportive of the intent of this bill, and wishes to note strongly that pesticide education is a proactive program which has been effective in ensuring the safe and proper use and application of pesticides in this state, as supported by the testimony received. Your Committee can think of no stronger way to reiterate this than by amending H.B. No. 1154, H.D. 1, to restore the \$60,000 for each year of the fiscal biennium 1995-1997 that was requested in the original bill.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1154, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1154, H.D. 2.

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

SCRep. 527 Labor and Public Employment on H.B. No. 1034

The purpose of this bill is to amend the Whistleblowers' Protection Act by expanding areas of protected conduct, expanding the nature and types of reportable violations, strengthening remedies available to whistleblowers, and increasing penalties for violators.

The American Association of Retired Persons and a concerned citizen testified in support of this bill. The Department of Human Resources Development and the Chamber of Commerce of Hawaii submitted comments on the bill.

The Department of Human Resources Development raised concerns that the authority of disciplinary action for state employees already exists in the law and rests with the appointing authority, and not the Department of Human Resources Development.

Accordingly, your Committee has amended this bill to provide that a person shall be subject to disciplinary proceedings by the appointing authority instead of the Department of Human Resources Development.

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. 1034, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1034, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 528 Finance on H.B. No. 1995

The purpose of this bill is to provide emergency funding for the State workers' compensation program to ensure that the state will be able to meet its fiscal obligations under Chapter 386 for the remainder of fiscal year 1994-1995.

Your Committee has received a message from the Governor, dated February 3, 1995:

- (1) Stating that additional funding is needed for the state workers' compensation program; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure that the state will be able to meet its fiscal obligations under Chapter 386 for the remainder of fiscal year 1994-1995.

The Department of Human Resources Development testified in support of this measure.

Your Committee made technical, nonsubstantive amendments to this bill for drafting consistency.

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. 1995, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1995, H.D. 2.

Signed by all members of the Committee.

SCRep. 529 Finance on H.B. No. 48

H.B. No. 48 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 48, 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. 48, H.D. 1.

Signed by all members of the Committee.

SCRep. 530 Finance on H.B. No. 133

H.B. No. 133 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 this bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 133, as amended herein, and recommends that it be recommitted to the Committee on Finance, for the purposes of holding a public hearing thereon, in the form attached hereto as H.B. No. 133, H.D. 1.

Signed by all members of the Committee.

SCRep. 531 Finance on H.B. No. 1834

H.B. No. 1834 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1834, 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. 1834, H.D. 1.

Signed by all members of the Committee.

SCRep. 532 Labor and Public Employment on H.B. No. 921

The purpose of this bill is to reduce projected expenditures by state and county public employers with regard to the Hawaii Public Employees Health Fund.

The Department of Labor and Industrial Relations, the Department of Human Resources Development, and the Department of Personnel of the City and County of Honolulu submitted testimony supporting the intent of this measure. The HGEA/AFSCME Local 152 and the Retirees Unit of the HGEA/AFSCME Local 152 submitted testimony in opposition. The Hawaii Public Employees Health Fund submitted comments on this measure.

Upon further consideration, your Committee has amended this measure by deleting the substance except the sections:

- (1) Creating a commission to explore different funding, eligibility requirements, and benefit structures, and the actuarial effect of these alternatives; and
- (2) Appropriating an unspecified amount to carry out the purposes of this bill.

In addition, your Committee amended this bill to provide that the Commission consist of nine members and to appropriate \$100,000 from the Hawaii Public Employees Health Fund.

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. 921, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 921, H.D. 2, and be referred to the Committee on Finance.

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

SCRep. 533 Labor and Public Employment; Consumer Protection and Commerce; and Judiciary on H.B. No. 1954

The purpose of this bill is to:

- (1) Strongly discourage insurance fraud by establishing a new article on fraud prevention in the Insurance Code;
- (2) Provide fair and reasonable compensation to injured workers and reduce costs over a period of time;
- (3) Establish the position of an insurance specialist to assist consumers with information, advice, and referral on any matter relating to insurance;
- (4) Allow the Insurance Commissioner to pursue the goals of reducing the assigned risk population and minimizing the rate impact on employers with favorable experience who are submitted to the pool; and
- (5) Establish employer credits for premiums paid for construction wages in excess of maximum workers' compensation benefit levels.

The Department of Labor and Industrial Relations, the Insurance Commissioner, the Hawaii State Chiropractic Association, the Hawaii Insurers Council, and the Legislative Information Services of Hawaii, Inc. testified in support of this measure. The ILWU 142 also submitted comments.

After careful consideration, your Committees have amended this measure by providing that the Insurance Commissioner, in consultation with the Director of Labor and Industrial Relations and the insurance industry, adopt an assigned risk plan for equitable apportionment among insurance companies authorized to issue workers' compensation insurance policies for persons who are in good faith entitled to but unable to procure these policies through ordinary methods.

Technical, nonsubstantive amendments have also been made to this bill.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment; 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. 1954, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1954, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Case, Hamakawa, Hiraki, McMurdo, Saiki, Takumi and Kawanakoa.

SCRep. 534 Judiciary on H.B. No. 1989

The purpose of this bill is to transfer the responsibilities pertaining to foster care licensing from the Family and Adult Services Division of the Department of Human Services to the Office of Youth Services.

Your Committee received testimony in support of this bill from the Office of Youth Services and the Hawaii State Foster Parents Association. The Waimea Foster Parent Association submitted testimony in opposition to this bill.

Presently, the responsibility of foster care licensing is within the purview of the child welfare services section of each of the four branches of the Family and Adult Services Division of the Department of Human Services. Your Committee finds that the placement of foster care licensing within the Family and Adult Services Division has resulted in this important function being overshadowed by child welfare services' more pressing demands relating to child protection.

Your Committee finds that consolidating the foster care units under the administration of the Office of Youth Services will allow for creation of a more visible and integrated foster care licensing system. By removing the foster care licensing system from the Family and Adult Services Division, the functions and responsibilities of foster care licensing can more clearly be delineated from the functions relating to child welfare services. Your Committee believes that the Office of Youth Services is the appropriate agency to ensure an effective foster care licensing system.

Your Committee was concerned that the transfer of foster care licensing to the Office of Youth Service could have an impact with respect to federal aid received for foster care programs. Therefore, this bill has been amended to address these concerns by adding subsection (c) in section 7.

Further, this bill has been amended by changing the penalty of "perjury" to "false swearing" upon applying for a certificate of approval, because the offense of perjury can only be committed in an official proceeding.

Finally, this bill has been amended by requiring that traffic offenses involving fines of \$100 or more be disclosed by an applicant for a certificate of approval. Your Committee believes that this criteria clarifies ambiguity in the statute regarding the definition of a minor traffic violation and also better comports with the intent to disclose serious traffic offenses.

As affirmed by the record of votes of 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. 1989, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1989, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Menor, Yoshinaga and Thielen.

SCRep. 535 Judiciary on H.B. No. 1997

The purpose of this bill is to provide enforcement procedures and remedies for Hawaii's Family Leave Law.

Your Committee received testimony in support of this bill from the Department of Labor and Industrial Relations. The Chamber of Commerce testified in opposition to this bill.

Your Committee finds that Chapter 398, Hawaii's Family Leave Law, lacks sufficient enforcement provisions and sufficient remedies for aggrieved persons. Your Committee believes that this bill is necessary to effectively ensure compliance with the Family Leave Law and to ensure that the objectives of the law are fulfilled.

Your Committee has amended this bill by removing redundant language in the penalty section. The penalties for a petty misdemeanor are already defined in the Hawaii Revised Statutes.

Additionally, technical, non-substantive amendments have been made for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1997, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1997, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, McMurdo, Menor, Yoshinaga and Thielen.

SCRep. 536 Judiciary on H.B. No. 2305

The purpose of this bill is to provide an appropriation to upgrade the telecommunications system of the Honolulu Police Department.

Testimony in support of this measure was received by your Committee from representatives of the Police Department of the City and County of Honolulu and the State of Hawaii Organization of Police Officers.

Your Committee finds that the current radio communication system for the Honolulu Police Department is inadequate and subject to severe radio traffic congestion.

Your Committee believes both public safety and the safety of Police Officers require that the 800 MHz Trunked Voice Radio System be completed and the Mobile Data Terminal System be implemented by providing the matching funds necessary for these projects.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2305 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McMurdo, Menor, Yoshinaga and Thielen.

SCRep. 537 Ocean Recreation and Marine Resources on H.B. No. 1763

The purpose of this bill is to revitalize the use of fishponds in this State. This bill will centralize the authority to regulate and oversee the development and restoration of fishponds by establishing a Hawaiian fishpond permitting program within the Department of Land and Natural Resources.

Your Committee agrees that there is a need to preserve and revitalize this unique, traditional system and methodology created and used by the kanaka maoli of Hawaii. Further, your Committee finds that the current regulatory requirements are a hindrance to the reconstruction, restoration, repair and utilization of Hawaiian fishponds.

Testimony was received from: the Office of State Planning, the Office of Hawaiian Affairs, the Environmental Center, the Oceanic Institute, the Board of Land and Natural Resources, and various citizens.

The Office of State Planning and the Environmental Center recommended caution in exempting Hawaiian fishponds from all permitting, licensing, review, oversight, impact assessment, and regulatory requirements of the State and Counties. Your Committee acknowledges that there are ambiguities in this measure and has amended the language to clarify the intent by:

- (1) Deleting the exemption of regulatory requirements for Hawaiian fishponds;
- (2) Deleting all appropriations;
- (3) Deleting loko wai and loko i'a kalo from the definition of Hawaiian fishponds; and
- (4) Making technical, nonsubstantive changes for the purposes of clarity, style and consistency.

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. 1763, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.B. No. 1763, H.D.2.

Signed by all members of the Committee except Representative Nekoba.

SCRep. 538 Water and Land Use Planning on H.B. No. 108

The purpose of this bill is to extend the minimum shoreline setback.

Your Committee received testimony in support of this bill from the Democratic Party of Hawaii, the Office of Hawaiian Affairs, and the Oahu County Democratic Party Legislative Committee. Testimony in opposition to the bill was received from the Chamber of Commerce of Hawaii, the Land Use Research Foundation of Hawaii, and Kamehameha Schools Bishop Estate.

The Office of State Planning (OSP) presented testimony supporting the establishment of separate setback limits in urban and non-urban areas with a provision that the non-urban setback be reduced where necessary to create a buildable lot.

Your Committee adopted the recommendation of OSP by amending Section 1 of H.B. No. 108 to establish shoreline setback:

- (1) At forty feet for urban districts; and
- (2) At one hundred feet for non-urban districts; provided that a fifty foot setback is allowed in non-urban districts where necessary to create a buildable lot.

Your Committee recognizes that small landowners in non-urban districts may find it necessary to incur the expense of obtaining variances to build on their property. It is not the intent of your Committee to create an undue burden for small landowners.

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. 108, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 108, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kanoho, McMurdo and Tarnas.
(Representative Meyer voted no.)

SCRep. 539 Water and Land Use Planning on H.B. No. 704

The purpose of this bill is to preserve and maintain agricultural water systems developed by sugar plantations that cease or plan to cease operations.

This bill authorizes the Board of Agriculture (Board) to:

- (1) Plan, acquire, administer, manage, operate, and maintain agricultural water systems of sugar plantations; and
- (2) Issue revenue bonds to finance the cost of acquisition, improvement, construction, or maintenance of acquired agricultural water systems.

The Board of Water Supply and the Hawaii Farm Bureau testified in support of this bill, and the Department of Agriculture supported its intent. The Office of Hawaiian Affairs and two concerned citizens opposed passage of this measure. Kamehameha Schools/Bishop Estate and a concerned citizen offered comments.

Some testifiers were concerned that this bill might authorize the Board to allocate the water transmitted through the acquired agricultural water system. Your Committee has sought to alleviate these concerns by amending this bill to restrict the Board from acquiring any water system until the Commission on Water Resource Management has allocated the water from that particular system. In imposing this restriction, it is your Committee's intent that a temporary, 6-month allocation of water, as issued in the Waiahole Ditch case, would not be sufficient to allow the Board to proceed with acquisition of a water system.

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

Finally, not only do adequate safeguards already exist, but there are also ample opportunities for receiving public comment on proposed actions to acquire these agricultural water systems. For example:

- (1) Before the Board can issue revenue bonds to acquire a water system, the Legislature must approve this request through the normal budget review process;
- (2) Although Section 167-20 authorizes the Board to supply water for domestic purposes to residents in close proximity to an irrigation project, the Board must first comply with certain specific standards; and
- (3) In adopting rules to implement the provisions of this bill, the Board must adhere to the provisions of Chapter 91 which requires a formal public notification and hearing process.

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. 704, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 704, H.D. 2.

Signed by all members of the Committee except Representatives Kanoho, McMurdo and Tarnas.
(Representatives Meyer and Thielen voted no.)

SCRep. 540 Water and Land Use Planning on H.B. No. 772

The purpose of this bill is to protect Hawaii's valuable shoreline area by discouraging the construction of any illegal structures.

This bill establishes various penalties for contracting or building structures in the shoreline area.

The Department of Land and Natural Resources, Public Access Shoreline Hawaii, Hawaii's Thousand Friends, and an individual representing the Paukaa Community Association, Rural South Hilo Community Association, and Share Onomea Access Group testified in support of this bill. The Office of State Planning, the Contractors License Board, and the Environmental Center of the University of Hawaii-Manoa offered comments.

Your Committee has amended this bill by:

- (1) Clarifying that it is the "property owner or resident" who will be subject to fines (totalling ten times the cost of the structure) for contracting or building a structure in the shoreline area without a variance;
- (2) Providing that these fines shall:
 - (a) Take precedence over the \$10,000 civil fine provided elsewhere in Chapter 205A; and
 - (b) Be in addition to the provisions relating to the enforcement of shoreline setbacks;
- (3) Specifying that any person, whether licensed or unlicensed, who illegally contracts or builds a structure in the shoreline area will be guilty of a class C felony;
- (4) Clarifying that the Contractors License Board will have the authority to revoke, suspend, or refuse to renew a license for constructing illegal structures in the shoreline area without a variance; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

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. 772, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 772, H.D. 1, and be referred to the Committees on Judiciary and Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kanoho, McMurdo and Tarnas.

SCRep. 541 Water and Land Use Planning on H.B. No. 1765

The purpose of this bill is to resolve differences over the construction of the Kaloi Gulch regional drainage project, a major regional infrastructure project that is necessary for the development of the secondary urban center on Oahu.

This bill:

- (1) Requires the City and County of Honolulu to establish a Kaloi Gulch drainage district as well as a Kaloi Gulch plan; and
- (2) Authorizes the City to assess a special tax on property located within the district and to issue bonds to provide funds for the special improvements.

The following agencies and organizations submitted testimony: the City Departments of Public Works, Planning, and Housing and Community Development; the Hawaii Community Development Authority (HCDA); the University of Hawaii; HASEKO (Ewa), Inc.; Schuler Homes, Inc., and Gentry Homes, Ltd.

Your Committee has amended this bill by:

- (1) Authorizing rather than requiring the City to establish a Kaloi Gulch drainage district and a Kaloi Gulch plan;
- (2) Specifying the boundaries of the drainage district;
- (3) Deleting the HCDA as a possible replacement for the City;
- (4) Requiring the City to submit a status report on the development of the Kaloi Gulch plan to the 1996 Legislature; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

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. 1765, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1765, H.D. 2.

Signed by all members of the Committee except Representatives McMurdo, Yamane, Yoshinaga, Meyer and Thielen.

SCRep. 542 Water and Land Use Planning on H.B. No. 1778

The purpose of this bill is to allow the Office of Hawaiian Affairs (OHA) to obtain title to unclaimed or abandoned kuleana lands which escheated prior to 1977.

Your Committee received testimony from the Department of Land and Natural Resources (DLNR) in opposition to this bill. The OHA and Kamehameha Schools Bishop Estate submitted testimony confirming the likelihood that those entities can reach agreement on language amending this bill. The testimony indicated that the DLNR may be involved in the further discussions.

Your Committee voted to pass this bill without amendments with the expectation that an agreement will be reached shortly regarding the language of the bill.

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. 1778, H.D. 1, and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives McMurdo, Yamane, Yoshinaga, Meyer and Thielen.

SCRep. 543 Labor and Public Employment on H.B. No. 2239

The purpose of this bill is to exempt federally funded positions from the hiring freeze instituted by Act 212, Session Laws of Hawaii (SLH) 1994.

The Department of Labor and Industrial Relations (DLIR) testified in favor of the intent of the bill. The Department of Budget and Finance also testified.

DLIR testified that the departments need the authority to fill these federally funded positions or face loss of the federal funds. However, DLIR also noted that the department needs to be able to freeze or abolish other federal positions in the department instead of the ones which were vacated because of the hiring freeze. The overall number of positions vacated

would remain the same but the department would be better able to use its resources if it were not required to freeze or abolish the actual positions vacated.

After careful consideration and based on the DLIR testimony, your Committee has amended this measure by authorizing the DLIR to designate which positions to eliminate or hold vacant based on the number of position vacated pursuant to Act 212, SLH 1994.

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. 2239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2239, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 544

Health on H.B. No. 1169

The purpose of this bill, as received by your Committee, was to authorize optometrists to prescribe therapeutic pharmaceutical agents (TPAs) in their practices. In addition, the bill allowed optometrists to remove superficial foreign bodies from the eye and its appendages.

A large volume of testimony was received with comments on the bill. Many optometrists testified in favor of the bill and many ophthalmologists testified against the bill.

Your Committee has based its actions on the premise that quality health care should be made as accessible as possible to all people, while adequately protecting their safety and well-being. In addition, professions should generally decide the scope of their expertise and practice, within the limitations set by society.

Your Committee finds that the use of TPAs by optometrists increases access to a particular area of health care and has been proven to be safe. Forty-one states have allowed optometrists to use TPAs without serious proven negative effects. While all of these states allow optometrists to use topical pharmaceutical agents, a much more limited number of states allow the use of oral pharmaceutical agents.

The safety issue was also addressed by testifiers who explained that the training of optometrists has progressed to such a degree that today's graduates receive substantial classroom and clinical experience that qualifies them to prescribe TPAs. All of the states that allow optometrists to prescribe TPAs require them to first pass a national board certification examination called the Treatment and Management of Ocular Disease.

Another safety issue was raised because the bill, as originally drafted, would have allowed optometrists to treat appendages of the eye. It was noted that the brain is an appendage of the eye, and that optometrists are not qualified to treat the brain.

In addressing still another safety concern, the Department of Public Safety submitted testimony recommending an amendment to the bill to prohibit optometrists from administering, prescribing, or dispensing controlled substances.

Your Committee also deliberated upon the issue of having a profession determine the range of its own activities. For example, when a physician is licensed to practice, the physician is allowed to perform surgery on any part of the body, including the eye. In this and other areas the profession has regulated itself. In practice only ophthalmologists, who specialize in the eye, actually perform eye surgery. This kind of self-regulation is expected within the community of optometrists, and other professions as well.

Upon full and fair discussion and a consideration of all testimony received, your Committee has amended the bill by:

- (1) Requiring the Board of Examiners in Optometry to adopt rules establishing a formulary of topical TPAs which may be used by optometrists and deleting the list of TPAs that optometrists may prescribe;
- (2) Directing that the formulary not include controlled substances;
- (3) Limiting optometrists to prescribe, dispense, or administer only topical pharmaceutical agents;
- (4) Requiring optometrists certified to use or prescribe pharmaceutical agents to be held to the same standard of care as that degree of skill and proficiency commonly exercised by a medical practitioner in the same community;
- (5) Substituting the concept of "visual systems" as clearer and more limiting than "appendages of the eye";
- (6) Placing certain restrictions on the rules to be adopted by the Board of Examiners in Optometry for the certification of optometrists to use and prescribe TPAs. These restrictions include the requirement that optometrists certified to use TPA's shall have passed an examination administered by the National Board of Examiners in optometry covering the treatment and management of ocular disease. They shall also have demonstrated the completion of appropriate clinical experience; and
- (7) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1169, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 1169, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 545 Health and Human Services on H.B. No. 1340

The purpose of this bill is to require the Department of Health (DOH) to adopt rules for community residential care homes for those with mental illnesses, to include:

- (1) Minimum qualifications for operators;
- (2) Minimum dietary requirements;
- (3) Recreational requirements; and
- (4) Minimum standards for environmental quality.

Your Committees find that community residential care facilities serve dependent individuals for whom health, safety, and quality of life issues must be addressed and assured.

Upon further consideration, your Committees have amended the bill by requiring DOH to adopt rules that include standards "regarding" smoking rather than standards "that prohibit" smoking.

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. 1340, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1340, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committees except Representative Arakaki.

SCRep. 546 Health and Human Services on H.B. No. 1495

The purpose of this bill is to establish statutorily the Family Center Project and to appropriate funds to it.

Voluminous testimony from agencies and individuals was submitted in support of the bill. Family centers have proven to be a successful, community-based approach to developing activities and partnerships that address the particular needs of people who live in those communities.

The Family Center Demonstration Project testified that it had no preference as to the department in which it should be placed since the concept of the family center transcends departmental boundaries. In this case, placement has been predicated on the funding source. An agreement has been reached with the House Human Services Committee, which has expressed a desire to fund the project.

Your Committees have amended the bill as follows:

- (1) Designated the Department of Human Services as the agency in which the Family Center Project is placed and as the expending agency;
- (2) Removed the statement of findings from statute and placed it in the Session Laws instead; and
- (3) Made technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1495, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1495, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki and Kawanakoa.

SCRep. 547 Health and Human Services on H.B. No. 1990

The purpose of this bill is to specify figures for reimbursement to operators of adult residential care homes. This specification confirms amounts included in the Executive budget.

Your Committees received testimony in support of this bill from the Hawaii Long Term Care Association. The Department of Human Services submitted testimony in support of the intent of this bill.

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. 1990 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Arakaki and Kawanakoa.

SCRep. 548 Higher Education and the Arts on H.B. No. 784

The purpose of this bill is to restructure the Research Corporation of the University of Hawaii (RCUH) to make it responsible to the University and central to supporting its research mission.

Your Committee recognizes that since the federal government holds the University accountable for any deficiencies in grant administration by RCUH, that the University should have more oversight and control over RCUH to protect the integrity of its research contracts and grants program.

The University of Hawaii submitted testimony in support of this measure. The Research Corporation of the University of Hawaii submitted comments on this measure.

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. 784, 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 Representatives Morihara, Santiago, Takumi, Yonamine and Halford.

SCRep. 549 Higher Education and the Arts on H.B. No. 1258

The purpose of this bill is to allow the University of Hawaii Law School to retain its student tuition and fees.

The University of Hawaii submitted testimony on this measure.

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. 1258 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Takumi and Yonamine.

SCRep. 550 Health on H.B. No. 1976

The purpose of this bill is to provide the community hospital system with increased autonomy, including increased flexibility with respect to fiscal matters, purchasing procedures, managing delinquent accounts, and personnel management.

The Department of Health (DOH) submitted testimony in support of the bill. According to DOH, the bill provides the community hospitals with additional exemptions and powers to further improve the administration of the community hospital system.

The Hawaii Government Employees Association testified in general support of the bill, while expressing an objection to the prohibition against striking by employees of the hospital system. On this matter, DOH expressed the hope that, if it were given the opportunity, it could reach an agreement with the unions. DOH suggested deleting the proposed strike prohibition from the bill to provide an opportunity for future discussions and to have this issue addressed later.

Regarding the proposed exemption from the early retirement incentive program created by Act 212, Session Laws of Hawaii 1994, your Committee believes that all issues related to this program should be examined comprehensively rather than on a piecemeal basis as is being proposed in the bill.

In consideration of the testimony presented, and upon full and free discussion, your Committee has amended the bill as follows:

- (1) Removed the prohibition from striking by employees of the hospital system;
- (2) Deleted the exemption from the early retirement incentive program; and
- (3) Made technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1976, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1976, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 551 Consumer Protection and Commerce and Judiciary on H.B. No. 931

The purpose of this bill, as received by your Committees, is to ensure the affordability and availability of insurance.

This bill proposes to accomplish this by:

- (1) Establishing within the Department of the Attorney General, the Bureau of Insurance Fraud, for purposes of detecting, preventing, investigating, and prosecuting fraudulent insurance acts committed by insurers, policyholders, or third parties; and
- (2) Defining, proscribing, and establishing penalties for fraudulent insurance acts.

There is a direct correlation between the cost of insurance and the amount of claims paid. Fraudulent acts contribute to the payment of non-meritorious claims. Therefore, insurance fraud committed by policyholders or third parties adversely impact the overall cost of insurance. One way to help keep insurance premiums affordable is to reduce insurance fraud. The prosecution of those committing insurance fraud would not only serve as a deterrent to others, but would also result in the stabilization of the cost of insurance.

This particular bill does not contain specific violations or penalties for insurance companies since claims practices are already regulated by statute and subject to penalties under chapters 431 and 480, Hawaii Revised Statutes, as well as bad faith liability.

Testimony in support of this measure was submitted by the Insurance Division of the Department of Commerce and Consumer Affairs, State Farm Mutual Insurance Company, the National Federation of Independent Business - Hawaii, Corniel and Associates, Dirk von Guenther and Associates, Legislative Information Services of Hawaii, the Hawaii Trial Lawyers Association, the Hawaii Independent Insurance Agents Association, and the Chamber of Commerce of Hawaii. The Police Department of the City and County of Honolulu, the National Association of Independent Insurers, and the Government Employees Insurance Company (GEICO) submitted comments on the measure.

The Department of the Attorney General (Department), which would be affected by the passage of this bill did not submit testimony. However, your Committees have determined that the Department is concerned about the fiscal impact of this bill and that more study is needed to evaluate the feasibility of establishing a separate insurance fraud division.

After carefully considering the merits of the bill and the testimony submitted, your Committees have amended the measure by:

- (1) Deleting the provision establishing the Bureau of Insurance Fraud;
- (2) Requiring the Legislative Reference Bureau to conduct a study examining the feasibility of establishing a separate division in the Department of the Attorney General or another appropriate government agency that would be responsible for detecting, investigating, and prosecuting insurance fraud;
- (3) Changing the effective date from July 1, 1995, to upon approval;
- (4) Deleting the sunset date that would repeal the Act on July 1, 1995; and
- (5) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 931, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 931, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, McMurdo, White and Yamane.

SCRep. 552 Consumer Protection and Commerce and Judiciary on H.B. No. 1582

The purpose of this bill is to provide a mechanism for the transfer of responsibility for setting public school teacher certification standards and for licensing teachers from the Department of Education to a Hawaii Teacher Standards Board.

The Hawaii State Teachers Association (HSTA) submitted testimony in strong support of this measure. The HSTA testified that the creation of a Teacher Standards Board would professionalize teaching, increase public confidence in the teaching profession, and enhance the quality of children's education. The Board of Education (BOE) submitted testimony in opposition to this measure. The BOE's testimony focused on the adequacy of current teacher certification and licensing procedures which are handled by the Department of Education with input from a Teacher Standards Advisory Board.

Your Committees find that the concept of a Hawaii Teacher Standards Board has merit and warrants further consideration. Your Committees note that the establishment of this Board could help to enhance the professionalism and qualifications of Hawaii's teachers. Furthermore, your Committees recognize that a Board to set teacher certification standards would be similar to other professional boards that oversee the licensing and certification of various professions. Moreover, this bill would establish a peer review process in which the involvement of teachers in establishing credentialing standards would no longer be just advisory in nature and thereby would assure more meaningful input from teachers in overseeing their profession.

After full consideration, your Committees believe that it would be prudent to phase in the functions of the Hawaii Teacher Standards Board before conferring upon it licensing powers.

Accordingly, your Committees made several amendments, including the following:

- (1) The purpose section of the bill was amended to denote that the bill provides a mechanism for the transfer of responsibility for setting teacher certification standards from the Department of Education to a Hawaii Teacher Standards Board. The previous language stated that the purpose of the bill was for setting teacher certification standards and for establishing a mechanism for licensing teachers.
- (2) The sections of the bill addressing a Hawaii Teacher Standards Board being responsible for licensing and credentialing of teachers were deleted.

- (3) The sections of the bill having to do with collecting fees from teacher applicants and with fining uncertified teachers were deleted.
- (4) All references to private schools and private school teachers were deleted. Language was inserted to denote public school teachers and/or children.
- (5) The effective date of the Act was amended.

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. 1582, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1582, H.D. 2.

Signed by all members of the Committees except Representatives Hiraki, McMurdo, White and Yamane.

SCRep. 553 Consumer Protection and Commerce on H.B. No. 1980

The purpose of this bill is to establish and collect fees for the certified sanity (forensic) examination process and to provide for the deposit of these fees in the mental health and substance abuse special funds.

The Department of Health (DOH) testified in strong support of this bill. The certification process is mandated in Chapter 704-404, Hawaii Revised Statutes. DOH's initial request to the Department of Commerce and Consumer Affairs to handle this certification process was declined due to a lack of resources and expertise. As a result, DOH assumed this responsibility and is currently administering this certified forensic examination program. DOH has no additional financial or personnel resources to carry out the certification mandate and must use the collected fees to help offset the costs of this process.

Your Committee recognizes the need for qualified and properly trained forensic examiners. It is also necessary to appropriate sufficient funds to maintain the effective regulation of the examiners in this program. Allowing the DOH to use collected fees to help offset the costs of carrying out the mandate will partially fund the operation of the program.

Your Committee has made technical, nonsubstantive amendments to 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. 1980, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1980, H.D. 1.

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

SCRep. 554 Consumer Protection and Commerce on H.B. No. 1926

The purpose of this bill, as received by your Committee, is to update the state's franchise and securities laws.

It has been a number of years since the State has updated the system of registration for securities offerings and franchise sales. With respect to franchises, the primary area this bill attempts to modify includes the updating of registration fees to match national standards. A survey of other states that register franchises reveals that Hawaii is substantially behind most states.

In the area of securities regulation, the need to update Hawaii's securities laws to meet national changes are quite evident since the last major modification to Hawaii's securities laws took place more than six years ago. The primary change to the state's securities laws proposed in this bill is to modify the exchange exemption which Hawaii has not reviewed for over fifteen years. An update of the exchange exemption is necessary in light of the development of the NASDAQ electronic securities quotation system which has evolved from a fledgling operation to a multi-billion dollar entity.

The Business Registration Division of the Department of Commerce and Consumer Affairs and Bank of Hawaii submitted comments on this measure.

After carefully considering the merits of this bill and the testimony submitted, your Committee has amended the measure by among other things:

- (1) Including as securities exempt from the registration requirements of the Uniform Securities Act, other securities of the same issuer that are of senior or substantially equal rank to the security;
- (2) Clarifying that securities issued by an investment company as defined by and registered under the federal Investment Company Act of 1940, are exempt from the registration requirements of the Uniform Securities Act; if the issuer is advised by an investment adviser that is a depository institution, subsidiary or affiliate thereof or meets other requirements;
- (3) Clarifying that the renewal fee collected by the Securities Commissioner shall be within two months of the end of the investment or trust company's fiscal year;
- (4) Changing the effective date of the bill to July 1, 1995; and
- (5) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 1926, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1926, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 555 Higher Education and the Arts on H.B. No. 1257

The purpose of this bill is to establish the University Operations Special Fund (Fund) to enable the University to retain student tuitions and fees by authorizing the development of a base funding mechanism to determine the portion of general funds to be appropriated each year to support the fiscal need of the University that will not be met by the income in the Fund.

The University of Hawaii submitted testimony in support of the intent of this measure.

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

- (1) Clarifying that the Board of Regents may use revenues from the Fund to provide full or partial tuition waivers to qualified resident students;
- (2) Determining that the highest legislative appropriation within the last five years will constitute the base funding rather than authorizing the Governor, the Board of Regents, and the Legislature to determine the base funding mechanism;
- (3) Stating that resident tuition at the University of Hawaii community colleges will not exceed twenty percent of the annual cost of education per full-time student;
- (4) Stating that the resident tuition at any University of Hawaii undergraduate, graduate, law, medicine, lower division, or upper division campus shall not exceed thirty percent of the annual cost of education per full-time student;
- (5) Stating that the non-resident tuition at any of the University of Hawaii campuses shall not be less than two times the tuition fee for resident students as set forth in section 304(b), Hawaii Revised Statutes; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

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. 1257, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1257, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Takumi and Yonamine.

SCRep. 556 Economic Development and Business Concerns on H.B. No. 1882

The purpose of this bill is to join the functions of the Natural Energy Laboratory of Hawaii Authority (NELHA) with those of the High Technology Development Corporation (HTDC).

Testimony in strong support of the bill was received from the Department of Business, Economic Development, and Tourism (DBEDT). Testimony supporting the intent of the bill was received from the University of Hawaii School of Ocean and Earth Science and Technology. Opposing testimony was received from the President and CEO of Cynotech Corporation, Keahole Point Association, the President and Vice President of Uwajima Fisheries, Inc., and a private citizen.

Your Committee notes that these two entities are similar in subject matter and activities. It is your Committee's understanding that joining NELHA and HTDC will:

- (1) Provide for better long-term planning;
- (2) Utilize government resources more efficiently and effectively;
- (3) Maximize the use of public funds; and
- (4) Consolidate administrative and other functions.

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

- (1) Increasing the HTDC Board to eleven members, upon the effective date of this bill until June 30, 1997, at which time the HTDC Board will revert to nine members;
- (2) Providing that consideration shall be made to include HTDC members with knowledge, expertise, and background in energy management, aquaculture, and ocean science;
- (3) Providing that DBEDT shall give administrative oversight to the HTDC Executive Director;

- (4) Specifying the duties of the HTDC Executive Director;
- (5) Changing the powers of NELHA; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and legislative drafting 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. 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 Representative Morihara.

SCRep. 557 Consumer Protection and Commerce and Judiciary on H.B. No. 1696

The purpose of this bill is to provide for the licensing and regulation of crane and other hoisting machine operators in the State and to require certification as to the safe working condition of their equipment.

Testimonies were received by the Department of Commerce and Consumer Affairs (DCCA) and the Department of Labor and Industrial Relations (DLIR). The Hawaii Operating Engineers Industry Stabilization Fund (Operating Engineers), a joint labor and management organization, submitted testimony strongly supporting the bill.

DCCA agreed with the Legislative Auditor's recommendation in their 1993-1994 report concerning the licensing of crane operations. The Auditor concluded that licensing was unwarranted because protection against crane accidents is covered by the DLIR's Occupational Safety and Health Administration (OSHA). DCCA conceded that some regulation was necessary but that DLIR should be the designated agency.

DLIR disagreed with the Auditor's recommendation and further testified that both DLIR and federal OSHA believed that some form of equipment regulation was necessary. Moreover, DLIR needs more enforcement authority to make the individual crane operators more accountable.

The Operating Engineers emphasized that the highly technical nature of the machinery necessitates the licensing of operators to ensure the quality of crane operators. Further, the strict monitoring of these operators will result in safety for all.

Your Committees find that contrary to the Legislative Auditor's conclusion, circumstances do warrant the licensing and regulation of hoisting crane operators. DLIR informed your Committees that fifty per cent of the accidents investigated in the last two years were attributable to operator error. DLIR needs to have the power to regulate hoisting machine operators and this bill will enable DLIR to hold these individuals accountable for their costly errors. However, your Committees do not feel that DCCA should be responsible for regulation but rather the DLIR in light of DLIR's experience in monitoring job sites in which cranes and hoisting machines are utilized.

Therefore, your Committees have amended this bill according to DLIR's recommendation that Chapter 396-___ be amended with the following sentence to be included:

"The department may regulate cranes and other hoisting machines and their operators."

Technical and nonsubstantive amendments have also been made to this bill.

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. 1696, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1696, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, McMurdo, Tom and Thielen.

SCRep. 558 Hawaiian Affairs and Housing on H.B. No. 967

The purpose of this bill is to set up, define, and organize the Hawaiian Homes Council, particularly with regard to the duties and qualifications of its board members and staff, and to designate such officers as trustees having fiduciary duties in the discharge of their offices.

Your Committee received testimony in support of the intent of the bill from the State Council of Hawaiian Homestead Associations, the Waimea Hawaiian Homestead Association, Na Koa Ikaika, and the state Department of Hawaiian Home Lands, all of whom recommended changes to the bill.

Your Committee has amended this bill to identify the department's officers and council members as "trustees" and to indicate that such trustees are fiduciaries. This addition was felt to be necessary partly in anticipation of the creation of a proposed \$600,000,000 settlement claims trust fund for which these trustees will share responsibility.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 967, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 967, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kawakami and Stegmaier.

SCRep. 559 Hawaiian Affairs and Housing on H.B. No. 1394

The purpose of this bill is to divert to the Rental Housing Trust Fund (RHTF) the excess interest earned from reserve funding held by the Housing Finance and Development Corporation (HFDC).

Testimony in support of the bill was submitted by Catholic Charities, the Hawaii Chapter of the Rainbow Coalition, the Hawaii Association of Realtors, the Sisters of St. Joseph, and the Homeless Ohana Association.

The key to the success of trust funds similar to RHTF nationwide has been the creation of dedicated funding sources. This bill creates a dedicated funding source and ensures a predictable level of funding. It should be noted that this bill imposes no new taxes.

HFDC testified that the bill has shortcomings. For example, the term "unencumbered fund balance" used in the bill is unclear and is not commonly used by independent auditors. In addition, the transfer of funds from the Multi-Family Bond Program and the Single Family Bond Program is problematic.

In consideration of the testimony presented, your Committee has amended the bill by transferring funds from only two funds and by using only commonly used terms. The amendments are as follows:

- (1) Deleted the methodology for determining the transfer of funds;
- (2) Replaced it with another methodology based upon the calculation of net interest earned, and applying the formula to only the Dwelling Unit Revolving Fund and the Homes Revolving Fund; and
- (3) Made technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1394, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1394, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami and Stegmaier.

SCRep. 560 Hawaiian Affairs and Housing on H.B. No. 1946

This bill is in the nature of a housekeeping measure. This provision, governing the tenant's remedy of repair and deduction for minor defects, sets a limit of \$300 per month. This figure has not been changed since 1982. Increasing the amount to \$500 will keep the statute more in line with the current cost of living. The bill also make technical, non-substantive change.

Your Committee received testimony in favor this bill from the Department of Commerce and Consumer Affairs. The testimony states that the change is to make adjustments for the increase in the cost of living since 1981 when the figure was first codified.

The Hawaii Association of Realtors provided testimony in opposition to the measure. The association stated that the current amount is sufficient and that an inflationary adjustment is not needed at this time.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1946 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 561 Hawaiian Affairs and Housing on H.B. No. 1947

The purpose of this bill is to create a remedy for tenants where a landlord and a tenant enter into a rental agreement but, before the tenant takes occupancy, the landlord decides not to rent to the tenant. A comparable remedy exists where the tenant dishonors the rental agreement.

Statutory language exists which provides a remedy where "the tenant unequivocally indicates by words or deed the tenant's intention not to honor the tenancy before occupancy." The Office of Consumer Protection receives calls from tenants in situations where a rental agreement has reached (sometimes a security deposit has been placed) and just before the tenants are to take occupancy, the landlord decides not to rent to the tenant. Currently, the landlord-tenant code does not specifically provide a remedy for this situation.

Your Committee has received testimony in support of this bill from the Department of Commerce and Consumer Affairs. The Hawaii Association of Realtors supports the intent of the bill and provided the following suggested amendments:

- (1) After the word "before", ADD "the date of occupancy listed on a written rental agreement" (line 7);
- (2) After the words "tenant for the", ADD "lessor of the" (line 8); and
- (3) ADD the sentence "(3) One month's rent at the rate agreed upon in the rental agreement" (line 16)

After careful consideration, your Committee is in agreement with the suggested changes of the Hawaii Association of Realtors.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1947, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1947, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 562 Hawaiian Affairs and Housing and Education on H.B. No. 1567

The purpose of this bill is to provide for the development of a Hawaiian language public educational program for children in the Ni'ihau community on the islands of Ni'ihau and Kaua'i. It is designed to assist children whose native language is Hawaiian to:

- (1) Become firmly grounded in their native language; and
- (2) Make a smooth transition into the English language.

Your Committees received testimony in support of the bill from the Administrator of the Office of Hawaiian Affairs, and in agreement with the intent of the bill from the Superintendent of the Department of Education.

Your Committees have amended Section 3 of the bill to change the original appropriations of \$300,000 for each of two years to \$1 each.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing and Education that is attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1567, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1567, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hamakawa, Lee, Pepper, Shon, Takamine, Tarnas and Yonamine.

SCRep. 563 Hawaiian Affairs and Housing and Human Services on H.B. No. 1102

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to provide coordinators for state housing projects to develop youth activity programs for the youth residents.

Both HHA as well as the Office of Children and Youth supported the concept of the bill. Because youth activities help to build a better self concept of the individual, HHA has initiated several programs including:

- (1) A Neighbor Island 3-on-3 basketball tournament;
- (2) A statewide volleyball tournament; and
- (3) Youth activities at Mayor Wright, Kuhio Park Terrace, and Kamehameha Homes.

Your Committees urge the Committee on Finance to carefully balance the need for this program against other deserving programs. Given the State's austere fiscal situation, it may be necessary to withhold funding for this program. As an alternative, efforts should be made to draw down federal funds as much as possible. However, the statutory addition should be retained.

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

- (1) Inserting \$1 in Section 3;
- (2) Requiring HHA to develop volunteer recruitment and training programs;
- (3) Requiring HHA to arrange for transportation to support youth activities; and
- (4) Requiring HHA to also consult with the county parks and recreation agencies as well as other youth-serving agencies in the development of the program.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1102, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1102, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Pepper and Kawanakoa.

SCRep. 564 Hawaiian Affairs and Housing and Human Services on H.B. No. 1681

The purpose of this bill is to appropriate funds for a safe haven, long-term rehabilitation residence, and supportive studio living for homeless persons with severe mental illnesses.

Testimony in support of the bill was submitted by the Affordable Housing Alliance, the Social Justice Committee of the Sisters of Saint Joseph, the Homeless Ohana Association, United Self-Help, the Department of Housing and Community Development of the City and County of Honolulu, and an individual. The Department of Health supported the intent of the provision of specific residential programs for the homeless mentally ill, but could not support additional programs requiring additional funds to the Governor's executive budget.

According to the testimony presented, the Coalition to House Homeless People with Mental Illness has more than 25 member agencies. It has recommended the establishment of a continuum of the most needed housing for homeless mentally ill persons composed of the three components funded by this bill.

Your Committees have amended the bill as follows:

- (1) Deleted funding for the safe haven component since appropriations for this component are included in H.B. No. 331;
- (2) Deleted appropriations for the other two components for fiscal year 1995-1996 and reduced appropriations to \$1 each for fiscal year 1996-1997 to facilitate the continued discussion of the appropriation; and
- (3) Made technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1681, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1681, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Pepper and Kawanakoa.

SCRep. 565 Education on H.B. No. 593

The purpose of this bill is to propose an amendment to Article X, section 2, of the Constitution of the State of Hawaii to allow the student member of the Board of Education to vote.

The Hawaii State Student Council, the Hawaii State Teachers Association, the Waianae High School Student Union, many concerned students active in student government, and other concerned citizens submitted testimony in support of this measure. The Board of Education submitted testimony in opposition of this measure. The Department of the Attorney General submitted testimony in response to legal questions presented by the Committee.

The advice provided by the Attorney General was predicated upon the hypothetical situation where the student member is a voting member of the Board of Education pursuant to a constitutional amendment to Article X, Hawaii State Constitution, and the student member is selected through a process that does not implicate Chapter 11, Hawaii Revised Statutes (Elections). Briefly, the advice was as follows:

- (1) Close decisions of the Board of Education would not be nullified because the student member was not of the legal age of responsibility;
- (2) The student member and/or the parents of the student member would not be exposed to liability for decisions made within the course and scope of the member's authority;
- (3) The selection of the Board of Education student member, which remains unchanged, does not raise a "one-person/one-vote" concern, nor does it appear to be legally or constitutionally infirm;
- (4) The Worker's Compensation remedies will be the sole liability of the state to a student member injured while performing services for the Board of Education, subject to Section 386-5, Hawaii Revised Statutes; and
- (5) There does not appear to be any legal impediments created by the fact that the Board of Education student member and those who participate in the selection process may not be of legal voting age.

The Attorney General also noted that the Executive Director of the California Board of Education advised that their experience with a voting student member of their Board of Education, since 1983, has been quite positive.

Your Committee finds that students represent a segment of the population that is directly impacted by the decisions of the Board of Education, but cannot vote for members of the Board. Without direct voting power, the student member role is severely diminished. This measure, if passed, would allow the citizens of Hawaii to decide whether the student member of the Board of Education should be authorized to vote.

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

Signed by all members of the Committee except Representatives Lee, Morihara, Shon, Takamine, Takumi and Yonamine.

SCRep. 566 Education on H.B. No. 1625

The purpose of this bill is to allow the Department of Education (DOE) to establish high school canoe teams in cooperation with private canoe clubs.

Your Committee received testimony in support of this bill from the Hui Nalu Canoe Club and a member of the public. The DOE concurred with the intent of the bill but expressed the DOE's view that this bill is not necessary because sports leagues normally determine whether to implement a new sport.

Your Committee has amended this bill by:

- (1) Removing the term "interscholastic" and describing the canoe teams in each school as acting "in cooperation with private canoe clubs.";
- (2) Removing Section 2 appropriating money for establishing canoe teams;
- (3) Removing Section 3 giving the DOE authority to expend the money appropriated; and
- (4) Including an immunity clause.

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. 1625, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1625, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee, Takamine and Halford.

SCRep. 567 Education on H.B. No. 1627

The purpose of this bill is to establish after-school programs for intermediate and middle school youths administered by the public school system to provide young adolescents with:

- (1) Social support and guidance;
- (2) Life-skills training;
- (3) Positive and constructive alternatives to gangs; and
- (4) Opportunities for meaningful contributions to the community.

The Department of Education submitted testimony in agreement with the intent of this measure.

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

- (1) Changing the after-school program to a pilot program in the Honolulu district; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of 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 referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Lee, Santiago, Shon, Takumi and Yonamine.

SCRep. 568 Agriculture on H.B. No. 1132

The purpose of this bill is to broaden the prohibition on the import and transport of live and dead bees in the State.

Currently, this prohibition only applies to honeybees, which is a more specific term related to the species Apis mellifera. This bill would prohibit the importation of all bees.

Your Committee recognizes the grave harm that disease-ridden honeybees would have on Hawaii's honeybee industry. It is your Committee's belief that the state law prohibiting the entry of honeybees into Hawaii, dead or alive, has been a primary factor in keeping Hawaii's apiculture free from many alien pests and diseases that plague the bee industry in other parts of the world. In this regard, your Committee recognizes the great risks and dangers of transiting honeybees through Hawaii to areas outside the state.

Extensive comments were received from the 1995 President of the Big Island Beekeepers Association and owner of the Hawaiian Honey House, and several private individuals. The Department of Agriculture testified in opposition to this bill.

Upon consideration, your Committee has amended this bill by prohibiting the transit of live bees through the state from outside the state.

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. 1132, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1132, H.D. 2, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 569 Agriculture on H.B. No. 1147

The purposes of this bill are to designate:

- (1) The Chairperson of the Board of Agriculture as the Chairperson of the Governor's Agriculture Coordinating Committee (GACC); and
- (2) The Office of the Governor's Special Assistant for Agriculture as the Executive Director of the GACC.

Your Committee recognizes the efforts of the state's executive and legislative branches to streamline government and to use public resources more efficiently. Through its extensive deliberations, your Committee notes that this bill is among other legislative measures which were heard before your Committee and are intended to utilize and expend government resources for agriculture more efficiently and effectively. For the record, your Committee notes that these measures include:

- (1) Transferring the rights, powers, functions, and duties of the Department of Agriculture's Marketing Division to the Department of Business, Economic Development, and Tourism (DBEDT);
- (2) Transferring the rights, powers, functions, and duties of DOA's Planning and Development Office to the GACC;
- (3) Transferring the responsibilities for planning, developing, and managing agricultural parks from the DOA to the Agribusiness Development Corporation; and
- (4) Abolishing the GACC.

Your Committee believes that this bill is an integral part of setting forth various alternatives for the prudent allocation of state resources for agriculture.

The Department of Agriculture submitted testimony in opposition to 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. 1147 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 570 Agriculture on H.B. No. 1172

The purpose of this bill is to provide financial aid to papaya farmers affected by the papaya ringspot virus by:

- (1) Establishing the Papaya Ringspot Virus Emergency Loan Revolving Fund to provide low-interest loans to eligible papaya farmers adversely affected by the papaya ringspot virus; and
- (2) Appropriating funds to be paid into the Papaya Ringspot Virus Emergency Loan Revolving Fund.

Your Committee recognizes the great destruction that the papaya ringspot virus has had on the state's papaya industry, particularly in Puna on the Big Island, where 95 percent of the state's papayas are produced. Due to the rapidity of the papaya ringspot virus in affecting other papaya trees and plants, the Department of Agriculture (DOA) has recommended that immediate steps be taken to lessen the spread of the virus. These recommendations include the:

- (1) Cutting down of affected trees; and
- (2) Relocation of papaya production to virus-free areas.

Testimony in support of the bill was received from ILWU Local 142 and several papaya growers. Comments were received from the University of Hawaii-Manoa, College of Tropical Agriculture and Human Resources. The DOA testified in support of the intent of the bill but indicated its opposition to the passage of the bill.

Your Committee notes DOA's testimony that its State Agricultural Loan Division Emergency Loan Program was intended to assist growers to replant papaya fields in disease-free locations. Your Committee believes that the provisions of this bill can be accommodated within the existing Emergency Loan Program.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the establishment of the Papaya Ringspot Virus Emergency Loan Revolving Fund;
- (2) Establishing the Papaya Ringspot Virus Emergency Loan Program (Program) to be placed under the DOA for administrative purposes, to provide loans to eligible papaya farmers adversely affected by the papaya ringspot virus;
- (3) Establishing eligibility and loan requirements for farmers applying for loans under the Program;
- (4) Limiting the amount of each loan provided to each qualifying farmer;

- (5) Appropriating the sum of \$1 out of the Agricultural Loan Revolving Fund to provide loans to eligible papaya farmers adversely affected by the papaya ringspot virus; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1172, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1172, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 571 Agriculture on H.B. No. 1713

The purpose of this bill, as received from your Committee, is to require the Department of Agriculture (DOA) to establish a Hawaii Organic Agriculture Code (Code).

The Code would be based upon the guidelines and standards contained in the November 30, 1994, document entitled, "Hawaii Organic Farmers Association Organic Standards Handbook for Certification 1994", prepared by the Hawaii Organic Farmers Association.

Your Committee also notes current efforts of the federal level to develop organic standards, and that the standards developing in Hawaii by the Hawaii Organic Farmers Association are similar to those standards in other states.

It is your Committee's belief that "organic" is a subjective term, and therefore, registration of organic certifiers would provide vital information to the public as to the standards that these certifiers subscribe to. Your Committee also recognizes the far-reaching economic potential of the label, "certified organic," and believes that it would further efforts to promote the state's locally-grown "Island Fresh" products and support Hawaii's diversified agriculture industry. The label "certified organic" also serves as an effective and sound marketing tool for the state's agricultural products, as well as an effective means of promoting environmentally-sound farming practices for agricultural production.

Testimony in support of this bill was received from the Co-Chair of the Kaiaka-Waialua Bay Hydrologic Project, Local Advisory Council. The Hawaii Organic Farmers Association and two individuals from the Environmental Center of the University of Hawaii-Manoa (UH-Manoa) submitted comments on the bill. The DOA and the UH-Manoa, College of Tropical Agriculture and Human Resources, testified in opposition to this bill.

After careful consideration, your Committee amended this bill by deleting the substance and inserting new language, the new purpose of which is to establish a means of registration with the DOA for persons interested in becoming an organic certifier, provided that each person registering submits a copy of the organic standards to which the person subscribes to the DOA.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1713, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1713, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Halford.

SCRep. 572 Public Safety and Military Affairs on H.B. No. 840

The purpose of this bill is to transfer the Marine Patrol Unit of the Department of Public Safety to the Department of Land and Natural Resources. The bill also defines the functions and responsibilities of the Marine Patrol Unit.

Your Committee seeks to restore the function of the Marine Patrol Unit to its original mission, which is to enforce state boating law, including recreational boating safety, marine conservation, and search and rescue assistance. It has been determined that the Marine Patrol Unit currently undertakes activities that could be handled by the police or fire departments of each county.

Testimony supporting the intent of this measure was received from the Chairperson of the Board of Land and Natural Resources and the Department of Public Safety. The Ala Wai Marina Committee and a private citizen also submitted testimony.

Testimony received from the Department of Transportation requested that the Harbor Patrol Unit, currently under the jurisdiction of the Department of Public Safety, be transferred to the Department of Transportation.

Your Committee has concerns about the funding implications that may arise if the Marine Patrol Unit is transferred from the Department of Public Safety to the Department of Land and Natural Resources. When the Marine Patrol Unit was transferred to the Department of Public Safety in 1991, funding and operational expenses were inadvertently omitted from the legislation requiring the transfer. As a consequence, the Department of Transportation has been advancing the necessary operating funds to the Department of Public Safety from the State Boating Special Fund with the expectation that these costs will be reimbursed from Federal grant funds.

Upon consideration, your Committee has amended this bill by:

- (1) Clarifying the duties of the Marine Patrol Unit;

- (2) Transferring the Harbor Patrol Unit from the Department of Public Safety to the Department of Transportation;
- (3) Appropriating \$1 for the cost of transferring the Marine Patrol Unit to the Department of Land and Natural Resources; and
- (4) Requiring that the transfer of the Marine Patrol Unit from the Department of Public Safety to the Department of Land and Natural Resources, and the transfer of the Harbor Patrol Unit to the Department of Transportation must be completed by December 31, 1995.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 840, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 840, H.D. 2.

Signed by all members of the Committee except Representatives Chun Oakland and Tom.

SCRep. 573 Public Safety and Military Affairs and Judiciary on H.B. No. 144

The purpose of this bill is to ease prison overcrowding by:

- (1) Increasing the amount of non-violent pretrial inmates who may be eligible for release by increasing the bail ceiling from \$5,000 to \$10,000;
- (2) Making permanent the program to release pretrial inmates; and
- (3) Requiring the Director of Public Safety to submit a written report of the program's effectiveness to the Legislature in 1996 and 1997.

Testimony in support of this measure was received from the Department of Public Safety, the Attorney General, the Judiciary, and the Corrections Population Management Commission.

Your Committees recognize the need to address the problem of prison overcrowding. Increasing the pool of non violent pretrial inmates eligible to be selected for release presents a practical short-term solution to this problem until more prisons are built. Threats to public safety would be minimal, as persons eligible to be released under this measure have not been convicted of the crimes they are accused of, and only persons accused of non-violent offenses would be eligible for release.

Upon consideration, your Committees have amended this bill by:

- (1) Continuing to allow only the Director of Public Safety or the Director's designee to order the release of pretrial inmates; and
- (2) Providing that the release program remain a temporary program by extending the repeal date of the Act which established the program to June 30, 1997.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 144, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 144, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes and Menor.
(Representatives Kawananaoka, Meyer and Thielen voted no.)

SCRep. 574 Labor and Public Employment on H.B. No. 1613

The purpose of this bill is to allow all health benefits under the health benefits plan of the Hawaii Public Employees Health Fund to be negotiated between the public employer and the appropriate collective bargaining units.

The Hawaii Government Employees Association, the University of Hawaii Professional Assembly, the Chamber of Commerce of Hawaii, and a building contractor submitted testimony supporting the intent of this measure. The State Public Employees Management Association of Hawaii, the Department of Budget and Finance, the Office of Collective Bargaining, and the Director of Personnel of the City and County of Honolulu submitted comments in opposition to this measure. The Department of Human Resources Development and Hawaii Public Employees Health Fund submitted comments.

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. 1613, 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 Takumi.

SCRep. 575 Labor and Public Employment; Consumer Protection and Commerce; and Judiciary on H.B. No. 2133

The purpose of this bill is to initiate comprehensive workers' compensation reform by streamlining and reducing the costs involved in the process, without overlooking the underlying premise of the system, which is to enable the injured worker to receive timely and the most effective medical treatment and rehabilitation.

Specifically, this bill addresses eight major areas as follows:

SAFETY AND PREVENTION

- (1) Establishes a safety and health certification program to assure that individuals are qualified to evaluate safety in the workplace;
- (2) Establishes a mandatory premium discount of at least five percent for employers who have been certified as having effective safety and health programs;

MEDICAL COSTS CONTAINMENT

- (3) Establishes a workers' compensation medical fee schedule that is based on the fee schedules set by pre-paid health care plan contractors to alleviate fee deviations between work-related and non-work related injuries;
- (4) Provides enabling language authorizing the use of managed care within the workers' compensation system in connection with a feasibility study being undertaken to determine the most appropriate methodology for integrating managed care and 24-hour insurance coverage in Hawaii's law;
- (5) Gives the Director of Labor and Industrial Relations greater discretion in making adjustments to the medical fee schedule, including the flexibility to disregard increases or decreases to the Consumer Price Index;

COMPENSABILITY

- (6) Defines "intoxication" to include the use of intoxicating liquor and controlled substances, as well as the wilful misuse of prescription drugs and over-the-counter drugs;
- (7) Excludes injuries resulting from assaults or combats from compensability with the exception of self-defense efforts;
- (8) Increases the maximum award for disfigurement from \$15,000 to \$30,000;

INDEMNITY

- (9) Allows employers to initiate benefit payments without having the payments constitute an admission by the employer of the claim's compensability;
- (10) Allows employers to reduce payments by the amount of any Social Security disability payments received by injured employees who have been permanently and totally disabled;
- (11) Permits the continued practice of awarding residuals, but limits the employer's responsibility to pay for pre-existing disabilities in cases involving subsequent injuries resulting in greater permanent partial disability;
- (12) Provides greater equity by:
 - (A) Using actual average weekly wages as the basis of the calculation of temporary total disability benefits for part-time employees;
 - (B) Allowing benefits for part-time employees or their dependents for permanent partial disability, permanent total disability, and death benefits to continue to be calculated on the same basis as full-time employees; and
 - (C) Providing that for part-time employees with concurrent employment who are injured in one job and disabled for another, the loss of the second wage shall be covered by the special compensation fund;

INSURANCE REFORM

- (13) Allows employers with exemplary claims to secure deductibles in excess of \$2,500 upon mutual agreement with their insurance carriers. This should reduce premiums for responsible employers, but retain the liability for payments with the insurance company;
- (14) Allows the issuance of limited licenses for independent adjusters to work solely on workers' compensation claims. By having this group uniformly understand workers' compensation claims processing requirements and evaluation standards, they will be able to process claims more consistently, leading to a more timely closure of claims and payments. These specialized independent adjusters would be required to be reexamined biennially;
- (15) Makes rate filing reviews the subject of public hearings and increases the waiting period from thirty to ninety days;

ABUSE AND FRAUD

- (16) Increases the penalties for default in payments from ten percent to twenty percent of the amount of unpaid compensation;
- (17) Amends the penalty section for fraud within the workers' compensation law to increase the maximum fine from \$2,500 to \$10,000 and to allow for the payment of restitution to be made directly to the source from which the compensation was received. It also seeks to discourage frivolous litigation by including attorneys' fees and costs as subjects of reimbursement;

DISPUTE RESOLUTION

- (18) Limits the scope of review for the Labor and Industrial Relations Appeals Board;

ADMINISTRATIVE

- (19) Establishes the Office of the Worker's Compensation Benefits Facilitator within the Department of Labor and Industrial Relations to provide claimants assistance in filing claims and appropriate federal Social Security benefits;
- (20) Establishes the return-to-work priority program in the Department of Human Resources Development to assist injured and disabled employees who are collecting workers' collection benefits to return to work;
- (21) Instructing the Office of the Legislative Auditor to conduct a study to evaluate, and propose recommendations to improve, standards and minimum qualifications for claims adjusters to ensure continued quality, adequate training, and consistency in performance; and
- (22) Appropriates funds to effectuate the purposes of this bill.

Your Committees were overwhelmed by the public's interest in reforming the workers' compensation system when hearing this and other related bills. Although an assortment of proposals were recommended to your Committees, the consensus was that reform is urgently needed.

After careful deliberation, your Committees have amended this bill by:

- (1) Requiring the Director of Labor and Industrial Relations to adopt rules relating to managed care by July 1, 1995;
- (2) Providing that the rules for the revised medical fee schedule take effect July 1, 1995, and that the schedule be reduced by fifty percent by July 1, 1995;
- (3) Exempting "good Samaritans" who intervene in assaults and combats;
- (4) Repealing Act 67, Session Laws of Hawaii 1992, which required employers to pay injured workers weekly benefits equal to the maximum compensation rate for the period named in the schedule for permanent partial disabilities without regard to the worker's average weekly wage;
- (5) Making it unlawful to discriminate against any employee because the employee suffers any work injury compensable under this chapter;
- (6) Providing that an employee shall continue to receive the same employment benefits received by other employees of the same employer during the period of temporary disability;
- (7) Deleting the provision allowing employers to initiate benefit payments without having the payments constitute an admission by the employer of the claim's compensability;
- (8) Deleting the provision allowing employers to reduce payments by the amount of Social Security disability payments;
- (9) Providing that employers not be required to furnish medical care, medical services, and medical supplies after the employee has achieve maximum medical improvement;
- (10) Providing that when an employer is of the opinion based on credible medical or other evidence, temporary total disability benefits should be terminated;
- (11) Using actual average weekly wages as the basis of the calculation of permanent partial disability benefits for part-time employees;
- (12) Authorizing the Insurance Commissioner to assess the adequacies and efficiencies of the workers' compensation system;
- (13) Requiring the disclosure of workers' compensation premium information by insurers to employers;
- (14) Allowing the Insurance Commissioner to issue limited licenses to any adjuster who only adjusts workers' compensation claims;
- (15) Providing that no employer be placed in an assigned risk pool without an experience rating plan;

- (16) Requiring publication of all workers' compensation rate filings;
- (17) Authorizing the Insurance Commissioner to roll back current rates and award rebates to affected insured;
- (18) Requiring approval of attorney's fees and costs paid to the employer's or insurance carrier's attorneys;
- (19) Clarifying the fraud penalty section by allowing for the reimbursement of compensation and payments fraudulently received to the source from which the compensation was received and calling for the payment of benefits and payments fraudulently denied to the source that was denied compensation;
- (20) Removing the requirement that the Labor and Industrial Relations Appeals Board approve compromise settlements pending before the Board;
- (21) Adding a severability clause;
- (22) Amending the effective date to take effect upon approval, except that the appropriation sections take effect on July 1, 1995; and
- (23) Making other technical, nonsubstantive amendments for the purposes of style, clarity, and consistency.

Your Committees anticipate that this bill would result in cost savings of 45.2 percent as follows:

- (1) 5 percent in the area of safety and prevention;
- (2) 21.5 percent in the area of medical costs containment;
- (3) -.3 percent by increasing the maximum award for disfigurement;
- (4) 9.3 percent by repealing Act 67, Session Laws of Hawaii 1992;
- (5) 1.4 percent by providing that an employee receive from the employer compensation for the permanent partial disability in excess of compensation awarded for the previous permanent partial disability;
- (6) .3 percent by using actual average weekly wages as the basis of the calculation of temporary total disability and permanent partial disability benefits for part-time employees;
- (7) 3 percent by allowing employers to secure deductibles in excess of \$2,500;
- (8) 2.5 percent by allowing the issuance of limited licenses for workers' compensation adjusters; and
- (9) 2.5 percent to establish the Office of Workers' Compensation Benefits Facilitator.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment; 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. 2133, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2133, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Chun Oakland, Hamakawa, Hiraki, McMurdo, Saiki, Takumi and Kawanakoa.

SCRep. 576

Agriculture on H.B. No. 1148

The purpose of this bill is to enable the Legislature to better monitor the activities of the Governor's Agriculture Coordinating Committee (GACC), especially in terms of expenditures.

This bill requires GACC to include the following information in its annual reports:

- (1) A complete allocation and breakdown of funds;
- (2) A detailed description of all expenditures; and
- (3) The results of each legislative appropriation in achieving their stated purpose.

In concurring with this bill, the College of Tropical Agriculture and Human Resources testified that the additional information are necessary for the Legislature to assess concrete achievements relative to costs.

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

- (1) Renaming the GACC as the Agriculture Coordinating Committee (ACC), which shall be administratively attached to the Department of Agriculture (DOA);
- (2) Transferring the planning and development duties of the DOA to the ACC;
- (3) Providing that the ACC shall work with the Agribusiness Development Corporation; and

- (4) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1148, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1148, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 577 Human Services on H.B. No. 104

The purpose of this bill is to establish within the Executive Office on Aging a Long-Term Care Advisory Commission to determine the feasibility of implementing and administering the Hawaii Long-Term Care Trust Fund.

Testimony from the Department of Health, the Coalition for Affordable Long-Term Care, the National Association of Retired Federal Employees, the Hawaii Long Term Care Association, the American Association of Retired Persons and an individual citizen was submitted in support of this measure, but with suggestions of amendments to the bill. The Retirees Unit of HGEA/AFSCME Local 152, ILWU Local 142, the Department of Taxation, the Executive Office on Aging and the Hawaii State Association of Life Underwriters provided testimony in support of the intent of this measure.

Testimony from the Healthcare Association of Hawaii was submitted stating their desire that the bill be held.

Testimony from the Chamber of Commerce of Hawaii and the Family Hope Coalition was submitted opposing both the concept and content of the bill.

It is noted in your Committee that the primary responsibilities of the Commission are to:

- (1) Familiarize itself with the long-term care delivery system and its cost to individuals, institutions and to look at trends and demographics which will impact on future costs;
- (2) Review the long-term care financing program to determine its effectiveness in providing comprehensive long-term care services and its ability to mitigate the cost to the government and individuals;
- (3) Address the concerns expressed by the public, business community and legislature with respect to the long-term care financing program; and
- (4) Make suggestions on how the financing program recommended by the Executive Office on Aging shall be implemented and recommend a timetable to put the plan into action.

It is also noted by your Committee that the work of the Commission is not a study but an in-depth review and analysis of how the long-term care financing program can be implemented.

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

- (1) Establishing the Long-Term Care Commission within the Executive Office on Aging instead of within the Department of Commerce and Consumer Affairs;
- (2) Requiring the members of the Legislature to provide to the Commission their concerns to be addressed by the Commission regarding the long-term care financing program;
- (3) Requiring the Commission to invite the public, through public notice, to provide their concerns and questions regarding the long-term care financing program;
- (4) Increasing the number of members on the Commission to provide a broader base of representation; and
- (5) Deleting Sections 9, 12, 13, 14 and 15.

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. 104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 104, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki and Kawanakoa.

SCRep. 578 Human Services on H.B. No. 1073

The purpose of this bill is to establish a Supplemental Security Income (SSI) advocacy program for the State of Hawaii by appropriating out of the general revenue of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1995-1996, for purchase of services from the Legal Aid Society of Hawaii.

Testimony from the Department of Human Services, the Legal Aid Society of Hawaii, and a private citizen was received in support of this measure.

It is noted by your Committee that when a person becomes eligible for SSI, the federal government assumes the responsibility to provide monthly support as long as the applicant remains eligible. The monthly grant for an SSI applicant is \$451.00, whereas the General Assistance (GA) monthly grant is \$418.00. This calculates to a state savings of \$5,216.00 per year for each resident who is removed from GA. Therefore, your Committee acknowledges that this measure is beneficial to the State and agrees that an SSI advocacy program be established for the State of Hawaii.

It is also noted by your Committee that the Department of Human Services does identify GA recipients that should be referred to the Social Security Administration for enrollment in SSI. Furthermore, the Legal Aid Society of Hawaii (LASH) has developed a successful record on the representation of GA recipients that were initially denied SSI benefits. Last year, LASH represented 22 clients in SSI hearings, and the average reimbursement to the state for a client was approximately \$2,500.00.

It is also noted by your Committee that the LASH is presently exploring the possibility of the provider reimbursing the state if funds being brought in are not more than \$150,000.

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

- (1) Removing the Legal Aid Society of Hawaii as the recipient of these funds and allocate the funds directly to the Office of Community Services (OCS);
- (2) Reflecting that the amount appropriated refers to the amount appropriated to operate the SSI project; and
- (3) Reducing the amount the provider of the SSI advocacy project will receive, after the state has recovered its initial appropriation, to 25% not 50% of the reimbursement received for every person represented by the project who successfully enters the SSI program.

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. 1073, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1073, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki and Kawanakoa.

SCRep. 579 Human Services and Health on H.B. No. 590

The purpose of this bill is to establish a public-private collaborative "partnership for change" that would coordinate and integrate services to children and families. A further purpose of this bill is to maintain certain critical state-funded services for children and families through various appropriations outside the executive budget.

Specifically, the bill describes a public-private collaborative work group called "partnership for change" whose mission is to coordinate and integrate services to children and families at the top levels of both the public and private provider agencies. The membership and objectives of the partnership for change are detailed, as well as the specific mechanisms by which the objectives are to be achieved. In addition, the bill appropriates for each of fiscal years 1995-1996 and 1996-1997:

- (1) \$13,221,569 for maternal and child health activities including family planning, preschool developmental screening, child health services, Baby S.A.F.E., Healthy Start, and perinatal services;
- (2) \$7,186,658 for school health services (HLT 540); and
- (3) \$300,000 for youth service centers of the Office of Youth Services.

Your Committee received testimony from the Director of Health and the Executive Director of the Office of Youth Services supporting the intent of collaboration but opposing additional appropriations. The Superintendent of Education testified supporting the concept of a coordinated system. Testimony from the Hawaii Community Services Council and Solid Concepts, Inc. support the concept of coordinated services. The Hawaii Community Services Council and the Hawaii Right to Life also urged that services be provided to families as a unit rather than to children separately.

Your Committees find that coordination of services is needed and that the partnership for change will engender the necessary collaboration and accountability among all public and private provider agencies to enhance service delivery in a more efficient system. At a time when a large state deficit is projected, this bill is particularly effective because the partnership for change will be funded privately. In the same vein, your Committees believe that it is not appropriate to commit additional funds to specific services at this time.

Accordingly, your Committees have amended this bill by shortening section 1 and adding a new section 2 to the bill to include specific language to substantively establish the partnership for change. Four more partners were added: the Office of Children and Youth, the Office of Youth Services, the Office of State Planning, and the Departments of Parks and Recreation of the counties. Sections 2, 3 and 4 making appropriations were deleted. Your Committee also made technical, nonsubstantive amendments, including re-numbering sections of the bill, 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. 590, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 590, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Stegmaier.

SCRep. 580 Human Services and Health on H.B. No. 1643

The purpose of this bill is to extend for two years the six percent nursing facility tax.

The Department of Human Services (DHS) testified that revenues from the nursing facility tax amounts to approximately \$8,000,000 per year. Without this revenue, DHS would have to either request an additional \$8,000,000 (\$4,000,000 in general funds and \$4,000,000 in federal funds) or offset the reduction with reduced services or reduced provider reimbursements.

The Hawaii Long Term Care Association, the Healthcare Association of Hawaii, a number of long-term care facilities, and many individuals submitted testimony in support of the bill. Many testified to the effect that, without the nursing facility tax, Medicaid reimbursements to long-term care facilities would be reduced. Generally speaking, long-term care institutions cannot afford to have revenues reduced due to the high costs associated with long-term care. Therefore, many would be forced to close if the tax were repealed.

Several people testified in opposition to the bill. An individual with an elderly mother in a nursing home asserted that about 1,000 private paying patients are bearing the nursing facility tax since the facilities pass it on to their private paying patients. However, this individual acknowledged that a tax credit is available. It was also demonstrated that the amount of the tax credit is slightly larger than the amount of the tax.

Your Committees recognize that the tax has not had the desired results. However, the effect of allowing it to sunset would be much worse.

This bill was considered together with H.B. No. 1612, which proposes to make the tax permanent. Your Committees emphasize that funding solutions must be found. The two-year extension would temporarily help to maintain the current reimbursement levels to hospital and nursing care facilities in anticipation of the implementation of Health QUEST Phase II.

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. 1643, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hamakawa.
(Representative Kawanakoa voted no.)

SCRep. 581 Agriculture and Economic Development and Business Concerns on H.B. No. 1318

The purpose of this bill is to transfer the development and promotion function of agricultural products and markets from the Department of Agriculture (DOA) to the Department of Business, Economic Development, and Tourism (DBEDT).

The Protea Growers Association of Hawaii and the Hawaii Farm Bureau provided testimony in support of this measure. The DOA, DBEDT, and the Hawaiian Sugar Planters' Association provided additional testimony on this bill.

Your Committees have amended this bill to transfer only five of the seven positions in the Market Development Branch (Branch) of the DOA to the DBEDT, including the transfer of all appropriations and property held by the Branch of the DOA relating to the functions transferred to DBEDT.

It is your Committees' opinion that this measure, as amended, will strengthen the State's ability to expand and improve our agricultural markets, and enhance diversification.

As affirmed by the records of votes of the members of your Committees on Agriculture 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. 1318, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1318, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 582 Intergovernmental Relations and International Affairs on H.B. No. 283

The purpose of this bill is to exempt from attachment and execution all property in this State of a resident judgement debtor, where a portion of any judgement is in favor of any other state relating to failure to pay income tax on benefits received from a pension or other retirement plan.

Testimony in support of the bill was received from the National Association of Retired Federal Employees, the Kokua Council for Senior Citizens and affected retirees.

Testimony in opposition was received from the Department of Taxation and the Department of the Attorney General.

Your Committee finds that seven other states have provided protection for their resident retirees through the same type of legislation and all seven states have not suffered retaliation from California, nor have there been an invoking of the full faith and credit clause.

Your Committee is deeply concerned about the arbitrary way in which California taxes some pensions while failing to tax other pensions. This arbitrariness causes some retirees to live in fear of the possibility of harsh retroactive penalties and interest should California decide to begin.

Your Committee believes that it is the State's responsibility to protect the property of its resident retirees who no longer live in the state of California by exempting all property of a judgement debtor from attachment and execution.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 283 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 583 Intergovernmental Relations and International Affairs on H.B. No. 836

The purpose of this bill is to limit county liability for beach, park, and recreational facility use to specific instances of a failure to warn; gross negligence; recklessness; and wilful, wanton, or deliberate conduct.

The Parks Department and Department of the Corporation Counsel of the City and County of Honolulu; the Mayor, Council Chair, and Department of the Corporation Counsel of Maui County; the Office of Corporation Counsel of Hawaii County; and the Office of the County Attorney of Kauai County all testified in opposition to the bill stating essentially that it did not provide the counties with the protection they need. Two representatives of the Hawaii Trial Lawyers Association testified against the bill stating that it would weaken individual rights and protections.

While mindful of the opposition to this measure, your Committee notes that the basis of opposition appears to depend on the interests of the party testifying. However, your Committee remains of the opinion that with some changes the provisions of this bill will more clearly outline individual rights and expectations while clarifying the duties of the counties to warn of certain dangerous conditions, and thus provide a greater measure of protection for the counties.

To achieve a balance this bill has been amended by adding language which provides for specificity regarding warning signs and the creation of a rebuttable presumption.

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

- (1) Further clarifying and limiting the circumstances under which a county could be held liable; and
- (2) Adding a new chapter to the Hawaii Revised Statutes requiring a degree of care by any government agency for persons using beaches fronting public beach parks and public beach accesses.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 836, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 836, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 584 Intergovernmental Relations and International Affairs on H.B. No. 1225

The purpose of this bill is to increase to seventy-five acres from fifteen acres the threshold for county approval of state land use district boundary amendments.

Testimony in support of the bill was received from the Kauai County Council, the Hawaii State Association of Counties (HSAC), the Hawaii County Planning Department, the Land Use Research Foundation of Hawaii, the Chamber of Commerce and the Malama Group.

Testimony in opposition was received from the Office of State Planning and the Land Use Commission.

Your Committee finds that this amendment to chapter 205 will not only help to streamline the process of land development approvals but also represents a reasonable extension of homerule.

Your Committee finds that the counties have continued to exercise their zoning power responsibly, therefore they should be granted the authority to amend such boundaries for parcels 75 acres or less.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1225 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.

SCRep. 585 Intergovernmental Relations and International Affairs on H.B. No. 1485

The purpose of this bill is to revoke a liquor license if the licensee has unreasonably detrimental impact on community including drug dealing, prostitution, other crimes, traffic, and noise.

Testimony in support of this bill was received from the City and County of Honolulu, the Downtown Neighborhood Board No. 13, and Liquor Dispensers of Hawaii.

Testimony in opposition was received by Maui County Department of Liquor Control and the Maui Hotel Association.

Your Committee recognizes that there is a need to broaden the list of eligible claims that can be charged against an establishment when considering their renewal or continuation. Permitting such would allow impacted communities to seek

relief from liquor licensees who allow activities which are potentially injurious to the health, safety and welfare of the public.

Accordingly, your Committee has chosen to adopt the language suggested by the City and County of Honolulu that helps to clarify this in the bill.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1485, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 586 Intergovernmental Relations and International Affairs on H.B. No. 1717

The purpose of this bill is to authorize owners of agricultural lands to subdivide their property to create intensive agricultural properties.

Testimony in support of the bill was received from the Land Use Research Foundation and a concerned citizen. The Office of State Planning and the Board of Agriculture supported the concept of the bill but raised concerns about the infrastructure requirements, competition for natural resources and other issues once intensive agricultural use is mandated.

Testimony in opposition was received from the Department of Land Utilization

Your Committee finds that this bill will make available relatively large lots solely for intensive agricultural uses and without the expensive subdivision infrastructure commonly associated with residential subdivisions.

The bill has been amended to clarify that in consultation with the Department of Agriculture, the County Planning Agency shall review the proposed subdivisions.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1717, as amended herein, and recommends that it be referred to the Committee on Water and Land Use Planning, in the form attached hereto as H.B. No. 1717, H.D. 1.

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

SCRep. 587 Intergovernmental Relations and International Affairs on H.B. No. 2254

The purpose of this bill is to establish an International Business Center of Hawaii (Center) 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.

Testimony in support of the bill was received from the United States Department of Commerce and Foreign Commercial Service International Trade Administration, the United States Small Business Administration, the Department of Business, Economic Development and Tourism, the Center for International Business Education and Research, the Honolulu Japanese Chamber of Commerce, the Honolulu Minority Business Development Center, the World Trade Enterprises, Inc., the Hawaii International Hospitality Center, Hawaiian Hydroponics, Poi Pounder Designs, First Hawaiian Bank, Sea-Land, KPMG Peat Marwick LLP, the Export Finance and Marketing Group, Mauna Kea Agronomics, Hawaii Marketing Resource, the Omni Trading Co., the Chamber of Commerce of Hawaii and some concerned citizens.

Your Committee believes that the Center would be an asset to the business community by continuing to provide trade and business assistance to Hawaii firms seeking to enter or expand in overseas markets. The Center, which has been functioning on year-to-year funding, has immense potential to continue to generate increased business opportunities and a more diversified economy.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Relations and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2254 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 588 Intergovernmental Relations and International Affairs and Labor and Public Employment on H.B. No. 2333

The purpose of this bill is to provide legal representation for county officers or employees who are prosecuted for acts done in the performance of their job capacities.

Testimony in support of the bill was received from the City and County of Honolulu and the Hawaii Government Employees Association.

Your Committees find that while legal protection is currently afforded to firefighters, police officers and liquor commissioners, the same privilege is not extended to other county officers and employees who can be civilly sued or criminally prosecuted while performing their job.

The potential for prosecution results from the strict interpretation of the laws that seek a zero risk to the environment, even when it is not economically or technically feasible. Further, courts have determined that individuals may even be liable if they followed directions from the regulatory agencies which happen to be incorrect. Therefore, employees are often having to exercise their best judgment in an atmosphere of complex, contradictory and vague requirements.

Your Committees find that there is no justification for denying these county employees the same legal protection currently afforded to the others.

Under federal and state environmental laws, the latter can be sued or criminally prosecuted for their actions while in the performance of their official powers and duties, even if the actions taken are reasonable and prudent at the time. This is due to the zero risk to the environment laws, even if such a goal is technically or economically unfeasible.

As affirmed by the records of votes of the members of your Committees on Intergovernmental Relations and International Affairs 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. 2333 and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Alcon, Isbell and Ward.

SCRep. 589 Tourism on H.B. No. 1373

The purpose of this bill is to direct the Department of Business, Economic Development, and Tourism's Office of Tourism to provide support for sporting and cultural events that fulfill the following criteria, and to include provisions for such events in the five year marketing plan:

- (1) Attract the greatest number of visitors to the State;
- (2) Generate the highest return for Hawaii's economy;
- (3) Provide the widest media exposure to national and international markets;
- (4) Require the least in terms of capital outlays on behalf of the State or substantial benefit-to-cost ratio in favor of the State with respect to capital invested; and
- (5) Provide the longest commitments for operation in Hawaii.

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

Your Committee finds that sporting events provide some of the most cost-effective promotions for Hawaii, generating direct travel by participants and spectators, giving priceless media exposure, and enhancing Hawaii's image as a sports and fitness center.

The Department of Business, Economic Development, and Tourism estimated that sports promotion expenditures of \$270,000 and additional legislative appropriations in 1993 generated more than \$320 million in state revenue.

Your Committee revised the bill by:

- (1) Requiring that the funding of such events be in accordance with the marketing plan of the Hawaii Visitors Bureau or any other organization selected as the primary tourism marketing contractor; and
- (2) Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1373, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1373, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Lee.

SCRep. 590 Finance on H.B. No. 920

H.B. No. 920 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 920, 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. 920, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Kanoho, Nekoba and Ward.

SCRep. 591 Finance on H.B. No. 295

The purpose of this bill is to improve the administration of the State Higher Education Loan Fund (SHELF) by:

- (1) Increasing the interest rate for loans made under SHELFF from three percent to five percent;
- (2) Increasing from one percent to two percent the amount that the University of Hawaii may spend from SHELFF for the collection of outstanding loans; and
- (3) Including administrative expenses as an allowable expense from SHELFF.

The University of Hawaii submitted testimony in support 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. 295 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Marumoto and Ward.

SCRep. 592 Finance on H.B. No. 821

The purpose of this bill is to transfer the International Tourism Consulting Center and Clearinghouse from the Office of International Relations to the Department of Business, Economic Development, and Tourism.

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

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. 821 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Marumoto and Ward.

SCRep. 593 Finance on H.B. No. 837

The purpose of this measure is to clarify that programs covered by the Community College Conference Center Revolving Fund include noncredit conferences, seminars, courses, and activities conducted by the community services programs of the community colleges.

The University of Hawaii testified in support of this measure.

Your Committee has amended this bill to correct a technical 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. 837, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 837, H.D. 2.

Signed by all members of the Committee except Representatives Marumoto and Ward.

SCRep. 594 Finance on H.B. No. 2031

The purpose of this bill is to authorize the Director of Taxation or the respective County Finance Director to collect all delinquent taxes whenever an eminent domain proceeding is brought by the state or any county in acquiring the fee simple estate in real property.

The Director of Taxation testified in favor of this bill. Testimony was also received from the Tax Foundation of Hawaii.

Your Committee has amended this measure 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2031, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2031, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 595 Finance on H.B. No. 2037

The purpose of this bill is to change the computation period for establishing the penalty for underestimating income tax from a daily basis to a monthly basis.

The Director of Taxation testified in favor of this bill. Testimony was also received from the Tax Foundation of Hawaii.

Your Committee has amended this measure 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2037, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 596 Finance on H.B. No. 2040

The purpose of this bill is to allow the Department of Taxation (Department) to impose fees to recover costs incurred in the collection of taxes, including levy, seizure, foreclosure, and other services.

Testimony in support of the measure was submitted by the Department. The Tax Foundation of Hawaii submitted comments on the bill.

Your Committee has amended the measure by:

- (1) Deleting the provision allowing the Department to charge fees for processing certain documents and providing certain services;
- (2) Deleting language prohibiting the accruing of interest on the fees established by this bill;
- (3) Removing language requiring the amount received by the Department with respect to partial payment of delinquent amounts, to be first credited to the fees established in this bill;
- (4) Removing the provision requiring the Department to prescribe the procedures relating to the charging of fees, the documents and services for which fees may be charged, and the amount of the fees; and
- (5) Making technical, nonsubstantive amendments for the purposes of style, clarity, and consistency.

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. 2040, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2040, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives M. Oshiro, Marumoto and Ward.

SCRep. 597 Finance on H.B. No. 2041

The purpose of this bill is to authorize the Department of Taxation (Department) to compromise claims under \$50,000 arising under any tax law within the Department's scope of duties without the Governor's approval.

The Director of Taxation testified in favor of this bill. Testimony was also received from the Tax Foundation of Hawaii.

Your Committee has amended this measure 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2041, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 598 Judiciary and Consumer Protection and Commerce on H.B. No. 176

The purpose of this bill is to authorize judgment creditors to execute judgments by utilizing the mortgage foreclosure provisions in Chapter 667.

Your Committees received testimony in support of this bill from two attorneys in private practice.

The present law in Chapter 667 only applies to "mortgage" foreclosures. Adding the new section proposed by this bill gives judgment creditors statutory authority to foreclose pursuant to Chapter 667. Currently, real property obtained at an execution sale is not recognized by title companies as having clear title. Giving statutory validity to an execution sale will give title companies a basis for issuing title insurance.

Your Committees amended the bill by providing applicability to actions pending in court from and after the effective date of this Act.

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. 176, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 176, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, McMurdo and Meyer.

SCRep. 599 Judiciary and Consumer Protection and Commerce on H.B. No. 313

The purpose of this bill is to limit liability of accountants for civil actions based on negligence brought against accountants by third persons who do not have privity of contract with the accountant.

The Hawaii Society of Certified Public Accountants and a certified public accountant testified in strong support of this measure. The Department of Commerce and Consumer Affairs, the Hawaii Trial Lawyers Association, and the Hawaii Banker's Association submitted testimony in opposition.

Your Committees find that this bill would establish a clear rule in Hawaii regarding when a third party (non-client) can sue a certified public accountant for professional negligence. Under this measure the only acceptable plaintiffs in a suit brought against a certified public accountant for professional negligence would be:

- (1) The accountant's client; and
- (2) Any third parties who are identified in writing as persons who intend to rely on the information provided by the certified public accountant.

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. 313 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 Hiraki, McMurdo and Meyer.

SCRep. 600 Judiciary and Consumer Protection and Commerce on H.B. No. 806

The purpose of this bill is to repeal the October 1, 1995, sunset provision of Act 2 of the 1986 Special Session, relating to liability.

The State Auditor, the Hawaii Medical Association, the Construction Industry Legislative Organization, Inc., the Chamber of Commerce of Hawaii, the Hawaii Insurers Council, and members of the public testified in support of this measure.

Your Committees find that the sunset provision in this Act has been extended by the Legislature several times over the past eight years and that this law should be made permanent.

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. 806 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 Hiraki, McMurdo and Meyer.

SCRep. 601 Judiciary on H.B. No. 1498

The purpose of this bill is to amend the filing dates for lobbyist expenditure statements.

Your Committee received testimony in support of this bill from the Hawaii State Ethics Commission and Common Cause Hawaii.

Current law only requires filing of lobbyist expenditure statements in January and March. Lobbying activities for the second half of the legislative session are not reported until the beginning of the following year. This present requirement for filing a statement at the end of January may include expenditures for an upcoming legislative session as well as for the second half of the previous session. Since there is presently no requirement for filing a statement, from March 31 to January 31, confusing or misleading information may result.

Your Committee amended this bill by revising the filing dates to March 15, May 15, and January 15, to avoid confusion regarding expenditures for overlapping legislative sessions, and for requiring disclosure after the close of each session on a timely basis, and by adding an exemption for expenditures for intrastate travel.

As affirmed by the record of votes of 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. 1498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1498, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo and Menor.

SCRep. 602 Judiciary on H.B. No. 1499

The purpose of this bill is to repeal the requirement for the State Ethics Commission to provide a short form of disclosure for subsequent annual filings when the financial interests of the person are substantially the same as was reported in the preceding disclosure period.

The Hawaii State Ethics Commission and Common Cause Hawaii testified in support of this measure.

Your Committee finds that the use of amendatory short forms has caused administrative problems for the Commission and confusion for citizens who review public disclosure statements.

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

- (1) Requiring that the long form disclosure statement be filed on all even-numbered years;
- (2) Requiring that the short form disclosure statement be filed only on odd-numbered years;

- (3) Providing that if there is a change of financial information on an odd-numbered year, the long form must be filed; and
- (4) Clarifying that in order to file the short form in odd-numbered years the financial information shall conform exactly, not substantially, to the previous period's filing.

As affirmed by the record of votes of 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. 1499, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1499, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo and Menor.

SCRep. 603 Consumer Protection and Commerce on H.B. No. 1937

The purpose of this bill is to make necessary changes to state law to harmonize with interstate banking legislation passed by the U.S. Congress.

H.B. No. 1937 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 intent and purpose of H.B. No. 1937, 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. 1937, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 604 Legislative Management on H.R. No. 18

The purpose of this resolution is to establish policies for the Legislative Access Cable Television Pilot Project for the Eighteenth Legislature.

Your Committee believes that it is important to open up the legislative proceedings to the public so that viewers gain a better understanding of the legislative process and an appreciation of the complex issues presented to Committee members.

The League of Women Voters of Honolulu submitted testimony on this resolution.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 18 and recommends its adoption.

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

SCRep. 605 Judiciary and Consumer Protection and Commerce on H.B. No. 759

The purpose of this bill is to provide more efficient enforcement of the motor carrier laws by motor carrier safety inspectors under the State Department of Transportation.

The Hawaii Transportation Association testified in support of this measure.

Your Committees find that the motor carrier industry in Hawaii has suffered due to a growing number of unlicensed carriers operating illegally. Because of the availability of only one Public Utilities Commission (PUC) enforcement officer for all of the islands, certain PUC rules governing motor vehicle safety inspection are unenforced. This measure would allow the State Department of Transportation personnel who are very familiar with the ground transportation industry to enforce these rules.

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. 759, H.D. 1, and recommend that it pass Third Reading.

Signed by all members of the Committees except Representatives Hiraki, McMurdo and Meyer.

SCRep. 606 Legislative Management on H.B. No. 1188

The purpose of this bill is to ensure the independence and impartiality of the State Ethics Commission (Commission) by:

- (1) Prohibiting members of the Commission from holding office for more than ninety days after the expiration of the member's term; and
- (2) Requiring the Commission to fill a vacancy, if the Governor fails to appoint a person to a vacant office within sixty days of the expiration of a commissioner's term.

Under the current law, it is not clear whether a commissioner can legally hold over once the commissioner's term expires. Nor is it clear whether a commissioner is rightfully a commissioner holding over if the commissioner's term has expired and the Governor does not make an appointment from the list of two names submitted to the Governor by the Judicial Council.

Testimony in support of the 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 Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1188 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Say, Thielen and Ward.

SCRep. 607 Economic Development and Business Concerns on H.B. No. 1333

The purpose of this bill is to require the Office of State Planning (OSP) to coordinate all government programs, actions, and initiatives aimed at redeveloping and revitalizing communities affected by the closure of sugar and other agricultural operations, including the operation of Waialua Sugar Company.

Your Committee believes that it is in the public interest to address the problems that dislocated workers face in the downsizing of the sugar industry and in this significant transition that Hawaii's agriculture industry is facing. In this regard, your Committee recognizes the immediacy of generating and pursuing viable economic and job opportunities in those regions that are directly affected by the shutdown by industries such as sugar.

Testimony in support of this bill was received from the Catholic Immigration Outreach Center and an interested individual. Testimony was also received from OSP, which indicated that it believes that this bill is unnecessary because current statute already allows OSP to address the problems associated with sugar plantation closures at Waialua Sugar Company and elsewhere.

However, your Committee believes that this bill is appropriate and necessary due to the pressing needs of these dislocated workers.

Upon careful consideration, your Committee has amended this bill by specifying that the coordination is with regard to communities affected by the closure of sugar and major agricultural operations.

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. 1333, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1333, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Cachola.

SCRep. 608 Judiciary on H.B. No. 1497

The purpose of this bill is to clarify the definition of lobbyist.

Your Committee received testimony in support of this bill from the Hawaii State Ethics Commission, Common Cause Hawaii, and in opposition from Hawaiian Electric Industries, and a registered lobbyist.

Your Committee finds that there are valid reasons for retaining the time requirements as they exist in the current law.

The occasions requirement may lead to too many people registering as lobbyists who do only a minimal amount of lobbying. For this reason, the bill was amended by replacing the proposed five occasion requirement with the five hour requirement. A technical, non-substantive amendment was made to this bill 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. 1497, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1497, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, McMurdo and Menor.

SCRep. 609 Energy and Environmental Protection on H.B. No. 874

The purpose of this bill is to support environmental protection.

H.B. No. 874 was originally introduced as a short-form bill, which is 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 include an amended text of H.B. No. 1293, which had a defective title and was thus held in committee, in H.B. No. 874 so that a public hearing may be properly held on its contents.

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. 874, as amended herein, and recommends that it be recommitted to the Committee on Energy and Environmental Protection, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 874, H.D. 1.

Signed by all members of the Committee except Representatives Santiago, Takamine and Yoshinaga.

SCRep. 610 Education on H.B. No. 1626

The purpose of this bill is to amend Chapter 296, Hawaii Revised Statutes, to allow a community service requirement for graduation from public high school.

The Chairperson of the Board of Education presented comments concerning the bill.

Your Committee has amended this bill by:

- (1) Removing language requiring that the Department of Education (DOE) administer a community service program in each public high school;
- (2) Requiring that the DOE establish rules to allow schools to develop community service programs; and
- (3) Adding subsection (b) stating that "[e]ach public high school may establish a community service requirement for graduation from high 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. 1626, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1626, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 611 Health and Human Services on H.B. No. 612

The purpose of this bill is to require that the annual inspection of adult residential care homes be at specified times with prior notice given to the care home operators.

The Committees are in agreement with testimony received from the United Group of Home Operators that the current procedure for making the annual inspection is unduly burdensome. The Committees believe that by providing home care operators with two weeks notice of a specified date for the annual inspection, that it will better enable them to provide for the daily administration of the care homes.

By requiring notice of the annual visit, however, the Committees want to make it clear that unannounced inspections for the purposes of confirming the correction of deficiencies and for the investigation of complaints are still permitted. Consequently, the original bill was amended to establish this position.

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. 612, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 612, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Arakaki and Stegmaier.
(Representatives Kahikina and Kawanakoa voted no.)

SCRep. 612 Education on H.B. No. 1963

The purpose of this bill is to eliminate the representative selection panel appointed by the Board of Education to select schools for initial participation in School/Community-Based Management (SCBM).

In testifying for this measure, the Department of Education cited that initially, the representative selection panel was established to select those schools which would be most suitable to participate as SCBM schools. As it turned out, there was no rush to participate and so the panel became a "review panel" that reviewed proposals only for content and completeness.

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. 1963 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 Tarnas, Arakaki, Lee, Shon, Takamine and Yonamine.

SCRep. 613 Education on H.B. No. 1127

The purpose of this bill is to allow the transportation of public school students participating in the Hawaiian Language Immersion Program between departmental school districts on the same island.

Testifying in support of this measure were several concerned parents who had children participating in the Hawaiian Language Immersion Program, and the Office of Hawaiian Affairs. The Department of Education requested that the matter be held in abeyance until more discussion and planning activities were completed relative to the implementation of the Hawaiian Language Immersion Program (K-12).

Your Committee on Education believes that the bill would serve a useful purpose in acting as a catalyst to encourage the Department of Education, Department of Accounting and General Services, and other parties to jointly develop feasible plans for transporting Hawaiian Language Immersion Program students as quickly as possible.

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. 1127 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Tarnas, Arakaki, Lee, Shon, Takamine and Yonamine.

SCRep. 614 Finance on H.B. No. 1785

The purpose of this bill is to address the needs of persons adversely affected by the recent closure of the Waialua Sugar Company by appropriating funding for:

- (1) Counseling;
- (2) Pre-employment training;
- (3) Career occupational preference system training; and
- (4) Transition Center supplies.

The Office of State Planning, the Department of Labor and Industrial Relations, the ILWU Local 142, and numerous individuals submitted testimony supporting the intent of this measure.

For the purpose of continued discussion, your Committee has amended this bill by appropriating \$1 for each of the programs and activities enumerated.

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. 1785, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1785, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Marumoto and Ward.

SCRep. 615 Finance on H.B. No. 2039

The purpose of this bill is to authorize the Director of Taxation to require taxpayers to remit taxes by electronic funds transfer. The bill also permits taxpayers who are not mandated to remit their taxes by electronic funds to do so with the approval of the Director of Taxation.

The Director of Taxation testified in favor of this bill. Testimony was also received from the Tax Foundation of Hawaii.

Your Committee respectfully requests that the Department of Taxation:

- (1) Consider incentives for timely filing of tax returns such as absorbing the nominal fees assessed on filers by financial institutions for electronic funds transfers; and
- (2) Examine the cost of an electronic funds transfer within the same financial institution compared to the cost of transfers outside the institution.

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

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. 2039, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2039, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 616 Finance on H.B. No. 2028

The purpose of this bill is to bring the Hawaii tax code into compliance with changes in the federal tax code.

The Director of Taxation and the Chamber of Commerce of Hawaii testified in support of this measure. The Tax Foundation of Hawaii also testified on 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. 2028 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 Chang.

SCRep. 617 Finance on H.B. No. 39

The purpose of this bill is to allow the Department of Transportation (DOT) to waive landing and dockage fees and other related charges at state-owned or controlled facilities whenever:

- (1) The Governor declares a state of emergency; and
- (2) The DOT determines the aircraft or watercraft for which fees are waived are assisting in the delivery of humanitarian relief to disaster-stricken areas of the State.

The Department of Transportation submitted testimony in support 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. 39, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 618 Finance on H.B. No. 1466

The purpose of this bill is to restore restricted funding and positions to maximize federal reimbursement generated from the various grants to the Vocational Rehabilitation Division of the Department of Human Services.

A number of individuals testified in support of this measure. The Department of Human Services also testified on this measure.

Upon further consideration, your Committee has amended this bill by changing all appropriations to \$1 for purposes of further discussion. 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1466, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1466, H.D. 2.

Signed by all members of the Committee except Representatives Marumoto and Ward.

SCRep. 619 Finance on H.B. No. 1833

The purpose of this bill is to increase the fee for filing a name change petition from \$10 to \$20.

The Office of the Lieutenant Governor testified in support 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. 1833 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Jones, Kahikina and Ward.

SCRep. 620 Finance on H.B. No. 1840

The purpose of this bill is to allow the use of credit cards as a means of payment to the State for goods and services received at the Animal Quarantine Station.

Testimony in support of this bill was received from the Department of Agriculture.

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. 1840 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 621 Finance on H.B. No. 1841

The purpose of this bill is to authorize the Department of Agriculture to make loans to qualified aquaculturists who are unable to obtain sufficient funds at reasonable rates from private lenders.

The Board of Agriculture submitted comments on this bill.

Your Committee has amended the bill 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1841, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1841, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 622 Finance on H.B. No. 1857

The purpose of this bill is to amend the Child Support Enforcement Law to:

- (1) Authorize the Child Support Enforcement Agency (CSEA) to release information on a parent who is at least three months delinquent in child support payments;
- (2) Authorize CSEA to charge any consumer reporting agency that requests the information a reasonable fee;

- (3) Clarify that a child support order shall be recorded in the Bureau of Conveyances or filed in the Land Court after filing in the Circuit Court; and
- (4) Require the Attorney General to appoint an assistant administrator and a staff attorney.

The Department of the Attorney General supported the intent of this measure. A member of the Hou Hawaiian Elder Council commented on the bill.

Your Committee has amended this bill by:

- (1) Allowing CSEA to release information on a parent upon its authorization to provide Title IV-D services; and
- (2) Making technical, nonsubstantive 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. 1857, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1857, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 623 Finance on H.B. No. 1919

The purpose of this bill is to retain the Insurance Examiner's Revolving Fund.

Testimony in support of the bill was received from the Department of Commerce and Consumer Affairs Insurance Division and the Hawaii State Association of Life Underwriters.

Your Committee has amended this bill by changing the effective date of the bill to take effect retroactive to June 22, 1994, upon its approval.

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. 1919, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1919, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 624 Finance on H.B. No. 1921

The purpose of this bill is to implement provisions of the Omnibus Budget Reconciliation Act of 1993, which requires states to adopt legislation to fully implement certain group health insurance and Medicaid program requirements that have an impact on state insurance laws.

Specifically, this bill includes provisions that:

- (1) Prohibit insurers from taking Medicare eligibility into account when providing coverage;
- (2) Relate to the coverage of dependents involved in child support situations; and
- (3) Deal with adopted children.

Failure to act on this measure will result in the withholding of federal Medicaid match funding of the State's Medicaid plan.

Testimony in support of this measure was submitted by 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. 1921 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 625 Finance on H.B. No. 1959

The purpose of this bill is to assist the Medical Claims Conciliation Panels (MCCP) in becoming more self-sufficient by, among other things:

- (1) Assessing a filing fee of \$450 to parties who file claims before the MCCP;
- (2) Specifying that a non-refundable processing fee of \$50 shall be retained from each party's filing fee to defray the administrative costs of the MCCP;
- (3) Specifying that after a claim has been decided, the filing fee less costs shall be returned to the respective parties on a pro rata basis; and
- (4) Providing the Director of Commerce and Consumer Affairs the option of waiving the filing fees for indigent claimants.

The Department of Commerce and Consumer Affairs testified in support of this measure.

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

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. 1959, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1959, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 626 Finance on H.B. No. 1965

The purpose of this bill is to make appropriate changes for the public library system to continue the initiatives started in 1991 in the reexamination of public services, cost-effectiveness operations, revenue incomes, and private support and donations.

The Hawaii State Library System submitted testimony in support of this measure. The Hawaii Government Employees Association submitted comments on this measure.

Your Committee has amended this measure by:

- (1) Deleting the provision allowing the State Librarian to reassign employee duties; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

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. 1965, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1965, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 627 Finance on H.B. No. 1996

The purpose of this bill is to ensure that the Occupational Safety and Health Training and Assistance Fund (Fund) is providing the necessary education to help reduce accident rates by:

- (1) Clarifying the amount of moneys deposited into the Fund each fiscal year;
- (2) Increasing the amount of moneys deposited into the Fund each fiscal year from \$200,000 to not more than \$500,000; and
- (3) Extending the sunset date of the Fund, from July 1, 1996, to July 1, 1999.

Supporting testimony was received from the Department of Labor and Industrial Relations, the Hawaii Business League, and 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. 1996, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 628 Finance on H.B. No. 2017

The purpose of this bill is to extend the deadline for completing the land exchange involving private lands north of Wahiawa and public lands in Kapolei.

The Department of Land and Natural Resources testified in favor of this measure.

Your Committee has amended this measure by changing its effective date to June 29, 1995.

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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2017, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 629 Finance on H.B. No. 2018

The purpose of this bill is to supplement the revenues deposited into the state general fund in light of the anticipated shortfall of revenues to the State by repealing the Aina Hoomalu Special Fund and requiring that income from state parks be deposited into the general fund.

The Chairperson of the Board of Land and Natural Resources supported passage of this bill.

Your Committee has amended this bill by:

- (1) Changing the effective date of this bill to July 1, 1995, and providing for the timely transfer of unexpended and unencumbered balances from the special fund to the general fund; and
- (2) Making technical, nonsubstantive revisions for purposes of clarity and consistency.

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, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2018, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 630 Finance on H.B. No. 2021

The purpose of this bill is to appropriate funds to compensate victims of criminal injury who have been awarded compensation by the Criminal Injuries Compensation Commission.

Testimony in support of the bill was received from the Department of Public Safety.

Your Committee has amended this bill by making technical, nonsubstantive amendments to correct formatting 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. 2021, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2021, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 631 Finance on H.B. No. 2022

The purpose of this bill is to allow the court to order a convicted defendant to pay restitution to the Criminal Injuries Compensation Commission in the event that the victim has applied for compensation.

The Criminal Injuries Compensation Commission submitted testimony in support of the intent of the 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. 2022 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 632 Judiciary on H.B. No. 1221

The purpose of this bill is to amend various provisions of the Hawaii Revised Statutes and Session Laws of Hawaii pursuant to chapter 23G, Hawaii Revised Statutes, to correct errors, update references, clarify language, and delete obsolete or unnecessary provisions. All amendments are of a purely technical nature and contain no substantive changes to the law.

The reasons for the respective technical amendments made in the bill are as follows:

Section 1. L 1994, c 204, §3 amended section 134-2, HRS, relating to permits to acquire firearms, but inadvertently inverted the word order in a portion of subsection (a). The original language of Act 204 stated in part: "No person shall acquire the ownership of a firearm, ... until the person has first procured from the Chief of Police of the county of the person's place of business or, if there is neither place of business, nor residence or, if there is no place of business, the person's residence, the person's place of sojourn, ..." (emphasis added). The revisor of statutes editorially corrected this manifest clerical or typographical error pursuant to section 23G-15(7), HRS, by rearranging the word order and adding brackets around the corrected language, to read as follows: "... [the person's place of business or, if there is no place of business, the person's residence or, if there is neither place of business nor residence, the person's place of sojourn,]..." The revisor's insertion of the corrected language is ratified by deleting the brackets in subsection (a).

Section 2. L 1994, c 264, §§5 and 9, repealed chapter 153, HRS (agricultural products program), and required the Chairperson of the Board of Agriculture to transfer all unexpended or unencumbered balances remaining in the Hawaii agricultural products revolving fund, established in section 153-3, HRS, to the credit of the state general fund prior to June 30, 1994. Section 155-14(a), HRS, which created the agricultural loan revolving fund, contains a reference to the agricultural products revolving fund and repealed chapter 153. Section 155-14(a) is amended by deleting the obsolete references to the agricultural products revolving fund and chapter 153, and by making appropriate grammatical changes.

Section 3. L 1994, c 270, §3 repealed section 183-41, Hawaii Revised Statutes (HRS), relating to conservation districts, and enacted a new chapter, relating to the conservation district, which is codified as chapter 183C, HRS. Although Act 270 updated one cross-reference to repealed section 183-41 in section 205-5(a), HRS (see L 1994, c 270, §2), that Act failed to update the remaining cross-references in the HRS. This bill updates all of the remaining superseded cross-references to that repealed section in the HRS, except references contained in sections 26-16(d) and 205-2(a)(4), HRS, which require rewording that is beyond both the Revisor of Statute's scope of statutory revision authority under chapter 23G, HRS, as well as what may reasonably be included in a bill of this nature. Section 171-58.5(2), HRS, is amended by deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C.

Section 4. Section 183-42, HRS, is amended by deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 5. Section 183-44(a), HRS, is amended by deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 6. Section 183-45, HRS, is amended by: (1) deleting the obsolete cross-reference to section 183-41(e) (enforcement) and replacing it with the correct reference to section 183C-7 (penalty for violation); and (2) by replacing references to "provision" and "subsection" with the more appropriate reference to "chapter". See comment to section 3 of this bill.

Section 7. Section 188-68(a), HRS, is amended by deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 8. Section 190D-11(b), HRS, is amended by deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 9. Section 195F-2, HRS, is amended by deleting the obsolete cross-reference to section 183-41 in the definition of "potential natural area reserve" and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 10. Section 205-5.2(b), HRS, is amended by: (1) deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C; and (2) making technical and grammatical corrections. See comment to section 3 of this bill.

Section 11. Section 205-15, HRS, is amended by: (1) deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C; (2) replacing the incorrect reference to "regulations" to "rules"; and (3) making other technical, nonsubstantive changes. See comment to section 3 of this bill.

Section 12. Section 205A-41, HRS, is amended by deleting the obsolete cross-reference to section 183-41 in the definition of "board approval" and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 13. Section 205A-43.6(c), HRS, is amended by: (1) deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C; and (2) changing the gender-specific term "manmade" to the gender-neutral term "artificial" pursuant to section 23G-15(8), HRS. See comment to section 3 of this bill.

Section 14. Section 219-4(a), HRS, which created the aquaculture loan revolving fund, contains a reference to the agricultural products revolving fund and chapter 153. As explained in the comment to section 155-14, HRS (section 2 of this bill), the agricultural products revolving fund, established in section 153-3, HRS, was repealed by L 1994, c 264, and all unexpended or unencumbered balances remaining in that fund were transferred to the credit of the state general fund prior to June 30, 1994. Section 219-4(a) is amended by deleting the obsolete references to the agricultural products revolving fund and chapter 153, and by making appropriate grammatical changes.

Section 15. Section 220-1(a), HRS, is amended by deleting the obsolete cross-reference to section 183-41 and replacing it with the correct reference to chapter 183C. See comment to section 3 of this bill.

Section 16. Section 237-24.7, HRS, relating to certain general excise tax law exemptions, was amended in 1993 by two acts--L 1993, c 129, §2, exempting certain Hurricane Iniki losses retroactive to May 1, 1993, and L 1993, c 315, §2, exempting taxes on hospital and nursing facility income--both of which added a new paragraph (5) to section 237-24.7.

Section 237-24.7 was further amended in 1994 by L 1994, c 230, §1; however, that 1994 amendment amended only the version of section 237-24.7 as amended by L 1993, c 315, and therefore did not make reference to the amendment made by L 1993, c 129.

The Revisor of Statutes subsequently incorporated the amendment to section 237-24.7 made by L 1993, c 129, by adding the paragraph exempting Hurricane Iniki losses, renumbered as paragraph (6).

Section 237-24.7 is amended by underscoring both paragraphs (5) and (6), indicating the addition of new language pursuant to the Ramseyer format, for the following reasons: (1) to ratify the actions taken by the Revisor; (2) to demonstrate the clear intent of the Legislature in adding both 1993 amendments to that section; and (3) to eliminate any questions or ambiguity that may arise as to the effectiveness of any of the amendments to that section.

As reflected in the effective date section of this bill: (1) the amendment to section 237-24.7(5) is to take effect retroactive to July 1, 1993, or the effective date of reimbursement changes referred to in section 346E-14, whichever is later, pursuant to L 1993, c 315, §8, as amended by L 1994, c 230; and (2) the amendment to section 237-24.7(6) is to take effect retroactive to May 1, 1993, and is to be applied retroactively to September 11, 1992, pursuant to L 1993, c 129, §4.

Section 17. L 1994, c 192, §2, enacted a new section to chapter 323, codified as section 323-74, HRS, establishing collections revolving funds for Maui Memorial Hospital, Hilo Hospital, and Kona Hospital. However, the names of the Hilo and Kona Hospitals had been changed to "Hilo Medical Center" and "Kona Community Hospital" by L 1994, c 11. Section 323-74, HRS, is therefore amended to reflect these name changes.

Section 18. Section 421H-6(a), HRS (relating to arbitration of disputes with respect to limited-equity housing cooperatives), refers to the "Horizontal Property Regime Rules on Arbitration of Disputes of the American Arbitration

Association". While the term "horizontal property regime" was changed to "condominium property regime" by L 1988, c 65, that reference in section 421H-6(a) was retained since the American Arbitration Association rules continued to refer to "horizontal property regime". Those rules, however, as amended by the American Arbitration Association and in effect on April 10, 1994, now refer to "condominium property regime". Section 421H-6(a), HRS, is therefore amended by substituting the new reference to "condominium" for the old reference to "horizontal".

Section 19. Section 514A-121(a), HRS (relating to arbitration of disputes with respect to condominium property regimes), refers to the "Horizontal Property Regime Rules on Arbitration of Disputes of the American Arbitration Association". As discussed in the comment to section 18, those rules, as amended by the American Arbitration Association and in effect on April 10, 1994, now refer to "condominium property regime". Section 514A-121(a), HRS, is therefore amended by substituting the new reference to "condominium" for the old reference to "horizontal".

Section 20. L 1993, c 238, §1, relating to tort reform, amended L Sp 1986, c 2, §31 (the effective date section), which in turn had been amended by L 1989, c 300, §2 and L 1991, c 62, §1. However, the prefatory language in L 1993, c 238, §1 amended L Sp 1986, c 2 without specifying that only section 31 of that Act was being amended. The unintended result is that L Sp 1986, c 2 is amended by deleting all of the sections of that Act except section 31. The prefatory language of L 1993, c 238, §1 is therefore amended by specifying that only section 31 of L Sp 1986, c 2 is to be amended.

Section 21. Sections 37-34, 37-35, 37-36, 37-37, and 37-74, HRS, relating to the budget, were repealed on June 30, 1994, and were reenacted in the form in which they read on June 30, 1986 by L 1986, c 320, §8, as amended by L 1987, c 283, §8, and L 1989, c 370, §8.

L 1994, c 281, §4 purported to delete that repeal and reenactment, but that deletion came too late--L 1994, c 281 became effective on July 6, 1994, but sections 37-34, 37-35, 37-36, 37-37, and 37-74 had already been repealed and reenacted by operation of law on June 30, 1994. See L 1994, c 281, §§4, 12.

L 1994, c 281 also made amendments to the most recent versions of sections 37-34, 37-35, 37-36, 37-37, and 37-74, that incorporated all of the intervening amendments to those sections, which also became effective on July 6, 1994. See L 1994, c 281, §§5, 6, 7, 8, 9, and 12.

Because the Legislature clearly intended that L 1994, c 281, §4 delete the repeal and reenactment language affecting sections 37-34, 37-35, 37-36, 37-37, and 37-74, HRS, but the deletion of that language was not made in a timely manner, L 1994, c 281, §12 is amended to make that deletion retroactive to June 29, 1994, the day before the original repeal date of 37-34, 37-35, 37-36, 37-37, and 37-74, HRS.

The Revisor of Statutes set out these affected HRS sections in the 1994 HRS Supplement as if the deletion of the repeal and reenactment language was timely. This amendment to L 1994, c 281, §12 ratifies the actions taken by the Revisor. As reflected in the effective date section of this bill, this amendment is to take effect retroactively to June 29, 1994.

As affirmed by the record of votes of 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. 1221 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 Case, Menor and Thielen.

SCRep. 633 Judiciary on H.B. No. 1855

The purpose of this bill is to better serve parents involved in child support actions by:

- (1) Making negotiations with parents regarding proposed orders for support discretionary;
- (2) Requiring the filing of an administrative order in the circuit where the support order is filed; and
- (3) Facilitating income withholding.

The Office of the Attorney General testified in support of the intent of this measure.

Your Committee finds that to meet federal audit requirements and to better serve parents involved in child support actions, it is necessary to expedite case processing.

As affirmed by the record of votes of 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. 1855 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 McMurdo, Menor, Saiki, Yamane, Yoshinaga and Thielen.

SCRep. 634 Judiciary on H.B. No. 1863

The purpose of this bill is to ensure that notices of public agency meetings are held with proper notice as required under the Hawaii Sunshine Law, part I of chapter 92, Hawaii Revised Statutes.

Testimony supporting the intent of this measure was submitted by the Hawaii State Attorney General and by Common Cause Hawaii.

Your Committee finds that this bill is necessary to ensure that the intent to give the public sufficient notice through the Sunshine Law is achieved by preempting boards from acting and by cancelling meetings that are in violation of the Sunshine Law's six days public notice requirement.

As affirmed by the record of votes of 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. 1863 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 Hamakawa, McMurdo, Menor, Saiki, Yamane, Yoshinaga and Thielen.

SCRep. 635 Judiciary on H.B. No. 1868

The main purpose of this bill is to amend the immunity presumption of the State's public records law by creating a rebuttable presumption that a person acts in good faith when acting in reliance upon an advisory opinion, determination, guideline, or rule adopted by the Office of Information Practices.

Your Committee received testimony in support of this bill from the State Attorney General and from Common Cause Hawaii.

Your Committee finds that the amendment to Section 92F-16, Hawaii Revised Statutes (HRS), maximizes the integrity of the Office of Information Practices guidelines. The guidelines were created to ensure proper procedures in the removal or segregation of information in government records. Provided that all procedures mandated by the guidelines are followed when removing confidential information from a government record in response to a request under authority of Section 92F, HRS, employees will be immunized from prosecution for the offense of tampering.

Your Committee therefore finds that the proposed amendment will facilitate maximum public access to public records, and further legitimize the power given to the Office of Information Practices to advise agencies concerning the disclosure of government records.

As affirmed by the record of votes of 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. 1868 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 Hamakawa, McMurdo and Saiki.

SCRep. 636 Judiciary on H.B. No. 2023

The purpose of this bill is to expand and expedite the processing of claims made to the Criminal Injuries Compensation Commission (Commission) by:

- (1) Expanding and clarifying the class of persons who may file a claim; and
- (2) Providing that when an applicant fails to make a selection on the method of decisionmaking, the Commission may assign the case to the administrator for determination.

The Criminal Injuries Compensation Commission and the Domestic Violence Legal Hotline testified in support of this measure.

Your Committee finds that this measure will allow the Commission to accept valid claims that in the past it had to deny because of the narrow definition of the term "relative".

Your Committee also finds that by allowing the Commission in certain cases, to assign a case to the administrator for determination, the processing time for applicants to be notified of their eligibility and to receive their compensation awards would be greatly reduced.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2023 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative McMurdo, Menor, Yoshinaga and Thielen.

SCRep. 637 Judiciary on H.B. No. 2026

The purpose of this bill is to update the state controlled substances act to comport with the federal act and to add Butorphanol (Stadol) as a Schedule IV controlled substance.

The Department of Public Safety, the Department of Health, the Honolulu Police Department, the Hawaii Pharmaceutical Association and members of the medical community testified in support of this measure.

Your Committee finds that there is a steady increase of cases in Hawaii involving known abusers of controlled substances, particularly among medical professionals and prescription drug users.

The controlled substances, with the exception of Butorphanol (Stadol) that are mentioned in this measure are updates or corrections made by the federal government since the last legislative session.

Butorphanol (Stadol) is considered a prescription drug and does not fall under the control of the Uniform Controlled Substances Act. However, your Committee finds that Butorphanol (Stadol) is being used in conjunction with other prescription drugs to produce in the user a drug induced euphoric state and should be classified as a Schedule IV controlled substance due to its potential for abuse.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2026 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 McMurdo, Menor, Yoshinaga and Thielen.

SCRep. 638 Energy and Environmental Protection on H.B. No. 397

The purpose of this bill is to amend environmental laws by repealing provisions that require the Director of Health to obtain the Governor's approval before issuing emergency orders.

Testimony presented by the Department of Health strongly supported this measure; comments provided by the University of Hawaii's Environmental Center deemed it a common sense measure for intervention in times of crisis.

Noting that the provision still stands which requires a hearing before the Director of Health within twenty-four hours of the issuance of emergency orders, and noting as well that the bill speeds up an older and slower emergency response process, your Committee passed this bill in its unamended form.

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. 397 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 Kanohe, Takamine and Tarnas.

SCRep. 639 Finance on H.B. No. 2035

The purpose of this bill is to simplify the tax chapters administered by the Department of Taxation. More specifically, this bill:

- (1) Changes references to numerous chapters relating to tax law to a single reference to Title 14;
- (2) Requires the Director of Taxation or the Director of Labor and Industrial Relations to be named a party defendant in any civil action to quiet title to or for the foreclosure of a mortgage or other lien on real or personal property on which the state has or claims a tax lien; and
- (3) Changes the Tax Reserve Fund from a special fund with a specified sum set aside to a revolving fund.

The Director of Taxation testified in favor of this bill. Testimony was also received from the Tax Foundation of Hawaii.

Your Committee has amended this bill by:

- (1) Deleting the proposed amendment which would have required the Director of Taxation or the Director of Labor and Industrial Relations to be named a party defendant in any civil action to quiet title to or for the foreclosure of a mortgage or other lien on real or personal property on which the state has or claims a tax lien;
- (2) Deleting the proposed amendment changing the Tax Reserve Fund to a revolving fund;
- (3) Clarifying that the citations to Title 14 are limited to those chapters administered by the Department of Taxation; and
- (4) 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. 2035, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2035, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 640 Finance on H.B. No. 894

The purpose of this bill is to repeal the sunset date of June 30, 1995, for the issuance of special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities.

The Healthcare Association of Hawaii 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. 894, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 641 Finance on H.B. No. 1133

The purpose of this bill is to authorize the Department of Budget and Finance to issue up to \$5,000,000, in special purpose revenue bonds to assist Kerr Pacific Corp., dba HFM (Hawaiian Flour Mills) for the establishment of a feed milling operation.

The Board of Agriculture, Hawaiian Flour Mills, 50th State Dairy Farmers Co-op, and Agro Hawaii, Inc. submitted testimony in support 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. 1133, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 642 Finance on H.B. No. 1658

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$6,000,000, to assist Pacific Controls, Inc., to establish a medical waste incineration and disposal facility.

Testimony in support of this bill was submitted by: a representative of the West Lock Fairways Community Association; the West Lock Townhomes Community Association; the residents of the Waipahu and Ewa communities; the President of Pacific Controls, Inc.; the President and General Manager of Waldron Steamship Company, Limited; the President of the Hawaii Federation of Physicians and Dentists; the General Manager of Lavino Shipping Agencies, Inc.; the President of TheoDavies Marine Agencies, Inc.; and a church pastor.

The President of NCNS Environmental, Inc., and two residents of Kapolei commented on the bill.

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

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. 1658, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1658, H.D. 2.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.
(Representative Kahikina voted no.)

SCRep. 643 Finance on H.B. No. 1842

The purpose of this bill to repeal the requirement that the Department of Agriculture assist independent sugar growers with supplementary financing to meet shortages in crop revenues to cover private lenders' crop loans and additional cultivating expenses required after private lender financing.

The Board of Agriculture 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. 1842 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 644 Finance on H.B. No. 1844

The purpose of this bill is to enhance the flexibility of the Department of Agriculture in structuring loans for crops requiring eighteen months or more before first maturing.

This bill requires the Chairperson of the Board of Agriculture (Chairperson) to determine the date for payment of the first installment of the loan. It also authorizes the Chairperson to:

- (1) Defer the initial payment on the principal of a loan for not more than five years; and
- (2) Defer the interest on the principal of a loan for not more than two years;

from the date of issuance of the loan.

The Chairperson submitted comments on this bill.

Your Committee has made technical, nonsubstantive amendments for the purpose of 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. 1844, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1844, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 645 Finance on H.B. No. 1846

The purpose of this bill is to simplify the calculation and payment of insurance fees for insured agricultural and aquacultural loans.

Specifically, this bill:

- (1) Changes the method of calculating the insurance fees to a one-time fee of two percent on the principal amount of the loan at the time the loan is booked; and
- (2) Allows private lenders of these types of loans to pass on the insurance fees to the borrower as a cost for the loan.

The Chairperson of the Board of Agriculture submitted testimony on this measure.

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

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. 1846, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1846, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 646 Finance on H.B. No. 1847

The purpose of this bill is to remove the requirement that the Department of Agriculture obtain the Governor's approval prior to entering into any contracts or agreements.

The Board of Agriculture submitted testimony on 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. 1847 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 647 Finance on H.B. No. 1851

The purpose of this bill is to appropriate funds to satisfy claims against the State for judgments, settlements, overpayment of taxes, and other liabilities.

The Department of the Attorney General testified in support of this measure and recommended appropriating additional funds since four additional claims have also been settled.

Your Committee has amended this bill by incorporating appropriations for a judgment in favor of Barry Schnabel and settlements of claims by Lyle K. Bonilla, Regina M. Diamantopulos, et al., and Marcia Linville, totalling \$167,815.92.

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. 1851, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1851, H.D. 2.

Signed by all members of the Committee except Representatives Isbell and Ward.

SCRep. 648 Finance on H.B. No. 1853

The purpose of this bill is to authorize the Hawaii Criminal Justice Data Center (HCJDC) and the agencies acting on HCJDC's behalf to charge fees for services related to criminal history record information.

The Department of the Attorney General testified in support of this measure.

Upon consideration, your Committee has amended this bill by:

- (1) Incorporating the provisions in the bill as introduced relating to the establishment of a Criminal History Record Improvement Revolving Fund to improve the Criminal History Record Information System;
- (2) Specifying that the:
 - (a) \$10 fee for each Hawaii criminal history record name check (name check) is for name checks conducted by HCJDC and other state and county agencies; and
 - (b) \$5 fee for each printout is for name checks conducted via a public access terminal; and
- (3) Making technical, nonsubstantive amendments for purposes of style and consistency.

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. 1853, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1853, H.D. 2.

Signed by all members of the Committee except Representatives Isbell and Ward.

SCRep. 649 Finance on H.B. No. 1869

The purpose of this bill is to transfer the responsibility for regulating notaries public from the Department of the Attorney General to the Department of Commerce and Consumer Affairs.

The Department of the Attorney General testified in support of this bill.

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

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. 1869, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1869, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 650 Finance on H.B. No. 1875

The purpose of this bill is to update Hawaii's Foreign-Trade Zones Law to:

- (1) Be consistent with the current foreign-trade zone status classifications; and
- (2) Clarify that moneys from the Foreign-Trade Zones Special Fund may be expended for capital improvement projects in the foreign-trade zone.

Testimony in support of this bill was submitted by the Department of Taxation and the Department of Business, Economic Development, and Tourism.

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. 1875 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 651 Finance on H.B. No. 1877

The purpose of this bill is to repeal the authority of the Director of Business, Economic Development, and Tourism to guarantee commercial loans made by private lending institutions to eligible businesses.

The Department of Business, Economic Development, and Tourism submitted testimony in support 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. 1877 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 652 Finance on H.B. No. 1878

The purpose of this bill is to simplify the implementation and improve the effectiveness of the State Enterprise Zones Program.

Specifically this bill will:

- (1) Clarify which employees qualify as low-income employees;
- (2) Limit tax credits to income taxes only;
- (3) Update references to federal programs; and
- (4) Delete the requirement that a certified public accountant complete the form stating that the business is a "qualified business".

The Department of Business, Economic Development, and Tourism testified in support of this bill. The Tax Foundation of Hawaii offered comments.

Your Committee has made technical, nonsubstantive amendments for the purpose of 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. 1878, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1878, H.D. 2.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 653 Finance on H.B. No. 1914

The purpose of this bill is to ensure that public safety investigative staff investigators who retire with the two and one-half percent benefit, must work the five years of service prior to retirement in that capacity.

The Administrator of the Employees' Retirement System submitted comments on this bill.

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

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. 1914, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1914, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 654 Finance on H.B. No. 1920

The purpose of this bill is to clarify the law governing the Hawaii Hurricane Relief Fund (Fund) by:

- (1) Adding a definition of "licensed property and casualty insurer" and "mortgage";
- (2) Including tangible personal property as an "eligible property";
- (3) Stating that the assessment on insurers to meet the fund obligations may be raised to five percent until all claims and obligations are fully discharged;
- (4) Authorizing the Fund to adopt rules to exempt mortgage transactions from payments of the special mortgage recording fee;
- (5) Making other amendments to improve the administration of the Fund;
- (6) Removing the Hurricane Reserve Trust Fund from the Treasury and authorizing the Fund to establish other trust funds as necessary; and
- (7) Correcting grammatical mistakes and technical errors.

The Executive Director of the Hawaii Hurricane Relief Fund (Department of Commerce and Consumer Affairs), the City and County of Honolulu Department of Housing and Community Development, and the Hawaii Insurers Council submitted testimony on this measure.

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

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. 1920, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1920, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 655 Finance on H.B. No. 1962

The purpose of this bill is to authorize the Department of Defense to accept, use, and manage gifts received to enhance the purposes of the Hawaii National Guard Youth Challenge Program.

Testimony was received from the Department of Defense.

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

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. 1962, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1962, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 656 Finance on H.B. No. 1980

The purpose of this bill is to require the Department of Health to establish application and certification fees for forensic examiners to be used for activities relating to the application, training, certification, monitoring, and maintenance of this certification program.

The Department of Health submitted testimony 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. 1980, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 657 Finance on H.B. No. 1987

The purpose of this bill is to continue the services of the Non-Medicaid Personal Care Program by extending its sunset date of the Program to June 30, 1997.

The Department of Human Services, the Commission on Persons with Disabilities, and the Hawaii Centers for Independent Living submitted testimony in support 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. 1987 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 658 Finance on H.B. No. 1988

The purpose of this bill is to promote the effective administration of the State's homeless programs by, among other things:

- (1) Clarifying that the selection of provider agencies to administer homeless facilities or other programs for the homeless is not subject to the Hawaii Public Procurement Code;
- (2) Clarifying that the time limits imposed on provider agencies with respect to their delivery of services commences when the client is qualified as eligible;
- (3) Allowing the Hawaii Housing Authority to establish standards and criteria for eligibility, need, and priority for homeless programs; and
- (4) Clarifying that the method of paying homeless shelter stipends will be linked to the physical unit rather than the number of persons residing in the unit.

The Hawaii Housing Authority testified in support of this measure.

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

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. 1988, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1988, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 659 Finance on H.B. No. 1991

The purpose of this bill is to remove the Statewide Council on Independent Living from the Department of Human Services and establish it as an independent agency.

The Commission on Persons with Disabilities, the Department of Human Services, and the Hawaii Centers for Independent Living submitted testimony recommending the passage of this measure.

Your Committee has amended this bill by:

- (1) Repealing the provisions of this measure on June 30, 1998, to ensure that the Statewide Council on Independent Living is a temporary agency so that it will meet the requirements of Article V, Section 6 of the Hawaii Constitution; and
- (2) Making technical, nonsubstantive revisions to correct technical 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. 1991, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1991, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 660 Finance on H.B. No. 2024

The purpose of this bill is to:

- (1) Authorize the Director of Public Safety to hire employees exempt from civil service requirements for its Correctional Industries Program; and
- (2) Require the Department of Public Safety to submit a detailed annual report to the Legislature of all positions established under the Correctional Industries Program, including salaries, a description of duties and responsibilities, and work sites.

The Department of Public Safety submitted testimony in support 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. 2024 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 661 Finance on H.B. No. 2025

The purpose of this bill is to extend to July 1, 1998, the period in which the Department of Public Safety can initiate new construction on the third phase of the Women's Community Correctional Center without legislative approval.

The Department of Public Safety submitted testimony in support 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. 2025 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 662 Finance on H.B. No. 2027

The purpose of this bill is to appropriate emergency funding to the Department of Public Safety for correctional facilities and operations.

The Department of Public Safety submitted testimony in support of this measure.

Your Committee has amended this bill by changing the sum appropriated to \$4,200,507, for fiscal year 1994-1995.

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. 2027, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2027, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 663 Finance on H.B. No. 2034

The purpose of this bill is to delete the provisions for the allocation and separate accounting for financial institutions when the institution has income that is taxable both within and without Hawaii.

With the repeal of these provisions, financial institutions will be required to allocate and apportion their income under the Uniform Division of Income for Tax Purposes Act, which is in effect in Hawaii as Part II of Chapter 235, Hawaii Revised Statutes. With the advent of interstate banking activity, this bill will allow for more accurate reporting and allocation of out-of-state income of financial institutions.

The Department of Taxation supported this measure. The Bank of America and the Tax Foundation of Hawaii commented on this bill.

Your Committee has amended this measure by:

- (1) Changing the effective date and the application of the provisions of the bill to January 1, 1997; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

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. 2034, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2034, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 664 Finance on H.B. No. 2050

The purpose of this bill is to provide for the disposal of unclaimed impounded vessels when no bids are received at public auctions.

Your Committee has made 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. 2050, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2050, H.D. 1.

Signed by all members of the Committee.

SCRep. 665 Judiciary on H.B. No. 664

The purpose of this bill is to remove the sunset provision from the expedited sentencing program and make the program a permanent option to prosecutors in cases of intra-family child sexual assault.

Your Committee received testimony in support of this bill from the County of Hawaii Office of the Prosecuting Attorney, the County of Kauai Office of the Prosecuting Attorney, the County of Maui Department of the Prosecuting Attorney, the Department of the Attorney General, the Department of Human Services, the Office of the Public Defender, the Children's Advocacy Centers of Hawaii, and several individuals. Your Committee received testimony in opposition to this bill from the City and County of Honolulu Department of the Prosecuting Attorney, the Kapiolani Health Care System, and the Hawaii State Commission on the Status of Women.

In 1993, HRS § 706-606.3 was created to provide for an expedited sentencing procedure in intra-family sexual assault cases. The intent of the legislation was to provide an additional option within the criminal justice system for the handling of these cases in a manner which would concentrate on the needs of the child victim.

The prosecuting attorneys from the three counties who have utilized the program all presented positive testimony as to its merits. Your Committee agrees that the two-year experience with this legislation has proven to be a success.

Your Committee finds that cases processed through the expedited sentencing program have been handled in an expeditious and victim-sensitive manner. Significantly, the expedited sentencing program removes the pressure of a criminal case from the child victim and permits the child to quickly commence the healing process.

The Department of the Attorney General analyzed the impact of the expedited sentencing program and made the following conclusions:

- (1) Because the perpetrator was required to leave the home, children were able to remain in their home and avoid foster placement, thereby retaining the support of their families;
- (2) Pressure was removed from children in that they did not have to be involved in lengthy and adversarial legal proceedings where the child was the primary witness against a family member;
- (3) Overall criminal convictions, punishment, deterrence for perpetrators, and protection for children were increased;
- (4) The effectiveness of the police, prosecutors, and courts in investigating, prosecuting, and sentencing in intra-family sexual assaults was increased; and
- (5) In each community in which the program was used, there was a positive impact upon the children's families, social workers, treatment providers, and the child protective system.

Your Committee finds that the program has succeeded in coordinating the civil and criminal process for victims of intra-familial child sexual assault. Children have benefitted by being able to remain in their homes with the non-abusive caretaker and other family members. The emotional support provided by family members enables children to more effectively participate in treatment.

Further, therapy for children has been able to proceed at a more rapid and effective pace because children have not had to spend months or years dealing with the anxiety generated by a trial. Children do not always fully understand the reason for trial delays. They also may agonize over their role in the judicial process and may have anxieties about how the case will proceed and be resolved. Indeed, the many rigors of a trial for child victims in the adversarial court system cannot be understated.

In the expedited sentencing program, the prosecutor, guardian ad-litem for the child, and the court must all agree to the appropriateness of expedited sentencing. Your Committee finds that this approach ensures that both the child victim's and the community's needs are satisfied.

Under the expedited sentencing program, the offender is required to fully admit guilt and is required to do so in an expeditious manner. By requiring offenders to enter expeditious guilty pleas, the expedited sentencing program assures validation for the child victim who has had the courage to make a disclosure of sexual abuse. In contrast, where the offender pleads not guilty, children sometimes face serious doubts, if not complete disbelief, by their family members. As a result, the child experiences a loss of support at the time when the belief and support of the child's family is crucial in enabling children to proceed rapidly with their recovery from the effects of the abuse.

Under the program, the offender must avoid all contact with the child victim. The offender must also participate in a sexual offender treatment program until clinically discharged. The person is monitored by the probation division and may be sentenced to twenty years imprisonment, in the case of an A felony, if conditions of probation are violated.

Your Committee also notes that there is national interest in Hawaii's progressive expedited sentencing program. The issue of coordination of civil and criminal legal proceedings in child sexual abuse cases is currently receiving attention through a study funded by the Justice Department. A team of researchers funded by the National Institute of Justice visited the Big Island to interview professionals involved in the implementation of the program. Additionally, several states have posed inquiries regarding the program.

In sum, your Committee concurs with a comment in a report prepared by the Children's Advocacy Center of the Judiciary concluding that "[t]he law's full potential for enhancing the protection of Hawaii's children and the community has barely been tapped and will only grow with time and experience." Your Committee encourages the county prosecutors to utilize the expedited sentencing program when appropriate.

As affirmed by the record of votes of 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. 664 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 McMurdo and Menor.
(Representative Thielen voted no.)

SCRep. 666 Judiciary on H.B. No. 722

The purpose of this bill is to allow grand jury counsel to initiate advice to the grand jury.

Your Committee received testimony in support of this bill from a former judge.

Presently, the independent grand jury counsel can only respond to legal inquiries from the grand jury. This restriction prevents the grand jury counsel from providing the grand jury with the laws applicable to the proposed indictment or any other pertinent legal information, unless the grand jury specifically requests such information.

Your Committee finds that the grand jury must be advised of the law applicable to the proposed indictment in order to properly indict a person. Also, the grand jury counsel must be able to advise the grand jury on pertinent matters of law applicable to the indictment. The grand jury counsel should not be required to passively wait for inquiries on matters of law from the grand jury because those inquiries may never occur.

Your Committee was concerned that the grand jury counsel might initiate advice which went beyond statutory interpretation and other pertinent matters of law. The grand jury counsel should not initiate legal advice on defenses or other improper matters. Should such situations arise, your Committee believes that the Supreme Court should adopt rules regarding the appropriate matters of law for which advice may be proffered.

Your Committee has made technical, non-substantive changes to this 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. 722, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 722, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Menor.

SCRep. 667 Judiciary on H.B. No. 1858

The purpose of this bill is to eliminate the right to bail for persons arrested and held on a Governor's extradition warrant and to deny the right to bail for persons who waive the extradition proceedings, except where the prosecuting attorney with the concurrence of the demanding state has stipulated to the setting of bail.

Your Committee received testimony in support of this bill from the Attorney General and the Honolulu Police Department. The Office of Public Defender testified in opposition to this bill.

Hawaii has adopted the Uniform Extradition Act which is codified in chapter 832. In general, an extradition proceeding is initiated when the police arrest a suspect on information that the person is wanted in another state. There are two methods under the Uniform Extradition Act by which an accused may be extradited to the demanding state. The accused may waive extradition proceedings and consent to return to the demanding state, or a Governor's warrant may be issued requiring the arrest and detention of the accused until agents of the demanding state take custody of the accused.

Your Committee finds that in a substantial majority of the cases the accused waives the procedures incidental to extradition proceedings and, thus, the Governor's warrant is not issued. When an accused does not waive the extradition proceedings, a Governor's warrant is issued.

Under the Uniform Extradition Act, bail is specifically authorized pending receipt of the Governor's warrant while the accused is being held to await requisition. The Act is silent on the issue of the right to bail after the Governor's warrant has been issued. The most recent revised version of the Uniform Law adopted by the National Conference of Commissioners, however, expressly provides for post-warrant bail in section 3-106(c)(i), upon conditions that will reasonably assure the person's availability for extradition.

Your Committee finds that chapter 832 should maintain conformity with the Uniform Extradition Act. Accordingly, this bill has been amended by deleting the provisions in section 832-10 relating to the right to bail after the Governor's warrant has been issued.

This bill also proposes to deny bail where the accused waives the extradition proceedings, unless the prosecuting attorney with the concurrence of the demanding state stipulates to the setting of bail. Your Committee finds that there has not been a sufficient showing of necessity to revise our laws in a manner different from the Uniform Extradition Act. Additionally, the denial of a right to bail may give rise to more challenges to extradition because the accused may not be inclined to waive the extradition proceedings.

Accordingly, this bill has been further amended by deleting the provisions in section 832-25 relating to the denial of bail unless the prosecuting attorney and the demanding state concur with the imposition of bail.

While your Committee believes that the current system works satisfactorily, there was concern that situations arise where a judge should consider additional information in setting bail. Presently, a judge will typically defer to the demanding state in the amount at which bail is set.

Your Committee believes that the judge should review pertinent information provided by the prosecuting attorney in situations where bail for an accused should be increased. Further, your Committee believes that the demanding state

should be consulted at all pertinent stages in the extradition proceedings to ascertain the appropriate amount at which bail should be set.

Consequently, HRS § 832-16 has been amended to ensure that the judge considers relevant information pertaining to the appropriate setting of bail, and to ensure that the demanding state is contacted at all pertinent stages to ascertain whether the amount of bail should be adjusted.

As affirmed by the record of votes of 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. 1858, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1858, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hamakawa, McMurdo, Saiki, Yamane, Yoshinaga and Thielen.

SCRep. 668 Judiciary on H.B. No. 2237

The purpose of this bill is to enable adoptive parents to obtain a birth certificate in Hawaii for children adopted in foreign countries without the need for a second adoption proceeding.

Favorable testimony was received from Crown Child Placement International, Inc./Ltd., and three private citizens.

Currently, a child adopted in a foreign country cannot obtain a birth certificate in Hawaii unless another adoption proceeding is undertaken. This bill would enable recognition of the foreign adoption upon the receipt by the court of a sworn affidavit by the adoptive parents, and upon a finding that the issues it would have reviewed have received full consideration by the country from which the child was adopted, and the Immigration and Naturalization Service, and would thus enable the adoptive parents to obtain a birth certificate in Hawaii without the requirement of another hearing.

Your Committee finds that this measure would serve to avoid duplication of the adoption process, inasmuch as recognition by the State of Hawaii of the foreign adoption would eliminate the need for another hearing.

Your Committee further finds that it would be beneficial to require that a sworn affidavit be provided by the adoptive parents requesting that the hearing be dispensed with, and therefore added that language in section 2. A further amendment was made providing that the court may, in its discretion, dispense with the hearing upon its finding that the foreign adoption proceeding properly considered all the issues.

As affirmed by the record of votes of 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. 2237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2237, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Menor.

SCRep. 669 Judiciary on H.B. No. 1067

The purpose of this bill is to amend the current provisions relating to fishing traps by adding a possession restriction, allowing traps with at least one escape vent to have smaller than the legal minimum mesh size, and allowing establishment of fees.

Favorable testimony was received from the Board of Land and Natural Resources, and comments were received from the University of Hawaii Environmental Center.

Your Committee agreed with the intent and purpose of this bill, and provided an amendment to clarify the meaning of "possession" by adding the wording "in or on the water or on the shore where aquatic life may be taken" after "possess". This amendment would preclude the enforcement of a violation merely due to possession, or enable the enforcement of a violation where an illegal trap may be used but not removed in the presence of an enforcement officer.

As affirmed by the record of votes of 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. 1067, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1067, H.D. 2.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 670 Judiciary on H.B. No. 1502

The purpose of this bill is grant the State Ethics Commission the authority to investigate incomplete financial disclosure statements filed by candidates.

Favorable testimony was received from the State Ethics Commission and Common Cause Hawaii.

Your Committee finds that under current law, while the State Ethics Commission is mandated to release a list of all candidates who have failed to file financial disclosure statements, it has no adjudicatory power with regard to this failure to file.

Your Committee agrees that the State Ethics Commission, given this mandate by law, should be granted the power to investigate not only the failure to file, but the adequacy of the financial disclosure. Furthermore, the Commission should

be granted the authority to issue a decision, which should be a matter of public record, and be granted the additional authority to issue a late filing penalty fee.

Your Committee amended this bill by adding language granting the Commission the authority to assess a late filing penalty fee of \$25.

As affirmed by the record of votes of 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. 1502, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1502, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawananakoa.

SCRep. 671 Judiciary on H.B. No. 1968

The purpose of this bill is to replace premarital rubella testing with a requirement for prenatal testing, and to provide for premarital rubella education.

Favorable testimony was received from the Department of Health, the Commission on Persons with Disabilities, the Hawaii Nurse's Association, the Hawaii Medical Association, the American Academy of Pediatrics, Healthy Mothers, Healthy Babies Coalition of Hawaii, the Waikiki Health Center, and a private physician.

The law since 1979 has required premarital rubella testing. Due to immunization programs, susceptibility to rubella has been greatly reduced, and there have been no reported cases of rubella since 1975, and no confirmed cases since 1986. However, premarital testing fails to provide protection to approximately 4,000 children born to unwed mothers each year. Therefore, your Committee finds a valid justification to change the requirement from premarital to prenatal testing.

Your Committee also acknowledges the validity of amending the bill to replace the paragraph designated "Premarital education requirement" with a new section entitled "Premarital notification requirement", which replaces education and counseling to be provided by the Department of Health with notification, since marriage license applicants are not served by Department of Health employees, and since the Department cannot provide direct education to all applicants.

As affirmed by the record of votes of 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. 1968, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1968, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawananakoa.

SCRep. 672 Higher Education and the Arts on H.B. No. 820

The purpose of this bill is to allow community colleges to issue baccalaureate degrees in selected vocational and technical programs.

The University of Hawaii submitted testimony on this measure.

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. 820 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, Takumi and Yonamine.

SCRep. 673 Agriculture on H.B. No. 1770

The purpose of this bill is to strengthen agricultural marketing efforts by requiring the Department of Agriculture (DOA), to:

- (1) Change the name of its "Island Fresh" campaign to "Hawaii Fresh"; and
- (2) Develop and initiate a program with the private sector to promote the "Hawaii Fresh" campaign.

Your Committee notes that the intent of this bill is to make consumers more aware, informed, and educated about the variety and benefits of the state's agricultural products.

Testimony in support of this bill was received from the Hawaii Food Industry Association. The DOA submitted testimony in opposition to this 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. 1770 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 674 Agriculture on H.B. No. 1849

The purpose of this bill is to strengthen the Plant and Non-Domestic Animal Quarantine Law, by clarifying certain definitions to reflect current scientific usage.

Specifically, this bill amends Section 150A-2, Hawaii Revised Statutes, by:

- (1) Adding two new definitions: "algae" and "protozoa"; and
- (2) Updating the definitions: "bacteria", "fungus", "inspect", "passed", and "virus".

The Department of Agriculture submitted testimony in support of this bill. Your Committee also received comments from a private citizen.

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

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1849, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1849, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 675 Agriculture on H.B. No. 1291

The purpose of this bill is to establish a Biosecurity Committee to protect Hawaii's environment from the invasion of damaging and harmful alien (non-native) species that exist within the State or may be introduced into the State.

The Biosecurity Committee is an advisory and coordinating body which will facilitate the coordination of biosecurity efforts between various governmental departments and agencies. The Committee will also make recommendations to the Governor, the Director of Finance, and the Legislature.

The Department of Land and Natural Resources, the Bishop Museum, the State Museum of Natural and Cultural History, the Center for Plant Conservation, and a private citizen presented testimony in support of the measure.

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

- (1) Adding the repeal date of June 30, 1997, to sunset the provisions of the bill;
- (2) Clarifying that the members of the Biosecurity Committee are to be appointed by the Chair of the Board of Land and Natural Resources; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1291, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1291, H.D. 2.

Signed by all members of the Committee.

SCRep. 676 Ocean Recreation and Marine Resources on H.B. No. 1709

The purpose of this bill is to establish an elected advisory board for each small boat harbor which would represent the users of these facilities and act in an advisory capacity with the state agency overseeing the small boat harbors.

Your Committee finds that in some of the small boat harbors, the communication between the agency and the harbor users has been difficult and ineffective. Communication between these parties is essential in the effective management of these harbors.

Testimony was received from The Ocean Recreation Council of Hawaii and various concerned citizens in support of this measure. The Department of Land and Natural Resources submitted testimony in support of the intent of the bill, but expressed concerns over additional administrative rules which would require staffing and funding.

Upon a discussion among those presenting testimony, a consensus was reached on the amendments. Based upon this consensus, your Committee has amended the bill by:

- (1) Adding a findings and purpose section;
- (2) Adding the development of guidelines by the Department of Land and Natural Resources that determine qualification, composition, number of members, and election of the elected advisory board;
- (3) Making technical, nonsubstantive amendments for purpose of clarity and style.

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. 1709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1709, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Nekoba.

SCRep. 677 Human Services and Health on H.B. No. 337

The purpose of this bill is to afford the elder population of Hawaii, now and in the future, an alternative to prohibitively expensive institutional long-term care by encouraging and supporting the development and expansion of community-based Adult Day Health Centers (ADHCs) as a viable long-term care alternative.

The Department of Health, Adult Day Centers of Hawaii, Kuakini Geriatric Care, Inc., Commission on Persons with Disabilities, the Hawaii Nurses' Association, the Kokua Council, the Alliance for Health and Human Services and two individual citizens submitted testimony in support of this measure. The Department of Human Services submitted testimony supporting the concept of the bill but deferred to the Department of Health regarding the licensing of adult day health programs.

It is noted by your Committees that Hawaii's Adult Day Care (ADC) services are facing unprecedented challenges. The older population in Hawaii is growing at twice the rate of other age groups. Service demands, shortages of nursing home and intermediate care space, escalating land values, facility construction and operating costs, "capped" federal resources, labor costs and shortages, and increased competition for available state funds set the stage for a dilemma. It is imperative that we assure that ADC and ADHC services are available, accessible, and affordable to those who need them.

It is noted by your Committees that the passage of this bill will require that the public and private sector work together and establish a common set of standards that encourages quality and continuity of care for Adult Day Programs and their participants, inclusive of Adult Day Care and Day Health. In carrying out this task, it is imperative to keep standards the same regardless if facility-based or free-standing. Currently there are two sets of regulations that are redundant and counterproductive in attempts to stimulate the development of additional Day programs. The facility-based program is still institutional because of the nursing home regulations that require compliance. This has been a hindrance more than an advantage due to the nature of institutional rules, which contribute to higher costs.

It was noted by your Committees that free-standing programs should be considered since their requirements are similar to facility-based ADH programs. Provisions for Medicaid funds to free-standing programs would provide alternatives to citizens who would otherwise be admitted to nursing facilities at a more costly rate.

Your Committees believe that with the passage of H.B. No. 337, community-based programs will be strengthened; thus offering older adults and their families the option of the elders remaining at home.

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. 337 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 Arakaki and Kawanakoa.

SCRep. 678 Judiciary on H.B. No. 813

The purpose of this bill is to create a rebuttable presumption of paternity in order to establish paternity without further proceedings.

Favorable testimony was received from the Attorney General's Office and the County of Hawaii Office of the Corporation Counsel, Family Support Division.

This bill creates a rebuttable presumption of paternity, based upon certain criteria, including court-ordered genetic testing with a power of exclusion greater than 99.0 percent and a minimum combined paternity index of 500:1. This enactment will ensure compliance with the requirements of the Omnibus Budget Reconciliation Act of 1993, as a basis for seeking support obligations without requiring further proceedings to establish paternity.

The bill was amended as follows:

- (1) Page 2, line 19, delete "or" following "child";
- (2) Page 2, line 20, change paragraph (5) to paragraph (6);
- (3) New paragraph (5) which adds another criterion for creating the presumption by stating the standards for genetic testing which are to be relied upon;
- (4) Page 3, line 7, "filed" was moved and placed after "father"; and
- (5) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 813, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Menor.

SCRep. 679 Judiciary on H.B. No. 1011

The purpose of this bill is to create the offense of aggravated harassment by stalking.

Your Committee received testimony in support of this bill from the Honolulu Police Department, Parents and Children Together, and the Department of the Prosecuting Attorney of the City and County of Honolulu. The Office of the Public Defender testified in opposition to this bill.

Your Committee finds that a stalker's behavior is often characterized by a progressive series of more serious acts. Your Committee believes that punishment should be enhanced for the repeat offender.

Your Committee also believes that a person who is placed on probation for the offense of harassment by stalking should undergo appropriate treatment. Further, your Committee finds that the alleged victim of a stalker should receive notice if the stalker is released on bail or on recognizance.

Therefore, your Committee has amended this bill by:

- (1) Eliminating language in section 1;
- (2) Providing for an elevation of the class of offense for repeat offenders;
- (3) Requiring appropriate counseling if an offender is placed on probation; and
- (4) Requiring notification to the alleged victim if a person charged with violating this section is released on bond or recognizance.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1011, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1011, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Menor.
(Representative Saiki voted no.)

SCRep. 680 Judiciary on H.B. No. 1864

The purpose of this bill is to allow closed meetings concerning certain privileged documents in order to preserve the privilege to which the documents would be entitled. It also provides that the agenda of the meeting is to include a general statement of the subject matter and a list of the documents to be discussed at the meeting.

Testimony was received from the Attorney General's Office and from Common Cause Hawaii, both expressing concerns that the language in the bill was not precise enough to exclude documents which may not actually be entitled to a privilege, and thus may be used as a loophole to close meetings by interpreting the law too freely.

Amendments were made to the bill by:

- (1) Providing a detailed list of documents which would be privileged, under section 92F-13, and under other statutory sections;
- (2) Adding provisions requiring that a copy of the agenda of the meeting and a copy of each of the documents to be discussed be submitted to the Office of Information Practices at least ten days before the meeting; and
- (3) Granting the Office of Information Practices the authority to render an opinion whether these documents must be disclosed.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1864, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1864, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.

SCRep. 681 Judiciary on H.B. No. 1865

The purpose of this bill is to authorize boards to hold limited meetings when it is necessary for the boards to meet at sites which cannot safely accommodate the public.

Favorable testimony was received from the Attorney General's Office, and comments were received from Common Cause Hawaii.

When a determination is made by a board that it is necessary to meet at a dangerous location not open to the public, with the Attorney General's concurrence to avoid any impropriety, this bill would authorize a limited meeting with the approval of a two-thirds vote of all members of the board, upon furnishing proper notice.

To ensure public access to the meeting, your Committee was of the opinion that the meeting should be videotaped, subject to waiver by the Attorney General for reasons of infeasibility, and that the videotape would be made available and shown at the next regular meeting of the board, upon written request.

The bill was amended by:

- (1) Providing for concurrence with the Attorney General's Office regarding the determination of the necessity of a meeting at a dangerous location;
- (2) Allowing waiver of the videotaping requirement by the Attorney General's Office;
- (3) Providing language for making the videotape available and to be shown at the next regular meeting of the board if a written request is made; and
- (4) Making 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. 1865, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1865, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hamakawa, McMurdo, Saiki, Yamane, Yoshinaga and Thielen.

SCRep. 682 Judiciary on H.B. No. 2324

The purpose of this bill is to increase the property damage threshold reporting requirement for motor vehicle accidents.

Favorable testimony was received from the Office of the Public Defender, City and County Department of Finance, and the Honolulu Police Department. Unfavorable testimony was received from State Farm Insurance Companies.

Under current law, for every motor vehicle accident that involves property damage in excess of \$1,000, a report must be filed with the police by the driver. Failure to file this report could result in a fine of up to \$1,000 and up to one year in prison, and a driver's license suspension, pending filing of the report.

Your Committee finds that an increase in the threshold is justified, inasmuch as repair costs for cars have increased since the last increase of the threshold from \$300 to \$1,000 in 1990. The average cost of repairing a car involved in an accident is now approximately \$1,900. Your Committee also considered the position that the increase to \$3,000 may result in understating the actual amount of damages to avoid having to report the accident.

Your Committee amended this bill by reducing the proposed \$3,000 threshold to \$2,000, as a compromise measure, and by providing technical and non-substantive changes 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. 2324, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2324, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 683 Human Services on S.B. No. 1682

The purpose of this bill is to appropriate or authorize moneys to prevent the reduction or discontinuance of financial assistance payments to needy individuals and families under the payment programs.

Testimony from the Department of Human Services and the Kokua Council was received in strong support of this measure.

It is noted by your Committee that a critical funding emergency exists. The passage of this bill will provide necessary emergency appropriations for the Aid to Families with Dependent Children and General Assistance programs.

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

- (1) Requiring the appropriations to be expended by the Department of Human Services for the purposes of this Act; and
- (2) Making technical, nonsubstantive changes for 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 S.B. No. 1682, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1682, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 684 Human Services on S.B. No. 1690

The purpose of this bill is to provide emergency funding to prevent the reduction or discontinuance of health and health-related services to Medicaid recipients who are aged, blind, or disabled.

Testimony from the Department of Human Services, the Healthcare Association of Hawaii and the Kokua Council was received in strong support of this measure.

Your Committee has received a message from the Governor, dated February 6, 1995:

- (1) Stating that additional funds are needed for Health Care Payments; and
- (2) Requesting that immediate passage of this bill to ensure continuation of assistance for the aged, blind, and disabled.

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

- (1) Deleting section 2, which states that the Constitutional expenditure ceiling will be exceeded and specifies the dollar amount and the percentage by which the ceiling will be exceeded; and
- (2) Making technical, nonsubstantive revisions for 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 S.B. No. 1690, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1690, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 685 Public Safety and Military Affairs on S.B. No. 1594

The purpose of the bill is to appropriate \$4,200,507 in emergency funding for the Department of Public Safety. In order to continue the operation of the State's correctional facilities to the end of the fiscal year, this measure amends Act 289, Session Laws of Hawaii 1993, as amended by Act 252, Session Laws of Hawaii 1994.

Testimony in support of this appropriations measure was submitted by the Department of Public Safety indicating the management strategies undertaken to remedy the existing problems relating to abuse of overtime and sick leave.

The Committee recognizes the critical funding emergency and wishes to note for the record, its continuing support for a spectrum of comprehensive ameliorative programs. These include, but are not limited to hand geometry, lockdowns, and adoption of guidelines to monitor and curb sick leave and overtime abuse.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1594, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tom and White.

SCRep. 686 Human Services on H.B. No. 1691

The purpose of this bill is to:

- (1) Require the Office of Veterans Services to inspect all state war memorials and veterans' cemeteries at least twice a year for repair and maintenance deficiencies; and
- (2) Report all repair and maintenance problems at these memorials and cemeteries to the adjutant general and the comptroller;

in order to ensure that potential problems are detected and corrected as expeditiously as possible.

The Advisory Board on Veterans Services, the Fleet Reserve Association, Disabled American Veterans Maui Chapter 2, the Oahu Veterans Council, Veterans of Foreign Wars, Friends of the Natatorium, Maui County Veterans Council and two individual citizens submitted testimony in support of this measure. The Office of Veterans Services submitted testimony supportive of this measure, but deferred to the Department of Accounting and General Services. The Department of Accounting and General Services, the Disabled American Veterans Oahu Chapter 1, and the Military Order of the Purple Heart U.S.A., Inc., Rainbow Chapter 483 Hawaii submitted testimony supporting the intent of this bill.

It is noted by your Committee that Hawaii's war memorials and veterans' cemeteries are intended to honor its veterans and remind future generations of the sacrifices that were made. Yet these memorials are deteriorating due to years of neglect and indifference. How this State cares for its war memorials and veterans' cemeteries is a reflection of the esteem in which it holds the men and women who fought and died for their country. Therefore, it is the State's responsibility to ensure the necessary repair and maintenance of these places.

Upon further consideration, your Committee has amended this bill by adding a new section to this bill. This bill now requires that the comptroller's yearly report shall include, in response to reports submitted by the Office of Veterans Services pursuant to Section 363-3, Hawaii Revised Statutes:

- (1) A list of all sites found to be deficient;
- (2) A brief descriptions of actions taken on sites found to be deficient; and
- (3) A list of projects to be completed.

Your Committee would like to emphasize that the portion of the comptroller's annual report related to war memorials and veterans cemeteries should be written in a simple and concise style that a layperson can easily understand.

It is your Committee's understanding that the Office of Veterans Services will compile and maintain a master list of all state war memorials and veterans' cemeteries.

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. 1691, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1691, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Arakaki.

SCRep. 687 Energy and Environmental Protection and Agriculture on H.B. No. 272

The purpose of H.B. No. 272 is to require the Department of Agriculture to provide timely and adequate notification of federal and/or manufacturer warnings issued to the state regarding heretofore undiscovered or undisclosed defects in pesticides to farmers, nurseries and other users.

Your Committees heard testimony in favor of the bill from an informed individual speaking in behalf of Big Island farmers, and from the Department of Agriculture and the State Farm Bureau in opposition to this bill, in which they stated that the mechanisms for notification were already in place within the department.

This bill is a result of the recent controversy over the pesticide Benlate, which is manufactured by the DuPont Corporation.

A batch of the product was inadvertently contaminated with an herbicide in 1989 and was subsequently distributed and sold in Hawaii and several other states. The tainted pesticide caused severe damage to plants when applied, and as a result entire crops were lost. DuPont discovered the contamination and, as required by federal law, reported it to the EPA, which in turn notified the State Department of Agriculture.

The controversy came about when local farmers on the island of Hawaii claimed that the Department of Agriculture was lackadaisical in notification to those who might be affected; almost a year had lapsed between EPA notification to the department and the department's notification to the public.

Discussion among your Committees' members, reflecting support of the intent of the bill, centered on the desire to broaden the scope of the bill, while at the same time not leaving the State of Hawaii open to liability for future incidents of the sort that brought about this particular piece of legislation. Certainly a need for a process of public notification was clearly demonstrated by this incident; however, the members of your Committees also wanted to make sure that the state would not be seen as a so-called "deep pocket" in any possible litigation.

As a consequence of the discussion, your Committees decided to amend the bill by removing the time constraint for public notification from the department, notifying certified users of pesticide products instead of landowners, and clarifying the product reference to include unlicensed products such as Benlate.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 272, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 272, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Takamine, Yoshinaga, Meyer and Thielen.

SCRep. 688 Energy and Environmental Protection on H.B. No. 395

The purpose of this bill is to amend the Environmental Impact Statement (EIS) law and definition to include an optional cost-benefit analysis that may be performed by the applicant.

Testimony presented by the Office of Environmental Quality Control indicated that their personnel had no objections to this bill. Hawaii Audubon Society opposed it, stating that the purpose of an EIS is to consider environmental factors only, and that the introduction of financial considerations provided a public-relations opportunity to applicants who might wish to use the process in an inappropriate fashion. A concerned citizen voiced the opposite view, stating that costs were always a factor in EIS preparations, whether they were mentioned or not, and that ultimately, someone must pay - whether the applicant, if the project proceeds smoothly, or the private citizens or government, if the process goes awry.

Subsequent discussion dealt with the voluntary nature of this bill: If an applicant chooses to provide cost-benefit information in an EIS, that information might make later steps easier and clearer. Since this bill seemed able to simplify a process at best and do no harm at worst, and since no funding considerations are attached, your Committee chose to pass it in an unamended form.

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. 395 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 M. Oshiro, Takamine, Tarnas and Yoshinaga.

SCRep. 689 Labor and Public Employment on H.B. No. 149

The purpose of this bill is to require the Department of Public Safety to implement all the elements of a model system for managing its security staff.

Specifically, the elements of the security management model include:

- (1) Developing formal policies and procedures;
- (2) Carefully evaluating each post and position at correctional facilities for need and priority;
- (3) Conducting an overall review of institutional post orders;
- (4) Taking steps to assure that leave schedules are followed; and
- (5) Developing a system for monitoring and auditing security staffing performance.

Your Committee finds that the implementation of the combined elements of the security management model will lead to a noticeable improvement within the State's correctional facilities.

The Department of Public Safety submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 149 and recommends that it pass Third Reading.

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

SCRep. 690 Labor and Public Employment on H.B. No. 2108

The purpose of this bill is to authorize and encourage the Department of Land and Natural Resources (DLNR) to enter into public/private partnerships in the management of state parks.

This measure would allow the DLNR to enter into management agreements with nonprofit organizations to:

- (1) Staff a state park;
- (2) Take over daily operation of a state park;
- (3) Devise park management plans; and
- (4) Pursue grant-in-aid and charitable contributions for a park.

Several private nonprofit organizations are already operating programs and park areas under agreements or leases from the Board of Land and Natural Resources. In these instances, the nonprofit organizations are providing services beyond the capabilities of the State Parks Division staff.

The Board of Land and Natural Resources, the Kupuna Advisory Council of the Kona Hawaiian Civic Club, the Kona Hawaiian Civic Club, and the Ahu'ena Heiau, Inc. submitted testimony in support of this measure. The United Public Workers, AFSCME, Local 646, AFL-CIO submitted testimony in opposition.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2108, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 691 Judiciary on H.B. No. 1278

The purpose of this bill is to designate the Administrative Director of the Court as the compact administrator instead of the Administrator of the Traffic Violation Bureau of the Judiciary.

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

This measure appropriately designates the Administrative Director of the Courts as the Compact Administrator. Your Committee finds that the measure is necessary since the present compact administrator, the Administrator of the Traffic Violations Bureau, is a nonexistent position in the Judiciary.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1278 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 White, Cachola, Herkes, McMurdo and Menor.

SCRep. 692 Judiciary on H.B. No. 489

The purpose of this bill is to add to the defense of a trespass prosecution that the defendant entered any public forest lands.

Your Committee received testimony in support of this bill from the Office of the Public Defender and the Board of Land and Natural Resources.

Currently, section 708-816, Hawaii Revised Statutes, allows as a defense to trespass evidence that the defendant entered upon and passed along or over established and well-defined roadways, pathways or trails leading to public beaches over government lands, whether or not under lease to private persons.

This bill permits entry to any public forest lands so that such entry is not penalized with a trespass offense.

Your Committee concurs with the testimony of the Board of Land and Natural Resources that a definition of public forest lands should be placed in the statute.

Accordingly, this bill has been amended by adopting the Board of Land and Natural Resources's proposed definition for public forest lands which defines public forest lands as all forest lands within the Forest Reserve and State Park systems as defined by chapters 183 and 184.

As affirmed by the record of votes of 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. 489, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 489, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 693**Judiciary on H.B. No. 756**

The purpose of this bill is to toll the statute of limitations for bringing a prosecution relating to sexual and child abuse offenses committed against a person under the age of eighteen years, until the person reaches the age of eighteen.

Your Committee received testimony in support of this bill from the Honolulu Police Department, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Sex Abuse Treatment Center, and Friends of the Children's Advocacy Center of Oahu. The Office of the Public Defender submitted testimony in opposition to this measure.

Presently, HRS §701-108 provides that criminal prosecution of class A sexual offenses must be commenced within six years of the commission of the offense and that criminal prosecution for class B and class C sexual offenses must be commenced within three years of the commission of the offense.

Your Committee finds that some young victims of sexual assault and child abuse are unable to come forward to report that they have been victimized within the existing statute of limitations time period. In some cases, the perpetrator of a sexual assault is a family member who exercises strict control over the victim. It is only later, when the victim is older, that the control of the offender diminishes, and the charges are brought to the attention of the police. In other cases, a child is so traumatized by a sexual assault that memory of the assault is repressed until a future date. In these cases, the offenses are often not chargeable because of the expiration of the statute of limitations.

Your Committee finds that child victims of sexual assault and abuse are a unique class of victims requiring an extension of the statute of limitations by means of tolling the existing statute of limitations in HRS §701-108 until the minor reaches the age of 18.

Under this bill, prosecution for a class A sexual offense against a six year old minor may be commenced up to 18 years after the alleged offense. If the same class A offense were committed against a 13 year old minor, prosecution may be commenced up to 11 years after the alleged offense.

While recognizing the need to toll the statute of limitations for minors, your Committee was concerned with balancing the rights of the person accused of sexual assault.

With the passage of time, an accused's ability to defend himself or herself is impaired as memories fade, witnesses may no longer be present, and physical evidence becomes more difficult to obtain, identify, or preserve.

Based on these concerns, your Committee has amended this bill by providing that when prosecution is commenced ten or more years after the offense is committed, the indictment or complaint may be dismissed upon motion of the defendant if the court finds that the reasons for the delay in prosecution are unreasonable or without good cause and the delay has seriously impaired the ability of the defendant to prepare a defense. The burden of proof to dismiss the indictment or complaint rests with the defendant.

Your Committee has also amended this bill by limiting the tolling of the statute of limitations under chapter 707, part V and part VI, to felony offenses.

As affirmed by the record of votes of 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. 756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 756, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.

SCRep. 694**Judiciary on H.B. No. 1856**

The purpose of this bill is to clarify that income withholding must be implemented by the employer upon being served with a certified copy of an order for income assignment, to:

- (1) Ensure that allocation of support payments received through withholding does not result in any of the obligations not being implemented; and
- (2) Ensure that the income withholding order for the payment of child support has priority over any other orders.

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

Presently, HRS §576E-16(c) and HRS §576E-16(h) prioritize income withholding for the payment of child support over all other income withholding orders, unless the court orders otherwise. Federal regulations, however, require that the income withholding order for the payment of child support have priority over any other order. 45 CFR section 303.100(f)(vii) specifies "that the withholding under this section shall have priority over any legal process under State law against the same wages." The Department of the Attorney General testified that it was necessary to delete the provision stating "unless otherwise ordered" in section 576E-16 so that Hawaii would obtain federal State plan approval and receive federal matching funds. This bill ensures compliance with federal law.

The Department of the Attorney General also testified that federal regulations require state child support enforcement agencies to allocate support received through income assignment in such a way as to ensure that the allocation does not result in a withholding for one of the support obligations not being implemented. Your Committee finds that this bill complies with the Code of Federal Regulations.

Your Committee finds that the current language of the statute is unclear as to whether copies of income assignment orders must be certified by the court or whether copies of the orders may be certified by the court or the Child Support Enforcement Agency. Whenever a child support obligor changes employment, a certified copy of the court order must be served on the obligor's employer. It is a time-consuming process for the Child Support Enforcement Agency to obtain certified copies of the order from the court when an obligor changes employment.

Your Committee finds that a need exists to enable the Child Support Enforcement Agency to expeditiously obtain certified copies of income assignment orders. However, your Committee believes that the Child Support Enforcement Agency should not be permitted to certify copies of the very orders which they have the mandate to enforce.

Accordingly, this bill has been amended to allow copies of the income assignment orders to be certified by the court or by the office of child support hearings.

Your Committee was concerned that there was not an allocation methodology amongst the persons ordered to receive support payments. While this bill conforms with federal regulations by providing that the allocation of support payments will not result in one of the support obligations not being implemented, the lack of a specific allotment methodology and the potential for misallocation of support payments was troublesome to your Committee.

Therefore, your Committee amended this bill by requiring that the support payments received through the income withholding order be allocated based on each obligee's proportionate share of the order.

Further, your Committee amended this bill by clarifying that the allocation applies only where there is more than one obligee.

As affirmed by the record of votes of 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. 1856, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1856, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawananakoa.

SCRep. 695**Judiciary on H.B. No. 2049**

The purpose of this bill is to clarify that the Department of Transportation has authority to enforce laws for security services at all State airports.

Your Committee received testimony in favor of this bill from the State Department of Transportation and from the State Department of Public Safety.

Under current law, the Department of Public Safety has authority for airport law enforcement. However, federal law requires that the operators of airports provide security at the airports. In accordance with federal requirements, the Department of Transportation, as operator of the State airports, must contract for security services to enforce all administrative rules pertaining to airport security.

Your Committee therefore finds that this measure is necessary to clarify that the responsibility for airport safety remains under the authority of the Department of Transportation.

Your Committee has amended this measure by changing the effective date to July 1, 1995, and has furthermore made 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. 2049, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2049, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 696 Education on H.B. No. 1431

The purpose of this bill is to define the role of the School District Advisory Council to:

- (1) Serve in an advisory capacity to the District Superintendent;
- (2) Assist the District Superintendent in disseminating information, interpreting decisions and policies, and obtaining public reaction;
- (3) Present and explain local or district public concerns in policies and administrative rules of the Department of Education; and
- (4) Work with and among the several other School District Advisory Councils to ensure cooperation on educational matters of mutual interest and concern.

The Central Oahu District School Advisory Council and several concerned citizens submitted testimony in support of this measure. The Board of Education submitted testimony in support of the intent of this measure.

Your Committee finds that School Advisory Councils were created by the Legislature in 1966 to serve as a liaison between the grassroots level and the appointed Board of Education. In 1970, the voters ratified a constitutional amendment to elect the Board members. As elected public officials, the Board members are directly accountable to the people; thus, it may be argued that the need for an intermediary council is no longer essential. However, it is important to note that individual schools need to have a collective voice outside of the system to represent and assist them, since the School Advisory Council members are volunteers who are gubernatorially appointed, and cannot be fired, demoted, or transferred.

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

- (1) Clarifying that the Governor, with the advice of the respective District Superintendent, appoint the members of the School Advisory Council;
- (2) Stating that the School Advisory Council also represent and support the school district in furthering its goals and objectives, and on other educational matters of interest, including but not limited to the Board of Education, the Legislature, and the counties; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1431, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1431, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tarnas, Arakaki, Lee, Shon, Takamine and Yonamine.

SCRep. 697 Health and Human Services on H.B. No. 890

The purpose of this bill is to require children who attend group child care homes and group child care centers to be:

- (1) Immunized against certain communicable diseases; and
- (2) Tested for tuberculosis and found free from that disease.

Your Committees find that, from a public health perspective, immunization against diseases is one of the most effective forms of preventive health care available. Still, a disturbingly low percentage of children in Hawaii who are below school-age are immunized. For example, only about 60 percent of two-year old children are immunized against measles, mumps, rubella, diphtheria, tetanus, pertussis, and polio.

The Department of Health (DOH) testified that Chapter 298, Hawaii Revised Statutes, requires immunization and testing for tuberculosis for children who attend schools, which include group child care homes and group child care centers.

The bill has been amended to ensure that these requirements are met. The intent is to increase the rate of immunization as an effort to prevent disease. The specific amendments are as follows:

- (1) Amended Chapter 298, Hawaii Revised Statutes, which refers to school entry and other matters, rather than Chapter 346, which refers to the functions of the Department of Human Services;
- (2) Required each school to inform DOH within 45 days of the name of each student who enters school provisionally because immunizations have not been done or have not been completed;

- (3) Reduced from three months to two months the period in which the school shall refer to DOH any student who enters school provisionally and does not subsequently complete the required physical examination and immunizations;
- (4) Specified that the student has 30 days in which to complete the required physical examination and immunizations after the DOH notification;
- (5) Required DOH to notify any school licensed by DHS and to notify DHS of the school's responsibilities regarding provisionally admitted students. Loss of licensure is a risk of noncompliance by the school; and
- (6) Required each school to maintain student records of immunization, tuberculin testing, and physical examination.

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. 890, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 890, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Arakaki and Kawanakoa.

SCRep. 698 Energy and Environmental Protection H.B. No. 51

The purpose of this bill is to adopt a statewide community noise code that the counties can use as a base for further local ordinances.

Your Committee heard testimony from concerned private individuals, Citizens Against Noise, the Department of Health, and the City and County of Honolulu, most of which applauded the intent of the bill. Questions were raised by the City and County of Honolulu as to why the State of Hawaii was getting involved in something that was normally within the purview of county government.

Members of your Committee noted that presently the City and County of Honolulu is the only county in the State to have adopted a noise code; the other counties have considered themselves exempt from such restrictions. It was also noted that the State has had twenty-five years to put in place such a code; the State's actions in this regard will not preclude county action in dealing with the problem of noise proliferation; it will simply provide a base to build upon.

Therefore, it was decided to amend H.B. No. 51 to emphasize differences between urban and non-urban areas, as your Committee felt that it was improper to use land-use classification terms in this regard. It was also decided to expound on the purpose clause to reflect community concerns.

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. 51, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 51, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives M. Oshiro, Takamine, Tarnas and Yoshinaga.

SCRep. 699 Judiciary on H.B. No. 714

The purpose of this bill is to extend Hawaii's implied consent law to drivers suspected of driving under the influence of drugs.

Your Committee received testimony in support of this bill from the Honolulu Police Department, Hawaii Chapter of the American College of Emergency Physicians, Governor's Highway Safety Council Impaired Driving Task Force, Department of the Prosecuting Attorney of the City and County of Honolulu, Mothers Against Drunk Driving, and the Hawaii Medical Association. The Office of the Public Defender submitted testimony in opposition to this bill.

Currently, HRS §286-151 creates an implied consent of all drivers of motorized vehicles or mopeds on public highways to submit to testing to determine alcoholic content of the drivers' blood. There is no implied consent to submit to testing for drug content.

Your Committee finds that persons who drive on public highways under the influence of the five illegal, non-prescription drugs enumerated in this bill: heroin, cocaine, lysergic acid diethylamide, methamphetamine, and phencyclidine, pose a similar danger to the community as those who drive under the influence of alcohol. The Governor's Task Force testified that these were the most commonly used drugs which caused impaired driving. Consequently, your Committee finds that drivers on public highways impliedly consent to the detection of the drugs enumerated in this bill.

Although HRS §291-7 prohibits driving under the influence of drugs, a person suspected of driving under the influence of drugs may simply refuse to submit to a blood test. Unlike the case of a person who refuses to submit to a blood alcohol content test when probable cause is established with respect to a violation of HRS §291-4, there are no sanctions for the person who refuses to submit to a testing for the presence of drugs upon a showing of probable cause that the person has been driving under the influence of drugs.

Your Committee finds that sanctions must be in place for the person who refuses to submit to a blood test upon being lawfully asked to do so by a police officer. Otherwise, such drivers will likely opt to refuse blood tests for the presence of drugs.

This bill also exempts authorized persons from liability pursuant to the withdrawing of blood from a person suspected of driving under the influence of drugs. Your Committee finds that this is a logical extension to HRS §663-1.9 which exempts from liability authorized persons who withdraw blood to test blood alcohol content.

Your Committee notes that unlike alcohol, the delineated drugs in this statute are illegal, and thus any positive identification of these drugs may subject the driver to criminal prosecution for illegal possession. Since the rationale for the implied consent law is that consent is required as a condition for obtaining a driver's license, your Committee finds that evidence obtained from such consent should be limited to driving under the influence offenses. Otherwise, there are Fourth Amendment implications to the seizure of such evidence.

Accordingly, this bill has been amended by adding a section which amends HRS §286-163 by providing that evidence of illicit substances obtained from a blood test may not be used in any other type of criminal proceeding. Technical, non-substantive changes were made pursuant to this 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. 714, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 714, H.D. 1.

Signed by all members of the Committee except Representatives Herkes, McMurdo, Menor, Kawanakoa and Thielen.

SCRep. 700 Health on S.B. No. 310

The purpose of this bill is to extend the "sunset" date on the issuance of new special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

S.B. 310, SD 1, extends the "sunset" date until the year 2000. Your Committee believes, however, that the success of this program has been sufficiently demonstrated, and that the "sunset" provision is no longer necessary. Consequently, the bill has been amended to eliminate the "sunset" provision.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.B. No. 310, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 310, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 701 Education on H.R. No. 32

The purpose of this resolution is to support employers in allowing employees in Hawaii to receive time off without being penalized to assist in the school activities of their children in grades K through 12.

The Department of Education and the Chamber of Commerce of Hawaii testified in favor of the resolution. However, the DOE stated that a similar release program was previously implemented by the Waihee administration but that this resolution will help support its continuation.

Your Committee on Education has amended the resolution by adding technical and non substantive additions for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 32, as amended herein, and recommends that it be referred to the Committee on Labor and Public Employment in the form attached hereto as H.R. No. 32, H.D. 1.

Signed by all members of the Committee except Representatives Tarnas, Arakaki, Lee, Santiago, Takamine and Takumi.

SCRep. 702 Education on H.C.R. No. 28

The purpose of this resolution is to support employers in allowing employees in Hawaii to receive time off without being penalized to assist in the school activities of their children in grades K through 12.

The Department of Education and the Chamber of Commerce of Hawaii testified in favor of the resolution. However, the DOE stated that that a similar release program was previously implemented by the Waihee administration but that this resolution will help support its continuation.

Your Committee on Education has amended the resolution by adding technical and non substantive additions for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 28, as amended herein, and recommends that it be referred to the Committee on Labor and Public Employment in the form attached hereto as H.C.R. No. 28, H.D. 1.

Signed by all members of the Committee except Representatives Tarnas, Arakaki, Lee, Santiago, Takamine and Takumi.

SCRep. 703 Health on H.C.R. No. 31

The purpose of this concurrent resolution is to have the Legislative Auditor study and report on the need to regulate the practice of respiratory care.

Testimony in favor of this measure was submitted by the Respiratory Care Program at Kapiolani Community College, the Hawaii Society for Respiratory Care, Queen's Medical Center and The Hawaii Thoracic Society.

This concurrent resolution has been amended by requiring the Legislative Auditor to focus solely on the effects of H.B. 2240 which was introduced this session and not on previously introduced bills.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 31, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce in the form attached hereto as H.C.R. No. 31, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami and Anderson.

SCRep. 704 Health and Human Services on H.R. No. 39

The purpose of this resolution is to study the feasibility of requiring adult residential care home patients to wear identification bracelets of badges at all times.

Testimony in favor of this resolution was submitted by The Kokua Council for Senior Citizens. They believe that the program will provide a safety link for adult care home residents since many of them wander as a result of memory problems and Alzheimer's disease. Their testimony also stated that the Alzheimer's Association has had an identification bracelet program in effect for several years.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 39 and recommend that it be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Arakaki, Kahikina, Kawakami, Stegmaier, Anderson and Kawanakoa.

SCRep. 705 Health and Human Services on H.C.R. No. 35

The purpose of this resolution is to study the feasibility of requiring adult residential care home patients to wear identification bracelets of badges at all times.

Testimony in favor of this resolution was submitted by The Kokua Council for Senior Citizens. They believe that the program will provide a safety link for adult care home residents since many of them wander as a result of memory problems and Alzheimer's disease. Their testimony also stated that the Alzheimer's Association has had an identification bracelet program in effect for several years.

As affirmed by the records of votes of the members of your Committees on Health and Human Services that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 35 and recommend that it be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Arakaki, Kahikina, Kawakami, Stegmaier, Anderson and Kawanakoa.

SCRep. 706 Labor and Public Employment on H.B. No. 1037

The purpose of this bill, as received by your Committee, is to amend the State Collective Bargaining law by:

- (1) Adding new definitions of "health and safety worker" and "medically verifiable, substantial personal injury";
- (2) Deleting the definitions of "essential employee" and "essential position";
- (3) Changing the manner in which essential employee proceedings are conducted by the Hawaii Labor Relations Board (HLRB);
- (4) Revising the manner in which HLRB members are selected; and
- (5) Making it unlawful for health and safety workers to strike and restricting the ability of the HLRB to protect the health and safety of the public.

An officer and the attorney for the Hawaii Government Employees Association, AFCSME Local 152, AFL-CIO, testified in support of this measure.

The Attorney General, the Office of Collective Bargaining, the Department of Human Resources Development, and the HLRB submitted testimony in opposition to this measure.

Concerns were raised that this bill would prolong the process of designating essential employees during a strike when immediate attention to the matter is necessary to avoid imminent or present danger to the public's health and safety. In addition, rather than enlarge the pool of essential employees, this measure would reduce the pool of essential employees that will provide the general public with health and safety services when there is a public sector labor dispute.

On the other hand, testimony supporting the passage of this measure suggested that clarification of what is meant by "imminent or present danger to public health or safety" is needed to determine which employees should be considered essential employees during a strike. Based on the testimony, clarification may be necessary to prevent the HLRB from inconsistently designating employees as essential employees during a strike.

After careful consideration, your Committee has amended this measure by deleting its substance and inserting provisions clarifying the manner of designating essential employees as follows:

- (1) Defining "imminent or present danger to public health or safety" to mean a substantial, medically verifiable physical or mental injury to the public that is not caused by economic conditions that are likely to occur by reasons of a strike; and
- (2) Defining "investigation" to mean a proceeding subject to the provisions of Chapter 91, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1037, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 707 Labor and Public Employment on H.B. No. 2000

The purpose of this bill is to transfer the authority to conduct hearings on appeals of violations under Chapter 104, Hawaii Revised Statutes (commonly referred to as the "Little Davis Bacon Act"), from the Labor and Industrial Relations Appeals Board to the Director of Labor and Industrial Relations.

The law now requires that first violation appeals and second and third violation determinations with regard to Chapter 104 be heard by the Labor and Industrial Relations Appeals Board. In 1993, the Office of the State Auditor reported that this process was cumbersome and time-consuming.

In contrast, other states with prevailing wage laws similar to Hawaii's authorize the agency responsible for enforcement to conduct both investigations and hearings. Accordingly, the Auditor recommended the establishment of an administrative hearings process within the Enforcement Division of the Department of Labor and Industrial Relations.

Your Committee agrees that a hearings process within the Department of Labor and Industrial Relations would resolve the appeals of violations in a more timely and expeditious manner.

The Department of Labor and Industrial Relations, the Labor and Industrial Relations Appeals Board, and the Hawaii Operating Engineers Industry Stabilization Fund submitted testimony supporting this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2000 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 Suzuki and Alcon.

SCRep. 708 Higher Education and the Arts on H.B. No. 1129

The purpose of this bill is to address the changes and crises facing the agricultural industry by making the Agricultural Leadership Program at the University of Hawaii a permanent program designed to promote the development of leadership skills necessary for a successful agricultural industry.

The University of Hawaii College of Tropical Agriculture commented on H.B. 1129. Graduates and participants of the Agricultural Leadership Program provided supportive testimony. Written testimony in support of the legislation was also submitted by a number of concerned citizens and the following: Hawaiian Host Papayas, Ulupalakua Ranch, Inc., Kalaoa Gardens, BYU Hawaii, Back to Eden, Inc., Maui Tropical Plantation, and the Hawaii Agriculture Commodities Services.

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. 1129 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, Shon, Takumi, Yonamine and Anderson.

SCRep. 709 Education on H.B. No. 754

The purpose of this bill is to clearly establish the responsibilities of the Department of Education and the Department of Health by:

- (1) Requiring the Department of Education to evaluate, identify, and report to the Department of Health any suspicious increase or significant cluster of disease or illness suspected to be related to environmental contamination;
- (2) Requiring the Department of Health to identify, investigate, and report to the public any findings relating to the presence or absence of significant clusters or increases of illness or disease suspected to be caused by environmental health hazards;
- (3) Requiring the Department of Education to adopt rules and conduct any studies, surveys, and evaluations that are necessary; and
- (4) Authorizing the Department of Health to pool resources of other state departments to conduct the necessary investigation.

Supporting testimony was received from several concerned citizens. The Department of Education submitted testimony concurring with the intent of this measure. The Department of Health supported the intent of this measure.

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

- (1) Deleting the investigation requirement for the Department of Education regarding reporting any suspicious increase or significant clusters of disease or illness suspected to be related to environmental contamination to the Department of Health;
- (2) Requiring the Department of Health to adopt rules in accordance with chapter 91 to provide for the cooperation of all departments;
- (3) Deleting the provision where the Department of Health is to have the authority to pool resources of other state departments to conduct the necessary investigations; and
- (4) 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 754, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 754, H.D. 2.

Signed by all members of the Committee except Representatives Tarnas, Arakaki, Lee, Santiago, Takamine and Takumi.

SCRep. 710 Water and Land Use Planning; Energy and Environmental Protection; and Ocean Recreation and Marine Resources on H.B. No. 2012

The purpose of this bill is to replace obsolete statutory references to the recently repealed section 183-41, Hawaii Revised Statutes (HRS), with the newly established chapter 183C, HRS.

Your Committees received testimony in support of this bill from the Department of Land and Natural Resources (DLNR).

Your Committees have amended the bill by:

- (1) Replacing two incorrect citations to Section 183-41 with correct citations to "Act 234, SLH 1957"; and
- (2) Making an additional technical, non-substantive amendment for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning; Energy and Environmental Protection; and Ocean Recreation and Marine Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2012, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2012, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Takamine, Tarnas, Yoshinaga and Meyer.

SCRep. 711 Water and Land Use Planning and Ocean Recreation and Marine Resources on H.B. No. 2013

The purpose of this bill is to clarify certain provisions relating to the State conservation district by:

- (1) Including references to "state marine waters" in the definition of "conservation district";
- (2) Providing that when special management area applications are involved, the 180-day conservation district use application (CDUA) processing period may be extended for an additional 90-day period;
- (3) Specifying that the application processing period does not apply when a contested case hearing is required; and
- (4) Providing for additional extensions to the 180-day processing period.

Your Committees find that:

- (1) The amendment to the definition of "conservation district" would serve to comprehensively address the State's jurisdiction over marine waters in conjunction with other applicable laws. It would also help to establish the State's claim over waters within the 200-mile Exclusive Economic Zone; and
- (2) Under current law, if the Department of Land and Natural Resources (DLNR) fails to render a decision regarding a CDUA within 180 days, the owner may proceed with the requested use. Since the law requires that a special management area permit be the first permit approved for development, this requirement may jeopardize DLNR's timetable to make a decision within the 180-day period.

DLNR and the Office of State Planning supported passage of this bill with an amendment. The Chamber of Commerce of Hawaii expressed concern that if State harbors fall under the definition of state marine waters, harbor activities may be required to obtain permits from DLNR.

Your Committees have amended this bill by making technical, nonsubstantive revisions to correct technical drafting errors.

It is your Committees' intent that the inclusion of "state marine waters" to the definition of "conservation district" will not require state harbor activities to obtain conservation district use permits. Because state harbors are set aside under executive order, conservation district use permits do not apply to those harbor activities.

Finally, although this bill provides flexibility in allowing additional extensions to the 180-day processing period, it is, nevertheless, your Committees' intent that these permits be processed expeditiously.

As affirmed by the records of votes of the members of your Committees on Water and Land Use Planning and Ocean Recreation and Marine Resources that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2013, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2013, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 712

Hawaiian Affairs and Housing on H.B. No. 1311

The Housing Finance and Development Corporation (HFDC) was established to facilitate the construction of affordable homes in Hawaii. In the development of gap-group housing, the HFDC currently imposes a ten-year owner-occupancy requirement which provides that once escrow closes, the qualified resident must reside in the home and may not resell during the ten-year period. The statutes currently requires violators to be evicted from the home and compensated on a prior agreed upon buy-back rate. The home is then turned over to the HFDC. One purpose of the owner-occupancy requirement was to curb speculation of the properties purchased through the HFDC.

This bill attempts to address the concern that certain circumstances may arise where a qualified resident may be forced to move or sell the home within the ten-year period. The HFDC does not have the statutory authority to waive the owner-occupancy requirement.

The purpose of this bill is to authorize the HFDC to waive the owner-occupancy requirement if certain extenuating circumstances are demonstrated by the purchaser.

Testimony was received from the City and County of Honolulu's Department of Housing and Community Development. It realized that military personnel relocated as a result of armed conflict should be allowed to be waived from the owner-occupancy requirement. However, the department expressed concern that waiving ordinary military transfers would not guarantee the occupants will return and reoccupy the house. In addition, the department testified that waivers for "any other unforeseeable circumstance" may be overly broad.

Testimony also was received from the HFDC which agrees with the intent of the bill but expressed concern regarding the rights of the occupant to a contested case proceeding. The HFDC proposed amendments which included its authorization to conduct rulemaking under chapter 91.

Finally, testimony was received from a private citizen in support of the bill.

Upon careful consideration, your Committee agreed to amend the bill by deleting the substantive portions of the bill and replacing it with suggested language from the HFDC which accomplishes the same intent.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1311, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1311, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 713

Hawaiian Affairs and Housing on H.B. No. 1884

The Housing Finance and Development Corporation (HFDC) was established to facilitate the construction of affordable homes. Currently, the HFDC is aware of cases in which residents of HFDC's affordable units also have property interests outside of the unit in which they reside. An additional concern arises when cohabitants of an affordable unit are not

married. The requirement to disclose property interests only recognizes "spouses." Closing any loopholes in the definition would help to curtail speculation, abuses, manipulation, and inequities in the existing statute.

Consequently, the purpose of this measure is to amend the definitions of "qualified resident" to include any "household members."

Testimony was received from the City and County of Honolulu's Department of Housing and Community Development in support of the bill. The HFDC also supported the bill and proposed language for defining "household members."

Upon careful consideration, your Committee amended the bill by incorporating a definition for "household member."

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1884, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1884, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hamakawa, Kawakami and Stegmaier.

SCRep. 714 Hawaiian Affairs and Housing on H.B. No. 1994

The purpose of this bill is to allow the ex-officio voting members of the Hawaii Housing Authority to send their appropriate designee in the event of their excused absences. The bill proposes to allow the Director of Human Services and the Special Assistant for Housing to allow their designee to be ex-officio voting members.

Oral testimony was received in support of the bill from the Housing Finance and Development Corporation.

Your Committee recognized that the amendments included in the bill will facilitate the efficiency of the operation and allow for quorum to conduct business. It agreed to pass this bill unamended.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1994 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 Stegmaier.

SCRep. 715 Water and Land Use Planning on H.B. No. 2323

The purpose of this bill is to reduce the time and cost of the county land use approval process by providing the counties with increased authority to administratively make minor zoning changes.

Currently, counties may administratively make nonsignificant changes to zoning boundaries, provided that:

- (1) The county adopts an ordinance permitting such changes;
- (2) The zoning change does not result in a change in zoning designation affecting more than 5 percent or one acre of any parcel, whichever is less; and
- (3) The zoning change is in compliance with the general plan and development plan designation.

In supporting this bill, the City and County of Honolulu's Department of Land Utilization indicated that the law is too restrictive, and that it is not necessary to subject these types of land use adjustments to detailed conditions. The County of Hawaii's Planning Department noted that very few applicants can now take advantage of the administrative procedure because of the difficulty in meeting the requirements.

Additional testimony included Hawaii's Thousand Friends which opposed this bill and a concerned citizen who offered comments.

After reviewing the testimony, your Committee has amended this bill by:

- (1) Restoring the requirement that a minor zoning change must comply with the general plan and development plan designation for the property;
- (2) Requiring the county to provide, by ordinance, a definition for "minor zoning change;" and
- (3) Making technical, nonsubstantive revisions to correct drafting errors.

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. 2323, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2323, H.D. 2.

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

SCRep. 716 Consumer Protection and Commerce on H.B. No. 554

The purpose of this bill is to allow depository financial services loan companies to invest its own assets in securities issued by diversified investment management companies, commonly known as diversified mutual funds.

More specifically, the bill, among other things would:

- (1) Permit these loan companies to invest its assets only in diversified mutual funds that have been in existence for at least five years; and
- (2) Limit the aggregate amount that these loan companies may invest in any one diversified mutual fund to twenty percent of the loan company's capital and surplus.

Currently, the law allows depository financial services loan companies to, among other things, invest its assets directly in notes, bonds, and other obligations of any corporation. Diversified mutual funds are an indirect means to invest in notes and bonds, and are regulated by the Investment Company Act of 1940 and the Securities and Exchange Commission.

In its testimony supporting the bill, the Hawaii Financial Services Association stated that the inclusion of diversified mutual funds in the types of investments that depository financial services loan companies may engage in will enable the smaller loan companies to have a more diverse portfolio under professional management.

The Division of Financial Institutions of the Department of Commerce and Consumer Affairs stated in its testimony that it took no position on the measure.

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. 554 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 Hamakawa, Hiraki and Tom.

SCRep. 717 Consumer Protection and Commerce on H.B. No. 775

The purpose of this bill is to adopt the Uniform Management of Institutional Funds Act (UMIFA). This bill clarifies legal issues and restrictions concerning endowment funds by providing guidelines for the management, investment, and expenditure of endowment funds of educational, religious, and charitable organizations.

The State Attorney General testified in support of this bill. This bill would give institutional investors flexibility in choosing investments by permitting them to use the "total return" concept in investment strategy. This investment strategy allows fund managers to invest in assets with small current payout but with long term appreciation potential. This added flexibility through the adoption of the UMIFA should operate to minimize the market's cyclical effect on institutional investments.

Favorable testimony was also received from the Hawai'i Community Foundation (Foundation). According to the Foundation, the passage of this measure will ensure the continuation of its philanthropic mission by preserving its charitable endowment over time and permitting the increase of grant making levels. Charitable needs are better served by moving toward "total return" endowment management which takes into consideration the total growth in an endowment's market value as measured against inflation. Without the ability to utilize the "total return" investment strategy, the Foundation's ability to maximize the growth of its resources is hindered and may jeopardize its ability to attract and keep donors.

Your Committee recognizes that the use of the "total return" concept will allow grant making organizations such as the Foundation to continue their laudable efforts in supporting the organizations and communities they serve. Further, we agree that the passage of this bill will enhance the ability of grant making organizations to manage their assets and enable them to maximize their resources to produce the greatest long term benefit to their beneficiaries, the people of Hawaii.

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. 775 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, Tom, Meyer and Thielen.

SCRep. 718 Consumer Protection and Commerce on H.B. No. 866

The purpose of this bill is to clarify which provisions of the Hawaii Revised Statutes apply to association captive insurance companies.

This measure refines the scope of insurance laws of the State which would apply to group captives, consistent with the National Association of Insurance Commissioners' model laws accreditation package for the financial and regulatory oversight of group captives, primarily risk retention groups. Because of the differences between captive insurers and commercial insurers, statutes intended to protect the insureds and consumers from decisions made by the owners in a commercial insurer are not necessary for a captive insurer.

Your Committee received supportive testimony from the Insurance Commissioner, 50th State Risk Management Services, Inc., M & M Insurance Management Services, Inc., Sedgwick Management Services, Ltd., Johnson & Higgins Services, Inc., Alexander Insurance Managers, and the Hawaii Captive Insurance Council Corporation. Your Committee agrees that this legislation provides for the effective regulation of association captive insurance companies.

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. 866 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 Yoshinaga, Hiraki and Tom.

SCRep. 719 Consumer Protection and Commerce on H.B. No. 868

The purpose of this bill is to repeal the requirement for the board of directors of an association of apartment owners to provide upon all official proxy forms a box wherein the owners may indicate that the owner wishes to obtain a summary of the annual audit report.

Currently, the law requires boards of associations to provide on all official proxy forms a box in which owners may indicate whether the owner wishes to obtain a copy of a summary of the annual audit report or a copy of the annual audit report.

Your Committee received testimony from a Certified Public Accountant stating that there is no definition of "summary" of audit reports in the accounting literature. Apparently, this has resulted in portions of audit reports not being distributed to the owners. This means that there have been instances in which owners have received only part of the audit, which is contrary to the standards of the American Institute of CPAs, and may mislead owners regarding the finances of their association.

Under the provisions of this measure, the board of directors of an association of apartment owners will still be required to provide on all official proxy forms, a box where owners may indicate the owner's wish to obtain a copy of the annual audit report.

In addition to the Certified Public Accountant, the Hawaii Council of Association of Apartment Owners and the Hawaii Independent Condominium and Cooperative Owners also submitted testimony in support of the measure.

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. 868 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, Swain and Tom.

SCRep. 720 Consumer Protection and Commerce on H.B. No. 1938

The purpose of this bill is to repeal the drop dead date provision of the mandatory continuing education ("MCE") requirement for real estate licensees, thereby making the requirement permanent.

The Real Estate Commission ("Commission") and the Department of Commerce and Consumer Affairs ("DCCA") testified in strong support of this bill. The Commission indicated that MCE legislation was originally enacted in 1987 to address the consumer protection needs of the real estate industry. Studies completed prior to the enactment of this legislation indicated that the industry needed some kind of mechanism with which to ensure professional competence.

Favorable testimonies were also received from the Hawai'i Civil Rights Commission, the Honolulu Board of Realtors, Hawaii Association of Realtors, realtors, and consumers.

Your Committee agrees that due to the complex and changing nature of the real estate industry, there is a need to continue the MCE requirement for real estate licensees.

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. 1938 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 721 Consumer Protection and Commerce on H.B. No. 863

The purpose of this bill is to define homeowner associations (HOAs) and establish standards for their operations.

This measure establishes basic self-governance provisions for those HOAs which are neither condominiums nor cooperatives. Currently, HOAs operate under the non-profit corporations statute. That statute is not specifically intended nor adapted to apply to multifamily housing.

Testimony in support of the measure was received from the Community Associations Institute, Hawaii Chapter, and the Waikoloa Village Association.

Your Committee made the following amendments to the measure:

- (1) Changed the phrase that referred to a "substantiated claim" to refer instead to the "successful party."
- (2) Provided definitions for "successful party" and "good faith effort."

- (3) Clarified the language in section 4(f) to provide that a board member shall not be allowed to vote at any board meeting on any issue in which the board member has a conflict of interest.
- (4) Provided an exemption for employee personnel files and association documents protected by attorney-client privilege from the requirement of disclosure to members.
- (5) Other technical, non-substantive amendments for the purposes of style, clarity, and consistency.

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. 863, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 863, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki and Tom.
(Representative Meyer voted no.)

SCRep. 722 Consumer Protection and Commerce on H.B. No. 1072

The purpose of this bill is to specify that insurance transactions that otherwise are permitted under the insurance laws are not permitted if done in a manner that constitutes unfair methods of competition or unfair and deceptive acts.

The Hawaii Trial Lawyers Association and a concerned citizen submitted testimony in support of this bill. The Hawaii Insurers Council and State Farm Insurance Company opposed the bill. The Insurance Commissioner submitted comments reflecting concerns that the bill creates inconsistencies with other provisions of the Insurance Code.

Your Committee made the following amendments:

- (1) Changed the language of the bill so that it does not contradict what is currently provided in Section 431:1-104, Hawaii Revised Statutes.
- (2) Added a provision that clarifies that while Section 431:1-104 states that provisions of the Insurance Code relating to a particular class of insurance prevail over provisions relating to insurance in general, it was not intended to override statutes which protect the basic rights of all consumers of goods and services.

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. 1072, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1072, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Yoshinaga, Hiraki and Tom.

SCRep. 723 Consumer Protection and Commerce on H.B. No. 160

The purpose of this bill is to provide flexibility in titles of officers in nonprofit corporations by expanding the titles of officers of nonprofit corporations to include chair, vice-chair, and similar terms.

Currently, the law requires officers of nonprofit corporations to use titles such as president and vice-president. Apparently, some nonprofit corporations are not in compliance with the official designations allowed by statute, as they use titles such as chair and vice-chair.

The Kona-Kohala Chamber of Commerce stated in its testimony supporting the bill, that the Department of Commerce and Consumer Affairs did not accept the titles of chair and vice-chair for its officers in the Chamber's latest filing with the Department.

The Hawaii Hotel Association and the Chamber of Commerce of Hawaii also submitted testimony in support of the measure. The Business Registration Division of the Department of Commerce and Consumer Affairs submitted comments on 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. 160 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, Hiraki, Swain Tom and White.

SCRep. 724 Consumer Protection and Commerce on H.B. No. 556

The purpose of this bill is to authorize financial services loan companies to charge fees on an annual basis and whenever open-end credit is extended over the credit limit.

Your Committee received supportive testimony from the Hawaii Financial Services Association, Inc. and testimony from the Commissioner of Financial Institutions (Commissioner). The Commissioner testified that these charges were allowed under previous law, and inadvertently omitted during the recodification process.

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. 556 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, Tom, Meyer and Thielen.

SCRep. 725 Consumer Protection and Commerce on H.B. No. 871

The purpose of this bill is to provide a cost efficient, fair, and equitable method by which time share associations may collect unpaid assessments from delinquent time share owners by, among other things:

- (1) Establishing the assessments by time share associations as lien on the time share intervals of delinquent owners; and
- (2) Providing these associations with the authority to collect unpaid assessments liens by utilizing similar foreclosure procedures provided in the Mortgage Foreclosures law.

Currently, many time share plan documents permit enforcement of unpaid assessment liens by power of sale. However, without the statutory authority contained in this measure, it is questionable whether the unpaid assessments will create liens against the property interests of time share intervals.

As a result, the assessment liens provided for in time share plans may not attach to the property interests of time share intervals. That is, the liens will remain only contractual obligations of the delinquent owners. Consequently, various title insurance underwriters are not willing to insure the titles of time share intervals that are sold at public auctions by time share associations exercising the power of sale provisions contained in the time share plan documents.

This bill would provide time share associations with a much needed tool which is both an efficient and relatively inexpensive remedy for the collection of unpaid assessments that title insurance underwriters find acceptable for the purpose of issuing title insurance policies. At the same time, individual time share owners are protected from the taking of their property interest without adequate notice by the provisions and procedures contained in the Mortgage Foreclosures law.

Testimony in support of this bill was received from the American Resort Development Association, Hawaii Chapter; Kuleana Club AIO; Colony Hotels and Resorts; an attorney representing numerous entities which are active in the time share industry; and a concerned citizen. The Department of Commerce and Consumer Affairs submitted testimony in opposition to this measure.

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. 871 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, Swain and Tom.

SCRep. 726 Consumer Protection and Commerce on H.B. No. 872

The purpose of this bill is to strengthen Hawaii's competitive position with other U.S. domiciles with captive insurance laws.

The bill expands the scope of allowable coverages which captive insurance companies may write for their parent companies or organizations. The bill also allows an entity to form a captive insurance company as a reciprocal insurer.

Your Committee received supportive testimony from 50th State Risk Management Services, Inc., Hawaii Captive Insurance Council Corporation, M & M Insurance Management Services, Inc., Sedgwick Management Services, Ltd., Johnson & Higgins Services, Inc., and Alexander Insurance Managers.

Your Committee agrees that by passing this legislation, Hawaii will continue to be competitive in the captive insurance marketplace.

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. 872 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 Yoshinaga, Hiraki and Tom.

SCRep. 727 Consumer Protection and Commerce on H.B. No. 1244

The purpose of this bill is to make permanent the regulation of activity providers and activity desks by repealing the sunset date.

Your Committee received testimony stating that prior to the establishment of the regulations regarding activity providers and activity desks, the activity industry experienced many problems because of the number of unscrupulous companies in the industry. This negatively affected the state's largest industry, tourism. According to testimony submitted to your Committee, these regulations have proven to be very effective in keeping unscrupulous operators out of the industry, thereby ensuring the protection of the consumers, many of whom are visitors, and the reputable companies in the industry.

Testimony in support of the bill was received from the Department of Commerce and Consumer Affairs, Frogman Charters, Activity Owners Association of Hawaii, Gemini Charters, Maui Downhill, and Hinatea Sportfishing. Fantasy Islands Activities and Tours, Inc. submitted comments on the measure.

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. 1244 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, Herkes, Hiraki, Swain, Tom and White.

SCRep. 728 Consumer Protection and Commerce on H.B. No. 1282

The purpose of this bill is to clarify the procedures relating to the handling of claims involving cashier's, teller's, and certified checks that are claimed to have been lost, stolen, or destroyed.

This bill proposes to accomplish this by allowing a person to assert a claim for the amount of a cashier's, teller's, or certified check by a communication to the issuer of the cashier's or teller's check, or the acceptor of a certified check, describing the check with reasonable certainty, and if:

- (1) The person, in the case of a certified check, is the drawer or payee, or in the case of a cashier's or teller's check, is the remitter or payee;
- (2) The communication contains or is accompanied by a statement that states the following:
 - (A) The person lost possession of the check;
 - (B) The person, in the case of a certified check, is the drawer or payee of the check, or in the case of a cashier's or teller's check, the remitter or payee of the check;
 - (C) The loss of possession was not the result of a transfer by the declarer or a lawful seizure; and
 - (D) The person cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person.

The bill also establishes procedures for these types of claims and provides protection to financial institutions with respect to the enforcement of claims.

Currently, the only procedures available to claimants of these types of checks are limited in that the only person who is deemed to have the rights of a claimant is the named payee of the check. In the event that the maker of a check becomes aware of a loss, the maker does not have the authority to assert a claim.

Testimony in support of this measure was submitted by Hawaii's Committee to Promote Uniform Legislation and the Hawaii Bankers Association.

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. 1282 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, Tom, Meyer and Thielen.

SCRep. 729 Consumer Protection and Commerce on H.B. No. 1930

The purpose of this bill is to make a technical amendment relating to a consent order of removal or prohibition for any financial institution-affiliated party.

This administrative measure makes a technical correction to section 412:2-309, Hawaii Revised Statutes, which was enacted as part of Act 350, 1993 SLH. The measure adds one word that was included in the original version of the 1993 bill but was inadvertently lost. This measure corrects the error without amending the intent of Act 350, 1993 SLH.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

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. 1930 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 730 Consumer Protection and Commerce on H.B. No. 1932

The purpose of this bill is to provide the Commissioner of Financial Institutions (Commissioner) with some flexibility when an incorrect report is submitted by a financial institution.

This administrative measure would give the Commissioner the discretion, for good cause shown, to grant a reasonable extension of time for making and filing such report.

The Department of Commerce and Consumer Affairs submitted testimony in support of this 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. 1932 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 731 Consumer Protection and Commerce on H.B. No. 193

The purpose of this bill is to require the prior written approval of the Commissioner of Financial Institutions for any proposed changes to a credit union's field of membership.

This bill would grant the Commissioner of Financial Institutions the same authority over state chartered credit union fields of membership as exercised by the National Credit Union Administration over federally chartered credit unions.

Testimony in support of this bill was submitted by the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. The Hawaii Credit Union League submitted comments on this measure.

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. 1936 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 732 Consumer Protection and Commerce on H.B. No. 2005

The purpose of this bill is to clarify and streamline the recordation process within the Bureau of Conveyances.

The Bureau of Conveyances (Bureau) records over 300,000 documents annually and has collected over \$17 million in Fiscal Year 1993-94 for various fees and services. The work is highly labor-intensive, tedious, and time-consuming. To ensure compliance with many statutory requirements, the Bureau's personnel must carefully scrutinize each document. The provisions in this measure will help streamline the recordation process. Terms unique to the recordation process have been defined to prevent confusion or ambiguity. Specific requirements have been provided to standardize document submittals and increase staff efficiency.

The Department of Land and Natural Resources submitted testimony in support of this measure.

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. 2005 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 733 Consumer Protection and Commerce on H.B. No. 56

The purpose of this bill is to repeal the provisions contained in Section 445-23, Hawaii Revised Statutes, which prohibit the holding of auctions during certain periods. The bill also amends Section 199-7, Hawaii Revised Statutes, to provide that auctions be held not less than once every year.

The Department of Land and Natural Resources (DLNR) testified in support of the intent of the bill but requested that the bill be amended.

Your Committee agrees that the new language in the bill would force the DLNR to hold auctions even if the cost of the auction is more than the value of the items available for auction and that this is contrary to the DLNR's intent. Accordingly, the bill has been amended as recommended by the DLNR and the words "not less than" on page 2, line 21 of the bill have been deleted.

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. 56 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 56, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Swain, Tom and White.

SCRep. 734 Consumer Protection and Commerce on H.B. No. 867

The purpose of this bill is to afford the board of directors of a condominium association (board) greater flexibility in budgeting by allowing them to exceed their budget for unforeseen expenses.

In the current law, there are four emergency situations in which a board may exceed its budget. However, none of the defined situations will allow a board to exceed its budget to pay greatly increased insurance premiums unless the board goes to court. Condominium associations have faced huge increases in insurance premiums for buildings which lost coverage because their carriers left the State or refused to renew policies in the aftermath of Hurricane Iniki. Unfortunately, an insurance-related emergency situation was not contemplated when the current law was adopted.

Your Committee received supportive testimony from the Community Associations Institute, Hawaii Chapter, and the Hawaii Council of Association of Apartment Owners. The Hawaii Independent Condominium & Cooperative Owners (HICCO) opposed the measure on the basis that the language of the bill would give boards unlimited power to alter their budgets. Your Committee agrees with HICCO and accordingly, has amended the measure to include in the definition of "emergency situation" extraordinary expenses "[n]ecessary for the association to obtain adequate insurance for the property which the association must insure."

Technical, non-substantive changes for purposes of style, clarity, and consistency were also 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. 867, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 867, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Swain and Tom.

SCRep. 735 Consumer Protection and Commerce on H.B. No. 994

The purpose of this bill, as received by your Committee, is to clarify ambiguous language in the Mandatory Seller Disclosures in Real Estate Transactions law by, among other things:

- (1) Requiring that any action for rescission brought under the aforementioned law, commence prior to the recorded sale of the real property; and
- (2) Clarifying that the seller's duty to amend the disclosure statement with respect to subsequent acts that affect the accuracy of the initial statement applies only if the seller discovers the inaccuracy prior to the recorded sale of the real property.

This bill would ensure that the disclosure law does not unintentionally invite attempts to reverse real estate transactions after all documents have been recorded, financing has been extended, title and property insurance are in place, and replacement property is identified and purchased.

The bill would also clarify that sellers do not have a duty to monitor properties for modifications that affect material facts after ownership has changed hands. Otherwise, no sale could really be considered final for two full years after closing, and the seller may encounter legal complications twenty-four months after the sale of the real property.

Testimony in support of the bill was submitted by the Real Estate Commission and the Hawaii Association of Realtors. The Hawaii Resort Developers Conference submitted comments on the measure.

After carefully considering the merits of the bill and the testimony submitted, your Committee has amended the measure by:

- (1) Including language clarifying that the initial sale of new condominiums are exempt from the requirements of the Mandatory Seller Disclosures in Real Estate Transactions law. As this law is primarily directed at resales, this clarification would seem appropriate; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 994, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 994, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 736 Consumer Protection and Commerce on H.B. No. 1281

The purpose of this bill is to define and describe direct and immediate supervision for an electrician trainee and apprentice and to clarify certain definitions in the law.

The bill defines "trainee" and "apprentice" similarly such that both will be in a registered apprenticeship program with the Department of Labor and Industrial Relations (DLIR). Moreover, the bill defines "apprentice" to conform the Department of Commerce and Consumer Affairs' definition with the DLIR's definition. The bill also sets forth a definition of "trainee" to insure that companies will not abuse the law by classifying unskilled workers as trainees in order to use low wage unskilled workers on government jobs. Furthermore, the bill defines "direct and immediate supervision" to insure close expert oversight of work done by novices.

Testimony in support of the measure was submitted by the International Brotherhood of Electrical Workers. The Board of Electricians and Plumbers and the Plumbing & Mechanical Contractors Association of Hawaii submitted testimony in opposition. Concerns were expressed about "direct and immediate" supervision not being needed for all levels of apprentices and trainees.

However, your Committee believes that this measure will promote consumer safety by insuring that those electricians with less experience will be adequately supervised on the job sites.

Your Committee made a few technical, non-substantive changes for purposes of style, clarity, and consistency.

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. 1281, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1281, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Swain and Tom.
(Representative Yamane voted no.)

SCRep. 737 Consumer Protection and Commerce on H.B. No. 1376

The purpose of this bill is to allow state-chartered financial institutions to invest in low-income housing tax credit equity funds and projects, thereby allowing state-chartered banks the same investment abilities as nationally-chartered institutions.

The measure amends the permitted investments portions of Chapter 412, Hawaii Revised Statutes, to permit Hawaii's state-chartered financial institutions to invest in low income rental housing partnerships without the Commissioner of Financial Institutions' approval as now required.

Testimony in support of this measure was submitted by the Hawaii Community Reinvestment Corporation. Testimony was also submitted by the Commissioner of Financial Institutions (Commissioner).

The Commissioner informed your Committee that to bring the measure into conformance with federal law, amendments should be adopted to provide for the following:

- (1) Investments in limited partnerships should be limited in an individual project to two percent of the bank's capital and surplus and in the aggregate to five percent of the bank's capital and surplus unless approved by the Commissioner; and
- (2) Even with the approval of the Commissioner, aggregate investments should not exceed ten percent of the bank's capital and surplus.

Accordingly, your Committee is in agreement with the proposed amendments of the Commissioner. This measure will streamline the process, shorten the development timeframe, reduce the Commissioner's workload, and place state-chartered institutions on a par with national banks.

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. 1376, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1376, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Tom, Meyer and Thielen.

SCRep. 738 Consumer Protection and Commerce on H.B. No. 2204

The purpose of this bill is to add to the exemptions from usury law any mortgage loan secured by, among other things, the Small Business Act, and the Small Business Investment Act.

This measure adds loan transactions regulated federally by the U.S. Small Business Administration (SBA) to those loans which are exempted from the provisions of Chapter 478, Hawaii Revised Statutes. The measure will provide small business owners greater access to affordable SBA guaranteed loans and will allow lenders to continue to participate in these programs in a fluctuating interest rate economy. Because the SBA often requires a second position mortgage on a personal residence as additional collateral for the loan, many of the loans which might otherwise be made are not possible, due to the 12% cap on interest rates for "home business loans." This measure would exclude such loans, still carefully regulated by the SBA, from that cap.

Your Committee received testimony in support of the bill from The Money Store Investment Corporation, through their Assistant Corporate Counsel.

The bill was amended to add the word "transaction" to insure that the increasing percentage of SBA loans made with companion financing and through the Section 504 program are also exempt from the usury ceiling. Both types of loan transactions involve an unguaranteed mortgage provided in conjunction with an SBA guaranteed loan.

Due to funding problems within the SBA, lenders must use companion financing and the Section 504 program in order to meet the needs of the small business borrower. In both the companion and Section 504 transactions, the two loans are legally inseparable and dependent upon each other, and the entire transaction is subject to the review and approval of the SBA. It is your Committee's intent that Hawaii's small businesses have full access to federally guaranteed SBA financing, and that both loans in these transactions are exempt from the usury statute.

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. 2204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2204, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Swain, Tom and White.

SCRep. 739**Consumer Protection and Commerce on H.B. No. 555**

The purpose of this bill is to delete the current state requirements which are in conflict with current federal regulatory requirements for appraisals.

The measure seeks to repeal Section 412:9-406, Hawaii Revised Statutes, which deals with the requirement of appraisals or the use of recent real property tax assessment values under certain specific situations for any loans and extensions of credit secured by real property made by depository financial services loan companies (FSLCs).

Testimony in support of the measure was submitted by the Hawaii Financial Services Association, Inc. (HFSA). When the Code of Financial Institutions (Code) was enacted in 1992, language on state requirements was included to track with federal regulatory requirements for appraisals. At that time the Federal Deposit Insurance Corporation and other federal regulatory agencies required appraisals for real estate secured loans over \$100,000. Since then, the regulatory agencies changed their requirements. The federal agencies conducted studies and found there was no risk to safety and soundness by raising the threshold approval level for one to four family homes to \$250,000. They determined that by holding to the lower \$100,000 level, they were unnecessarily increasing costs to consumers seeking mortgages on residential property. The HFSA also informed your Committee that because of the new regulatory requirements, all depository FSLCs are required to follow federal regulations and, therefore, the other requirements stated in Section 412:9-406 should be repealed.

The Commissioner of Financial Institutions (Commissioner) submitted comments about this measure. The Commissioner testified that deletion of the appraisal requirement would allow FSLCs an advantage over other institutions without the diversification of risk necessary to maintain safety and soundness. Your Committee was informed that Article 9 of the Code gives FSLCs more liberal lending limits under certain conditions, such as the appraisal requirement which existed in law prior to the Code. Other institutions are limited to lending based on 20% of capital and surplus, while FSLCs are allowed to lend up to 100% of capital and surplus under conditions set forth in Article 9. Further, the Commissioner testified that other parts of Article 9 rely on the appraisal section and deletion of the section would not adequately deal with these aspects.

Based upon the testimony presented, your Committee has amended the bill to raise the threshold approval level from \$100,000 to \$250,000 so as to reduce the cost of borrowing for consumers.

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. 555, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 555, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Tom, Meyer and Thielen.

SCRep. 740**Consumer Protection and Commerce on H.B. No. 873**

The purpose of this bill is to amend Chapter 508D, Hawaii Revised Statutes, relating to mandatory disclosures in real estate transactions. The bill provides an exemption for the initial sale of time share interests under a current disclosure statement to the law that requires sellers to disclose material facts in real estate transactions.

Currently, the initial sales of condominium apartments under an unexpired public report are exempt from the provisions of Chapter 508D, Hawaii Revised Statutes, because these sales are already covered under a separate, comprehensive section of the Hawaii Revised Statutes. This bill will add initial sales of time share interests under a current disclosure statement to the list of exemptions.

Favorable testimony was received from Colony Hotels & Resorts. The Hawaii State Bar Association (HSBA) suggested deferring the effective date of the measure and testified that extensive amendments to the disclosure law need to be made to address technical flaws in the law. The Department of Commerce and Consumer Affairs testified that after the initial sale, all subsequent sales would be subject to the mandatory disclosure requirement under Chapter 508D. This requirement would duplicate the disclosure statement requirement under the current time share law.

After carefully considering the merits of the bill and the testimony submitted, your Committee has amended the measure as follows:

- (1) Changed the language of the proposed new subsection to refer to time share interests duly registered under a current effective disclosure statement pursuant to Chapter 514E;
- (2) Changed the effective date of the measure to July 1, 1996;
- (3) Changed the effective date of the other provisions of Chapter 508D to July 1, 1996; and
- (4) Made technical, non-substantive amendments for purposes of style, clarity, and consistency.

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. 873, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 873, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Swain and Tom.

SCRep. 741**Consumer Protection and Commerce on H.B. No. 1186**

The purpose of this bill, as received by your Committee, is to require public utilities to inform the public of the necessary procedures needed to file a claim with a public utility for damages incurred as a result of any utility's power or communication outage.

Currently, the electric companies in the state are required by the Public Utilities Commission to notify their customers of the relevant procedures necessary to file claims for damages incurred as a result of the company's power outage. However, there is no such requirement for other public utilities such as the telephone company. Since outages have potentially serious consequences to the health, safety, social convenience, and economic vitality of the community, the proposals contained in this bill appear appropriate.

Testimony in support of the bill was submitted by the Consumer Advocacy Division in the Department of Commerce and Consumer Affairs. GTE Hawaiian Telephone Incorporated and the Hawaiian Electric Company submitted comments on this measure.

After carefully considering the merits of the bill and the testimony submitted, your Committee has amended the measure by:

- (1) Clarifying that public utilities are required to notify customers of the procedures to file claims for damages;
- (2) Clarifying that public utilities must inform customers semiannually of these procedures;
- (3) Deleting language that limits claims to damages incurred as a result of power or communications outage. This will ensure that other utilities will have a responsibility to notify customers as to the process for filing claims for damages; and
- (4) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 1186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1186, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Tom, Meyer and Thielen.

SCRep. 742**Consumer Protection and Commerce on H.B. No. 1331**

The purpose of this bill is to:

- 1) Repeal the continued competency examination for electricians licensed after June 30, 1996;
- 2) Add a requirement that a continued competency course must be completed within twelve months prior to renewal of a license; and
- 3) Allow other providers approved by the Board of Electricians and Plumbers (Board) to give a continued competency course.

Testimony in support of this measure was submitted by the International Brotherhood of Electrical Workers. The Board submitted comments regarding its concerns with this measure. The Board informed your Committee that it is promulgating rules clarifying when the continued competency course must be completed. The rules will identify the effective code update year and allow the licensee sufficient time to complete the course and renew his or her license.

Your Committee amended the measure to keep the examination requirement in place and to delete the requirement that the continued competency course must be completed within twelve months prior to renewal. Your Committee notes that the purpose of continued education and testing is to maintain the quality of services delivered to the general 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. 1331, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1331, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Swain and Tom.

SCRep. 743**Consumer Protection and Commerce on H.B. No. 1927**

This bill is primarily a housekeeping measure to clean up minor inconsistencies between corporate and partnership statutes and to clarify and correct certain corporate and partnership provisions.

In the partnership statutes, a provision is added to clarify the ministerial duties of the Department of Commerce and Consumer Affairs and to provide for correction of errors consistent with the corporations law.

The corporate statutes are amended to clarify the purposes and merger provisions. In the Hawaii Nonprofit Corporation Act, redundant statements are removed from the Articles of Dissolution. In the Professional Corporation Act, chapter 463 is added to the definition of professional services, having been inadvertently left out.

In the limited partnership statutes, corrections are made to references in annual statements and a correction is made to the name of a document in the fee provision. Additionally, the service of process provision is deleted in the registration statement.

Your Committee finds that these corrections and clarifications will help the Department of Commerce and Consumer Affairs operate in a more efficient manner in handling documents relating to corporations and partnerships.

Your Committee has made a few technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1927, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1927, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hamakawa, Hiraki, Tom, White and Thielen.

SCRep. 744 Consumer Protection and Commerce on H.B. No. 1951

The purpose of this bill is to ensure that consumers are informed of their right to participate in the public hearing process whenever a utility has proposed a rate increase.

The bill accomplishes this goal by:

- (1) Enlarging the time for notice by a utility requesting a rate increase to its customers from seven to thirty days; and
- (2) Requiring that the utility use common everyday language in its notice.

The Division of Consumer Advocacy, Department of Commerce and Consumer Affairs, and the American Association of Retired Persons submitted testimony in support of this bill.

Your Committee adopted the recommendation of the Division of Consumer Advocacy, by amending the bill to require direct notice by mail of the public hearing and the proposed changes in rates. This direct mailing will ensure that the utility has taken reasonable steps to inform its consumers of their right to participate in the public hearing process.

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. 1951, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1951, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Hiraki, Tom and Thielen.

SCRep. 745 Consumer Protection and Commerce on H.B. No. 371

The purpose of this bill is to enhance the protection of consumers against unlicensed pest control operators by:

- (1) Requiring persons who advertise to perform pest control services to list the applicable and current license numbers in all advertisements; and
- (2) Requiring the termination of telephone service to the telephone number listed in the advertisement, if the advertisement violates the aforementioned listing requirement.

Without the protection proposed in this bill, there is the possibility that an individual may place an advertisement to perform pest control services in the yellow pages even though the person is not licensed. Once the yellow pages are released, that ad may be circulating in the public for up to one year.

Testimony in support of this measure was submitted by the Pest Control Board and the Hawaii Pest Control Association.

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

Signed by all members of the Committee except Representatives Hiraki, Swain, Tom and White.

SCRep. 746 Consumer Protection and Commerce on H.B. No. 860

The purpose of this bill is to change the approval requirement for amendments to cooperative housing corporation bylaws from being based on the number of shareholders to the number of shares.

Currently, many cooperative housing corporations issue shares based on the percentage of the whole project a person owns. For example, a shareholder may own a large apartment and have more shares to reflect the shareholder's larger share of the project than someone who owns a smaller apartment. This way, obligation to pay common assessments are

based on the number of shares a shareholder owns. In addition to assessments, this bill would base voting on the number of shares a shareholder owns.

In its testimony supporting this bill, the Condominium and Cooperative Committee of the Real Property and Finance Section of the Hawaii State Bar Association stated that it believes that the proposals in this bill will be more equitable and avoid potential constitutional questions about depriving shareholders of voting rights. The Community Associations Institute, Hawaii Chapter also submitted testimony in support of the measure. The Hawaii Council of Association of Apartment Owners expressed no objections to the bill. The Business Registration Division of the Department of Commerce and Consumer Affairs stated in its testimony that it took no position on the measure.

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. 860 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, Swain and Tom.

SCRep. 747 Consumer Protection and Commerce on H.B. No. 1929

The purpose of this bill is to make a technical amendment relating to the definition of capital of a financial institution.

This administrative measure makes a technical correction to the definition of capital of a financial institution as stated in section 412:1-109, Hawaii Revised Statutes, which was enacted as part of Act 350, 1993 SLH. The measure clarifies the words "mutual association" by adding the words "savings and loan" without changing the intent of Act 350, 1993 SLH.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

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. 1929 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 748 Ocean Recreation and Marine Resources; Water and Land Use Planning; and Energy and Environmental Protection on H.B. No. 1829

The purpose of this bill is to strengthen coastal zone management to ensure that coastal resources are protected, coastal hazards are mitigated, nonpoint source pollution is reduced, and development is more appropriately designed and located.

Specifically, this bill:

- (1) Combines all definitions from the three parts of the Coastal Zone Management law into one section in Part I;
- (2) Amends certain definitions to clarify the intent and purpose of the entire chapter; and
- (3) Improves coastal zone management objectives, policies, and guidelines to reflect contemporary coastal issues by:
 - (a) Including provisions on recreational resources and policies, cultural resources, and coastal high hazard areas;
 - (b) Indicating that wetlands are valuable ecosystems; and
 - (c) Compiling relevant existing policies and adding a new objective and policy regarding water quality.

Testimony in support of this measure was received from the Office of State Planning, the University of Hawaii Environmental Center, the Natural Resources Defense Council, the Sierra Club Hawaii Chapter, and citizens.

Your Committees recognize that the reforms to the Coastal Zone Management law presented in this bill are necessary to ensure protection of the State's coastal areas. The strengthening of coastal zone management responsibilities incorporated in this measure reflects the recognition of coastal zone significance to the state and the experiences of two decades. Furthermore, these amendments to the Coastal Zone Management law were developed through substantial cooperative effort and agreement from a diverse range of public, private, and non-governmental organizations.

Upon consideration, your Committees have amended this bill by:

- (1) Including segmented projects, that are part of a larger project, to be defined as development;
- (2) Changing the value of an action specified in the definition of "special management area minor permit" and "special management area use permit" from \$165,000 to \$125,000;
- (3) Including the protection of estuaries as an objective and policy of the coastal zone management program; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committees on Ocean Recreation and Marine Resources; 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. 1829, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1829, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kanoho, McMurdo, Takamine and Yoshinaga.

SCRep. 749 Agriculture on H.B. No. 2187

The purpose of this bill is to provide for optimal usage of public lands for livestock purposes.

Specifically, this bill would require the Board of Agriculture (BOA), in considering whether or not to accept a lease offer for livestock leases within agricultural parks, to consider factors such as an applicant's:

- (1) Plan for establishing best management practices and soil conservation; and
- (2) Proven history of effective pasture management.

The Chairperson of the BOA submitted testimony in support of the intent of this measure, provided that the bill does not adversely impact the priorities in its Executive Budget.

Your Committee finds that currently some public lands for pasture use are not being utilized to their fullest potential. It is your Committee's belief that there be more accountability of these public lands to ensure that the state's public resources are being well-utilized. Your Committee also finds that lands for pasture use is under the purview of the Board of Land and Natural Resources (BLNR).

Accordingly, your Committee has amended this bill to require BLNR, rather than BOA, to consider the following factors in deciding whether or not to accept a lease offer for livestock purposes on public lands for pasture use, the applicant's:

- (1) Plan for establishing best management practices and soil conservation; and
- (2) History of effective pasture management.

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. 2187, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2187, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 750 Health on H.B. No. 1096

The purpose of this bill is to establish qualifications for the use of physical therapy assistants.

The intent of this bill was supported by the Department of Education, Hawaii Board of Physical Therapy, American Physical Therapy Association, Hawaii Chapter, and by a practicing physical therapy assistant.

Your Committee agrees the law needs to clarify that licensed physical therapists are permitted to utilize the services of support and auxiliary personnel. In addition, the law needs to clarify that physical therapy assistants may perform only those duties that they are qualified to perform and that they may perform these duties only under the supervision and direction of a physical therapist. By making this clarification in the law, it is not the intent of your Committee to preclude other provider groups from performing their own recognized functions.

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. 1096 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 and Anderson.

SCRep. 751 Consumer Protection and Commerce on H.B. No. 1933

The purpose of this bill is to clarify the requirements of the Code of Financial Institutions as it relates to the Hawaii Business Corporation Act in conversion, merger, or consolidation situations.

This administrative measure clarifies the procedures necessary to convert, merge, or consolidate financial institutions and harmonizes the procedures with the requirements of chapter 415, Hawaii Revised Statutes.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

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. 1933 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 752 Consumer Protection and Commerce on H.B. No. 1934

The purpose of this bill is to correct an erroneous reference to a section of law.

This administrative measure corrects an erroneous reference to a section of law that does not exist which is stated in section 412:4-101, Hawaii Revised Statutes.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

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. 1934 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 753 Consumer Protection and Commerce on H.B. No. 1935

The purpose of this bill is to repeal the prohibition against trust companies to issue drafts.

The provision that prohibits trust companies from issuing drafts could be interpreted to mean that trust companies may not write checks against their checking accounts, as the term "draft" includes checks and the writer of the check is considered the issuer.

This bill would allow trust companies to write checks against their checking accounts.

Testimony in support of this measure was submitted by the Division of Financial Institutions of the Department of Commerce and Consumer Affairs.

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. 1935 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, Hamakawa, Swain, Tom, White and Thielen.

SCRep. 754 Consumer Protection and Commerce on H.B. No. 553

The purpose of this bill is to move the ability of a financial services loan company to collect a non-filing fee from Section 412:9-304 (relating to consumer loan charges) to Section 412:9-200 (relating to general powers) as a housekeeping measure.

A "non-filing fee" is an alternative a financial services loan company (FSLC) can offer its customers to filing a financial statement (UCC-1). This fee was capped at \$4.00 when it was first enacted by the Legislature. At that time, the Bureau of Conveyances charged \$2.00 to record and \$2.00 to file and release a UCC-1. Since then, the same fee has increased to \$20.00 to record and \$20.00 to release a UCC-1.

Supportive testimony was received from the Hawaii Financial Services Association, Inc. The Commissioner of Financial Institutions (Commissioner) opposed the measure as initially drafted because no definition was given for the term "non-filing insurance," it was uncertain whether this type of insurance was available, and it was uncertain whether FSLCs were allowed to sell this type of insurance.

Your Committee agrees with the proposed amendments of the Hawaii Financial Services Association, Inc. The amendments will address the concerns of the Commissioner.

Accordingly, your Committee has deleted "non-filing insurance" from subsection (6) of Section 1 of the bill. Further, subsection (6) of Section 2 of the bill is amended to retain the original language of Section 412:9-304(6) regarding insurance premiums. The insurance premium is increased from \$4.00 to \$20.00.

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. 553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 553, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Tom, Meyer and Thielen.

SCRep. 755 Finance on H.B. No. 44

The purpose of this bill is authorize the issuance of general obligation bonds and to declare that the total amount of principal and interest estimated and calculated for all bonds issued and outstanding will not cause the State's debt limit to be exceeded at the time of issuance.

This bill 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.

The Director of Budget and Finance submitted testimony on 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. 44 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 756 Finance on H.B. No. 920

The purpose of this bill is to authorize the State to implement an owner-controlled insurance program to cover contractors and subcontractors on public works projects.

The Department of Labor and Industrial Relations, the Department of Accounting and General Services, and the Convention Center Authority submitted testimony 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. 920, 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 Marumoto.

SCRep. 757 Finance on H.B. No. 1426

The purpose of this bill is to ensure that interest paid to a person domiciled outside the state will not be subject to general excise tax simply because the issuer chooses to utilize a Hawaii trust company as the trustee and paying agent.

Testimony in support of this bill was submitted by the Department of Taxation and the Hawaiian Trust Company, Ltd. The Tax Foundation of Hawaii submitted comments on 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. 1426 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 758 Finance on H.B. No. 43

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.

The Legislature finds that these factors have been met for the fourteenth consecutive year, and the tax credit established by the 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. 43, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 43, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 759 Finance on H.B. No. 48

The purpose of this bill is to transfer moneys from certain special funds and revolving funds to the general fund as follows:

- (1) Hawaii Historic Preservation Special Fund;
- (2) State Educational Facilities Improvement Special Fund;
- (3) In-Service Training Programs and Activities Revolving Fund;
- (4) Hawaii Public Employees Health Fund;
- (5) Works of Art Special Fund;
- (6) Litigation Settlement Clearance Account;
- (7) Aloha Stadium Special Fund;

- (8) Hawaii Agricultural Development Loan Revolving Fund;
- (9) Industrial Park Special Fund;
- (10) Special Land and Development Fund;
- (11) Aina Hoomalu Special Fund;
- (12) Housing Loan Program Revolving Bond Fund;
- (13) Rental Assistance Revolving Fund;
- (14) Dwelling Unit Revolving Fund;
- (15) Home Revolving Fund;
- (16) Aloha Tower Special Fund;
- (17) Hawaii Capital Loan Revolving Fund;
- (18) Hawaii Strategic Development Corporation Revolving Fund;
- (19) Foreign Trade Zones Special Fund; and
- (20) Employment and Training Fund.

The Department of Budget and Finance supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Deleting the following funds:
 - (a) Hawaii Public Employees Health Fund;
 - (b) Works of Art Special Fund;
 - (c) Special Land and Development Fund;
 - (d) Aina Hoomalu Special Fund;
 - (e) Housing Loan Program Revolving Bond Fund;
 - (f) Rental Assistance Revolving Fund;
 - (g) Dwelling Unit Revolving Fund;
 - (h) Homes Revolving Fund;
 - (i) Aloha Tower Special Fund;
 - (j) Hawaii Strategic Development Corporation Revolving Fund; and
 - (k) Foreign Trade Zones Special Fund; and
- (2) Inserting amounts for the remaining 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 intent and purpose of H.B. No. 48, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 48, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 760 Finance on H.B. No. 1787

The purpose of this bill is to assist residents of the Hilo-Hamakua area, which faces the closure of the Hamakua Sugar Company and the Hilo Coast Processing Corporation by:

- (1) Extending for one year the authorization to expend funds appropriated in the past two years to aid residents of the Hilo-Hamakua area; and
- (2) Making other appropriations for purposes that include supporting agriculture, promoting economic development, re-training displaced sugar workers, supporting the continued use of existing housing, and providing social services.

Testimony in support of the bill was submitted by the Hawaii County Council; the Hamakua Health Center; the Family, Health, and Community Support Task Force; the Rural South Hilo Community Association; the Employment and Training Task Force; the Hilo-Hamakua High Technology Task Force; and several concerned citizens.

Testimony in support of the intent of the bill without endorsing any appropriation was submitted by the Department of Labor and Industrial Relations; the Office of State Planning; the Department of Business, Economic Development, and Tourism; the Department of Health; and the Housing Finance and Development Corporation.

Comments on the bill were submitted by the Aquaculture Project; the Diversified Agriculture Task Force; the Economic Development Task Force; and several concerned citizens.

Your Committee made 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. 1787, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1787, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 761 Finance on H.B. No. 1909

The purpose of this bill is to require that revolving and trust funds be assessed for central service and departmental administrative expenses.

Currently, all special funds, unless specifically exempted, are required to be assessed for two kinds of expenses:

- (1) Central service expenses for which each fund is assessed five percent of all receipts; and
- (2) Departmental administrative expenses for which each fund is assessed its pro rata share.

The Department of Budget and Finance supported this bill. The Housing Finance and Development Corporation, the Department of Commerce and Consumer Affairs, the High Technology Development Corporation, and the Kahoolawe Island Reserve Commission offered comments.

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

- (1) Exempting the Hawaii Hurricane Relief Fund and the Rehabilitation Trust Fund from both the central service and departmental administrative expenses;
- (2) Exempting the Convention Center Capital and Operations Special Fund from the departmental administrative expenses;
- (3) Providing that the assessments may be suspended or limited if they result in the loss of Federal funds or violate constitutional or Federal laws or any covenant of a trust fund;
- (4) Mandating the Director of Finance to adopt rules to suspend or limit the application of the assessments of any fund as a method of determining the revenue base upon which the assessment is to be calculated;
- (5) Requiring annual reports on all departmental administrative expenses assessments and central service assessments; and
- (6) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

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. 1909, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1909, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives M. Oshiro, Marumoto and Ward.

SCRep. 762 Judiciary on H.B. No. 178

The purpose of this bill is to extend the scope of service of process of garnishment to apply to every place of business of the garnishee throughout the State.

Currently, a garnishee is only bound to withhold funds due to a judgment debtor in the circuit or district in which the garnishee is served. As a result, in the case of a multi-island business or a bank, a judgment creditor must determine which statewide office is the appropriate office to withhold funds and then serve the garnishee summons at that location. This often presents a problem for the judgment creditor.

Your Committee finds that communications technology has advanced to the point where service in any circuit or district in which the business has an office should suffice to alert the garnishee to withhold funds.

As affirmed by the record of votes of 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. 178 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 McMurdo, Menor and Yoshinaga.

SCRep. 763 Judiciary on H.B. No. 658

The purpose of this bill is to prohibit the use of voter registration lists for the compilation of the master jury pool list.

The Judiciary testified in opposition to this measure. The League of Women Voters of Honolulu, the American Civil Liberties Union of Hawaii, and Common Cause Hawaii submitted testimony in support of this measure.

Your Committee finds that persons are discouraged from voting if they know doing so will increase their chances for jury selection.

As affirmed by the record of votes of 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. 658 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, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.
(Representative Yamane voted no.)

SCRep. 764 Judiciary on H.B. No. 814

The purpose of this bill is to amend the Uniform Parentage Act by providing for the support and maintenance of an adult or minor child and an incompetent adult child whether or not the application for support is made before or after the child has attained the age of majority.

The Attorney General of the State of Hawaii supports the intent of this measure. The Office of the Corporation Counsel testified in support of this measure.

Your Committee finds that this measure would create consistency between child support in paternity actions and child support in divorce actions.

As affirmed by the record of votes of 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. 814 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 McMurdo and Menor.

SCRep. 765 Judiciary on H.B. No. 1012

The purpose of this bill is to amend the offense of harassment to require repeated anonymous, inconvenient, or offensive communications, instead of a single communication.

Testimony in support of this measure was received from the Office of the Prosecuting Attorney of the City and County of Honolulu, the Office of the Public Defender and Parents and Children Together.

Your Committee finds that Hawaii Revised Statutes (HRS) §711-1106(d) is overbroad with respect to imposing criminal culpability for an anonymous communication. Presently, an anonymous communication inadvertently directed to an unintended party comes within the ambit of the statute. This bill addresses the problem by requiring that there must be repeated anonymous communications to justify a harassment prosecution pursuant to HRS §711-1106(d).

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1012 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, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.

SCRep. 766 Judiciary on H.B. No. 718

The purpose of the bill, as received by your Committee, was to prevent the disclosure of the names of administratively disciplined police officers.

Testimony in support of the bill was received by your Committee from the Mayor of the County of Kauai, the Chief of Police of the Maui County Police Department, the Chief of Police of the City and County of Honolulu, representatives of the State of Hawaii Organization of Police Officers, the Hawaii Government Employees Association, AFSCME Local 152, the Hawaii Rifle Association, and from private individuals.

Testimony in opposition to the measure was received by your Committee from representatives of the Office of Information Practices; the Honolulu Advertiser; the Society of Professional Journalists, Hawaii Chapter; Common Cause Hawaii; the Society of Professional Journalists, University of Hawaii at Manoa Chapter; and from private individuals.

Your Committee finds that police officers, unlike most government and private employees, are subject to para-military discipline which manifests itself in the form of frequently applied suspensions from duty for misconduct or violation of departmental rules. Your Committee further finds that the use of such tough disciplinary measures is accepted by most officers because they realize the necessity for strict regulation of the broad powers they wield.

Your Committee also finds that, unlike most government agencies, there is an independent body set up outside of the police department which is specifically charged with overseeing the conduct of the department and its officers. The county police commissions perform this function, and in addition have the power to remove the Chief of Police should the Chief fail to meet his or her obligation to appropriately supervise and discipline police officers.

Your Committee has concluded that the release of police officers' names simply because they have been suspended is not appropriate, since they are subject to more stringent standards and tougher discipline than most other government employees, and their conduct is overseen by the county police commissions.

Therefore, your Committee has amended this measure by exempting police officers, but not all police personnel, from having their names disclosed as to suspensions, but not as to discharge.

Accordingly, the purpose clause of the bill has also been amended to reflect your Committee's actions.

As affirmed by the record of votes of 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. 718, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 718, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, McMurdo, Menor, Kawanakoa and Thielen.
(Representative Case voted no.)

SCRep. 767 Judiciary on H.B. No. 819

The purpose of this bill is to subject persons who place graffiti on state property to civil fines, and to impute violations to parents or guardians of minors and to impose joint and several liability for the fines imposed.

Your Committee received testimony in support of this bill from the Honolulu Police Department, the Department of Education, the City and County of Honolulu Department of the Prosecuting Attorney, and the Pearl City Neighborhood Board.

Your Committee finds that there has been an increase in graffiti damage to both public and private property by juveniles. Graffiti damage to property results in a blight on Hawaii's neighborhoods and communities. Your Committee believes that stronger measures need to be in place to address the defacement and destruction of property by juveniles and to deter such future conduct.

Your Committee believes that there is no rational basis for distinguishing between graffiti damage to public or private property. Graffiti damage to any property demands a similar punitive response, regardless of the owner of the property.

Your Committee agrees with the testimony presented that parents and guardians should accept responsibility and liability when a minor in their charge damages property by graffiti. Parents and guardians should not be able to simply state that they do not have control over their children or do not know what their children are doing. This bill holds parents and guardians directly accountable for their children's actions.

This bill expands upon existing law. Section 577-3, Hawaii Revised Statutes (HRS), states that the father and mother of an unmarried minor shall jointly and severally be liable for the tortious acts of the minor. Section 571-48(13), HRS, provides that the court may order the parents of a minor to make restitution to the victim of the minor's crime. Your Committee believes that the policy implications in these two statutes should combine to create a law which specifically holds parents and guardians jointly and severally liable for the damages resulting from their children's acts of graffiti.

This bill also holds the minor responsible for the actual cost of having the damaged property replaced or repaired. Requiring minors to pay for the damage to the defaced property or to perform community service sends them the message that they are part of the community and owe the community something for the destruction that they caused. The Judiciary presented testimony that the probation division may have difficulties in placing minors in community service projects involving graffiti cleanup. Your Committee encourages the probation division to locate projects involving graffiti cleanup for minors who commit acts of graffiti.

Section 706-641, HRS, states that the financial ability of a person to pay a fine should be considered upon imposition of a fine. Your Committee is cognizant of the fact that many minors, parents, and legal guardians do not have the financial ability to pay for the actual cost of the damage to property. Rather than pose an insurmountable or onerous financial burden on indigent parents and legal guardians, your Committee believes that the court should consider the financial resources of the minor, parents, and legal guardians when ordering payment for the actual cost of the damage to property.

Your Committee finds that this bill addresses the problems associated with graffiti damage and addresses the outrage of the public toward this specific type of criminal property damage. Graffiti involves drawing, inscribing, and marking property. Your Committee believes that the existing criminal property damage statutes encompass acts involving other forms of damage to property. This bill is limited to graffiti damage.

Your Committee has decided to completely revise the language of this measure. In addition to technical, non-substantive amendments, the following substantive provisions are contained within the bill:

- (1) Joint and several liability is established for the parents or legal guardians of minors who commit graffiti damage;
- (2) A definition of graffiti is provided;

- (3) Public and private property comes within the purview of this bill;
- (4) The minor, parents, or legal guardians of the minor may be ordered to pay for the actual cost of having the damaged or defaced property repaired and the minor may be ordered to perform community service;
- (5) The court shall consider the financial resources of the minor, parents, or legal guardians upon ordering payment for the cost of damages to property; and
- (6) Civil actions arising out of graffiti damage are not precluded;

As affirmed by the record of votes of 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. 819, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 819, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Menor, Swain and Yoshinaga.

SCRep. 768**Judiciary on H.B. No. 1069**

The purpose of this bill is to reduce the maximum term of imprisonment for non-serious traffic offenses to thirty days imprisonment.

Your Committee received testimony from the Office of the Public Defender, the Judiciary, the Honolulu Police Department, and Mothers Against Drunk Driving.

Your Committee finds that the penalties for many non-serious traffic offenses are excessive. While most traffic offenses were decriminalized last year, many traffic offenses remain classified as full misdemeanors, punishable by up to one year imprisonment.

Your Committee believes that classifying certain traffic offenses as misdemeanors creates an incongruent sentencing scheme within the traffic code. Such traffic offenses as permitting an unlicensed person to drive, driving without a license, and inattention to driving should not be considered more serious than a first, second, or third conviction for driving under the influence of intoxicating liquor.

Further, as a result of being classified as misdemeanors, these traffic offenses allow the violator to demand a jury trial. The Judiciary strongly supported the objective of this bill and proffered statistics demonstrating the large number of persons demanding jury trials for traffic violations. In fiscal year 1993-1994, 1721 non-DUI cases were transferred from the District Courts to the Circuit Courts by virtue of traffic violators demanding jury trials.

Your Committee finds that the circuit courts should not be burdened by adjudicating traffic offenses. Besides the administrative costs in transferring cases to circuit court and the expenses of a jury trial, your Committee believes that the circuit courts should concentrate efforts on dealing with serious criminal offenders. The district courts are the proper forum for handling traffic cases.

Also, in light of the Supreme Court's recent decision in State v. Lau (No. 17096, February 22, 1995), concerning the applicability of Hawaii Rules of Penal Procedure Rule 48 to DUI cases, there is apt to be an even greater increase in demand for jury trials for non-serious traffic offenses. These traffic violators may argue that Rule 48, where a case is dismissed if not commenced within six months of the date of arrest or filing of the charge, applies to their misdemeanor cases as well. And because the circuit courts will likely prioritize criminal cases and DUI cases over traffic offenses, it is unlikely that a traffic violator's case will be disposed of within six months. Consequently, traffic violators may demand jury trials for misdemeanor traffic offenses in expectation that prosecution will not be commenced within six months. An increased burden to the circuit court system would result.

Therefore, your Committee finds that certain traffic offenses should be reduced to petty misdemeanors. If the situation merits it, the district court has the discretion to sentence the traffic violator to up to thirty days imprisonment. Your Committee believes that a sentence of thirty days incarceration serves adequate deterrent and punitive purposes.

The Honolulu Police Department and Mothers Against Drunk Driving submitted testimony regarding this bill's proposed reduction of the maximum penalties for second and third offense DUI's. Your Committee finds that a repeat DUI offender commits a serious offense rather than a petty offense. Moreover, it sends the wrong message to the community to reduce the maximum term of imprisonment for repeat DUI offenders.

Accordingly, this bill has been amended to retain the existing penalties for repeat offenders convicted of driving under the influence of intoxicating liquors and driving under the influence of drugs. In conforming to this amendment, Sections 10 & 11 of this bill have been deleted and appropriate renumbering of Sections 12 to 19, inclusive, to Sections 10 to 17, inclusive, was effected.

Technical, non-substantive changes have also been made to this 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. 1069, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1069, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, McMurdo, Menor, Kawanakoa and Thielen.

SCRep. 769**Judiciary on H.B. No. 1245**

The purpose of this bill is to grant statutory authority for a notary to sign the name of a person who is physically unable to do so.

Favorable testimony was received from the Commission on Persons with Disabilities, the National Notary Association, and a private individual.

Your Committee agrees with the intent and purpose of this measure which would allow persons who cannot physically sign or make a mark to indicate their intentions to a notary public and thereby legitimize legal documents and other matters by way of the notary.

Concern was raised that this measure may be misused in legitimizing documents without the actual consent and/or knowledge of persons unable to sign or make a mark. To alleviate this concern, an amendment was made to the bill requiring that a notarized doctor's certificate be presented to a notary, which must describe the disability that exists, state that the person could not physically sign or make a mark, and certify that the person had the capacity to communicate his intentions concerning the document.

Your Committee was also concerned that the signing must take place in the presence of the notary, after it has been shown to the notary's satisfaction that the person adequately understood the contents of the document, and had communicated the person's consent to have the notary sign on the person's behalf. Amendments were therefore made providing the foregoing safeguards to minimize the concern that this measure may be misused.

As affirmed by the record of votes of 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. 1245, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1245, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 770**Judiciary and Public Safety and Military Affairs on H.B. No. 142**

The purpose of this bill is to require the court to review the bail status of persons held in custody at the preliminary hearing or arraignment.

Your Committees received testimony in support of the intent of this bill from the Department of Public Safety, the Judiciary, the Office of the Public Defender, and the City and County of Honolulu Department of the Prosecuting Attorney.

This bill requires that a bail review hearing be conducted at the arraignment or preliminary hearing, whichever occurs sooner. Testimony was presented that mandating bail hearings at such an early date would pose an impracticable burden on the Department of Public Safety in the preparation of bail reports which are an essential aid to the courts in the setting of bail. Further, testimony suggested that such expeditious review hearings would seriously impact the orderly proceedings of the arraignment calendar in the First Circuit Court.

Your Committees find that pretrial detainees who are unable to post the initial bail set by the county police departments should have an expeditious review of their bail status by the courts. These persons should not have to remain incarcerated for prolonged periods of time prior to a bail review hearing.

Therefore, your Committees have addressed the concerns of the Department of Public Safety and the Judiciary by amending this bill to provide for a bail review hearing at the arraignment or preliminary hearing or within ten days of the arraignment.

Further, this bill has been amended by requiring the Department of Public Safety to provide a bail report to the parties and to the court prior to the bail review hearing. This measure ensures that all parties are adequately and timely apprised of information pertinent to the defendant's bail status.

As affirmed by the records of votes of the members of your Committees on Judiciary and Public Safety and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 142, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 142, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Swain, Yoshinaga and Meyer.

SCRep. 771**Judiciary on H.B. No. 1003**

The purpose of this bill is to make permanent the provision which requires a person who has abused a family or household member to adhere to a twenty-four hour cooling off period.

Testimony was provided by the City and County of Honolulu's Department of the Prosecuting Attorney, the Honolulu Police Department, the Hawaii State Commission on the Status of Women, and the Domestic Violence Legal Hotline in support of this measure.

Your Committee finds that the "cooling off" period imposed by police has been highly successful in decreasing domestic violence by creating a "safe" period wherein the victim of abuse may seek refuge in a shelter or utilize other safety options. This measure will allow police to continue to utilize this effective tool for the prevention of domestic abuse.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1003 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 McMurdo and Menor.

SCRep. 772 Judiciary on H.B. No. 100

The purpose of this bill is to clarify the requirements for certifying party membership in nomination papers for primary elections.

The Association of Clerks & Election Officers of Hawaii submitted testimony in support of this measure. The State of Hawaii Democratic Party testified in support of the measure, but recommended an amendment to make the certification of the candidate's membership in the political party whose nomination the candidate is seeking an administrative act on the part of the political party.

Your Committee finds that parties should have the authority to object to a candidate's candidacy when the candidate is not a member of the party or does not comply with the party's rules. In addition, your Committee urges the political parties to review their rules to ensure that party rules do not act to unreasonably bar access to political office.

This bill has been amended by:

- (1) Replacing the provision that would require verification by a party officer that the candidate is a bona fide member of the party with language that would require certification of the candidate's party affiliation, provided that the certification be an administrative act on the part of the political party; 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. 100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 100, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.

SCRep. 773 Judiciary on H.B. No. 618

The purpose of this bill is to repeal the existing money laundering statute and create a new class B felony offense that prohibits a wide range of activities relating to any proceeds of unlawful activity.

Your Committee received testimony in support of this bill from the Department of the Prosecuting Attorney of the City and County of Honolulu. Your Committee received testimony in opposition to this bill from the Office of the Public Defender.

Your Committee finds that the existing money laundering law is too narrow in scope. Currently, only transactions involving monetary instruments of value that are conducted through a financial institution come within the purview of the statute. In addition to using financial institutions, there are numerous other methods through which criminal networks divert proceeds of illegal transactions. Your Committee believes that stronger measures are required to combat the diversion of proceeds derived from illegal acts.

Your Committee was concerned that the bill was too broad as written. For example, because misdemeanor offenses such as theft are included within the statute, a person who steals five dollars and shares it with another person who knows the money was stolen will result in the latter person committing the offense of money laundering. Your Committee finds that this bill is intended to address large criminal enterprises, and therefore has amended this bill by establishing a threshold amount of \$10,000 or more.

This bill elevates the offense of money laundering to a B felony with a possible fine of \$25,000 or twice the value of the property involved. Because there is also the potential for forfeiture of property pursuant to chapter 712A, and because a civil penalty based on a criminal conviction is virtually unprecedented under the Hawaii Penal Code, your Committee has amended this bill by eliminating reference to a treble damage civil penalty.

Your Committee finds that a cardinal principle of statutory construction is that penal statutes are to be strictly construed. Your Committee also finds that this bill should be interpreted in accordance with legislative intent. Accordingly, language in section 4 has been deleted.

As affirmed by the record of votes of 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. 618, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 618, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 774 Judiciary on H.B. No. 1305

The purpose of this bill is to clarify that Section 572-28, Hawaii Revised Statutes (HRS), applies to tort suits between spouses commencing on and subsequent to April 26, 1993, even if said suits were filed as a result of incidents occurring prior to April 26, 1993.

Your Committee received testimony in opposition of this bill from the Hawaii Insurers Council and the Hawaii Trial Lawyers Association.

Your Committee finds that Section 572-28, HRS, needs to be amended to clarify the applicability of this section to lawsuits resulting from tortious actions between spouses occurring prior to the April 26, 1993 effective date. Section 572-28, HRS, does not state whether or not the abolishment of interspousal tort immunity is retroactive.

Your Committee believes it was the intent of the Legislature to abolish interspousal tort immunity retroactively and not only for actions occurring on or after April 26, 1993. However, your Committee is also of the opinion that it was never the intent of the Legislature to provide for a tolling of any statute of limitations.

Accordingly, this bill has been amended to include language indicating that the intent of the bill is not to toll any statute of limitations.

As affirmed by the record of votes of 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. 1305, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1305, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 775 Judiciary and Public Safety and Military Affairs on H.B 641

The purpose of the bill, as received by your Committees, was to permit a waiver by the family court of jurisdiction over a juvenile of any age who has allegedly committed murder.

Testimony in support of the measure was received by your Committees from representatives of the Department of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department.

Testimony in opposition to this bill was received by your Committees from representatives of the Public Defender, the Department of Public Safety, the Office of Youth Services and several private citizens.

Your Committees find that discretion should be placed in the hands of the family court judges to determine whether it is appropriate for jurisdiction over a particular minor to be waived by the family court when it appears that the minor is a habitual serious offender or when the offense is particularly heinous.

Your Committees find that minors who are accused of the most heinous crime, murder, should be subject to the possibility that jurisdiction may be waived by the family court regardless of the minor's age.

In addition, your Committees find that for youths who are above the age of fourteen when they commit a serious offense or are offenders who have two prior felony type offenses should also be subject to the possibility of waiver of jurisdiction and have amended the measure accordingly.

Lastly, technical, nonsubstantive amendments were made for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Judiciary and Public Safety and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 641, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 641, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Herkes, Swain, Yoshinaga and Meyer.
(Representative Saiki voted no.)

SCRep. 776 Water and Land Use Planning on H.B. No. 695

The purpose of this bill is to streamline the process for approving permits for the leasing of submerged lands by:

- (1) Eliminating the requirement of prior approval by the Legislature; and
- (2) Limiting the requirement of prior approval by the Governor.

The Department of Land and Natural Resources submitted testimony strongly supporting this bill. A representative of HASEKO, Inc. testified that the bill should aid in streamlining government processes but expressed concern that the bill not apply to anyone who has fulfilled the requirements for obtaining a lease or easement under the current process. Testimony from the University of Hawaii Environmental Center opposed this bill.

After discussion, your Committee finds that the intent of this bill is to eliminate the requirements of prior approval by both the Legislature and the Governor for the leasing of submerged lands under Section 171-53, Hawaii Revised Statutes (HRS), as well as under Section 171-60, HRS.

Your Committee has amended the bill by:

- (1) Removing the requirement of prior approval of the Governor under Section 171-53, HRS, to be consistent with the amendments to Section 171-60, HRS; and
- (2) Including a provision that the Act not apply to leases or easements that are authorized by the Legislature prior to the effective date of this Act.

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. 695, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 695, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Yamane, Yoshinaga and Meyer.
(Representative Thielen voted no.)

SCRep. 777 Judiciary on H.B. No. 1356

The purpose of this bill is to create a privilege of confidentiality for any communication between an interpreter, communication assistant, or stenocaptioner and the parties utilizing their services. Under this privilege, the interpreter, communication assistant, or stenocaptioner could not be compelled to disclose through reporting, testimony, or subpoena, the contents of an interpreted or transcribed communication.

The Hawaii State Coordinating Council on Deafness, the Commission on Persons with Disabilities, the Hawaii Registry of Interpreters for the Deaf, the Hawaii Services on Deafness, Island Skill Gathering, the coordinator of the American Sign Language/Interpreter Education Program at Kapiolani Community College, as well as the chairperson of the Interpreter's Committee of the Hawaii State Coordinating Counsel on Deafness, and a certified sign language interpreter testified in support of this measure. Two hearing impaired members of the public presented supportive oral testimony with the assistance of an interpreter.

Your Committee finds that the role of the interpreter, communication assistant, or stenocaptioner is unique in that they act as a means by which individuals with disabilities can communicate with others in the community. Without the services of these individuals, many hearing impaired persons would have no way of communicating their thoughts or needs to others.

This measure would protect communications between disabled individuals and others who, but for their disability, would be able to carry on a conversation without the aid of a third party.

As affirmed by the record of votes of 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. 1356 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 McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 778 Judiciary on H.B. No. 1427

The purpose of this bill is to clarify section 560:3-1201 of the Uniform Probate Code, which is entitled "Collection of personal property by affidavit", relating to the collection of personal property by affidavit and summary administration of small estates.

Your Committee received testimony in support of this bill from the Trust Committee of the Hawaii Bankers Association.

Your Committee finds that section 560:3-1201 needs to be amended to address issues and questions raised after implementation of the affidavit process. Although Section 560:3-1201 was enacted to make the distribution of an estate worth \$20,000 or less a less formal, cumbersome, expensive and time-consuming process than probate, it is ambiguous or deficient in various respects resulting in confusion and delay for those seeking to use the affidavit process.

First, Section 560:3-1201 does not clearly state that all types of personal property, both tangible and intangible are transferrable by affidavit. Language in this measure would clarify the Legislature's intent that the affidavit process is to be available for all types of tangible and intangible property.

Second, the language of this section focuses on the presentation of an affidavit by "a person claiming to be the successor of the decedent", limiting the availability of the affidavit process to those cases where the decedent leaves only one successor. Certain language in this measure would clearly establish the availability of the affidavit procedure to cases in which a decedent leaves one or more successors.

Lastly, although section 560:3-1201 provides for the collection of a decedent's personal property, it does not require registrars of title, such as stock transfer agents and motor vehicle registration departments, to issue the necessary new indicia of ownership upon the presentation of the affidavit. Language in this measure would address this problem by adding a new paragraph which provides that, upon presentation of a proper affidavit, the appropriate registrar of title shall change the registered ownership of the decedent's interest in the property from the decedent to the decedent's claimed successor or successors and issue a certificate or other document evidencing ownership of the property by the claimed successor(s).

As affirmed by the record of votes of 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. 1427 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 McMurdo, Menor and Yoshinaga.

SCRep. 779 Judiciary on H.B. No. 2343

The purpose of this bill is to authorize a hospital phlebotomist to withdraw blood for the purpose of determining alcohol content or the presence of drugs and their metabolic products. This bill also provides that hospitals, laboratories, or clinics are to keep records of the chain of custody of blood specimens.

The Honolulu Police Department testified in support of this measure. Healthcare Association of Hawaii testified in support of this measure but recommended an amendment to preserve the current practice regarding the chain of custody of the blood sample.

Your Committee finds that hospitals have been reluctant to withdraw blood specimens from persons suspected of driving under the influence of intoxicating substances due to the fear that time and valuable resources will be lost when hospital personnel are required to appear in court to testify. Authorizing a phlebotomist to withdraw blood would alleviate the need to utilize other hospital personnel and would solve chain of custody problems that have arisen when hospital personnel are used to withdraw blood specimens.

As affirmed by the record of votes of 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. 2343 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, McMurdo, Menor, Kawanakoa and Thielen.

SCRep. 780 Judiciary on H.B. No. 1207

The purpose of this bill is to provide statutory authority for the assessment of a penalty for a lobbyist who wilfully fails to file an expenditure statement.

Favorable testimony was received from Common Cause Hawaii, and the State Ethics Commission stated its preference for another measure which provided for a contested case hearing pursuant to Chapter 91 in the event the attorney general or prosecutor declined prosecution, and which also provided for a minimum penalty of \$275.

The bill as originally drafted provided for an assessment of a \$25 penalty without a hearing, in addition to a conviction for a petty misdemeanor.

Your Committee agreed with the State Ethics Commission that a hearing should be held, since proving a wilful failure to file, or filing a report with false information, or a material omission of fact would undoubtedly be a contested matter. Therefore, your Committee amended this bill by providing for a contested case hearing prior to assessing a penalty.

Your Committee was of the opinion that \$25 was too low a penalty, and that \$275 was excessive. Therefore, your Committee amended this bill by providing for a \$100 penalty as a compromise between \$25 and \$275.

As affirmed by the record of votes of 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. 1207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1207, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 781 Judiciary on H.B. No. 2335

The purpose of this bill as received by your Committee was to extend the same limited liability protection to employees acting within the course and scope of their employment that Section 663-10.5 provides to government entities.

Favorable testimony was received from the Office of the Mayor of the City and County of Honolulu, the Department of the Corporation Counsel of the City and County of Honolulu, the City Council of the City and County of Honolulu, the Department of Prks and Recreation of the City and County of Honolulu, the Office of the Corporation Counsel of the County of Hawaii, the Office of the Mayor of the County of Maui, the Department of the Corporation Counsel of the County of Maui, the County Council of the County of Maui, and the Office of the County Attorney of the County of Kauai.

Unfavorable testimony was received from the Hawaii Trial Lawyers Association.

Section 663-10.5 was enacted by the last Legislature to provide immunity from liability where a government entity is determined to be a joint tortfeasor, limited to a percentage share of the damages attributable to the government entity. Said enactment was mandated because they must undertake services which the private sector finds too risky or unprofitable to provide. Government entities are responsible for the general welfare in its maintenance of unimproved public lands or hazardous weather and surf conditions, so it would be unreasonable and unfair to hold them liable for accidents which they cannot reasonably prevent. Likewise, employees of the entities rightfully are entitled to the same limited immunity as their employers.

Your Committee amended this bill by incorporating provisions of Chapter 520 limiting liability for people using public land and water areas for recreational purposes. Specifically, a definition of "government" was added, examples of

recreational purposes were included, and a provision clarifying that a government entity would not be exempt for providing certain public services was added.

The City and County of Honolulu, as the lead government entity, is to receive reports from all four counties and from the State regarding accident statistics, lifeguard staffing, and the status of litigation pending. There is a legitimate concern that the provisions of water safety services such as lifeguards may be reduced, so collection and analysis of the foregoing information is critical.

Your Committee was of the opinion that this measure should be re-evaluated in two years. A further amendment was therefore made to repeal this measure by June 30, 1997.

Technical and non-substantive changes were also 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. 2335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2335, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 782 Finance on H.B. No. 133

The purpose of this bill, as received by your Committee, is to address the escalating cost of post-retirement health benefits of the Public Employees Health Fund by, among other things:

- (1) Examining lowering certain health care benefit costs;
- (2) Clarifying who benefits from post-retirement employer contributions;
- (3) Limiting the public employer contribution to the cost of the lowest priced plan for a retired employee or a retired employee and spouse while maintaining eligibility for other dependents to participate in the health fund benefit plans; and
- (4) Authorizing the Governor to appoint a commission to explore differing funding, eligibility requirements, and benefit structures, and the actuarial effect of these alternatives.

The City and County of Honolulu testified in support of this measure. The Department of Budget and Finance, the Hawaii Public Employees Health Fund, the Hawaii Government Employees Association, a representative of the Coalition of Hawaii State/Counties Retirees, Inc., and the Hawaii State Teachers Association submitted testimony on this measure.

Your Committee has amended this bill by deleting the substance and inserting the language reflected in H.B. No. 921, H.D. 2, "A Bill for An Act Relating to the Public Employees' Health Fund".

As amended, the purpose of this bill is to:

- (1) Establish a commission to explore different funding, eligibility requirements, and benefit structures, and the actuarial effect of these alternatives with regard to the Hawaii Public Employees Health Fund; and
- (2) Appropriate funds for fiscal year 1995-1996 to fulfill the purposes of the bill, which includes the hiring of necessary staff or actuaries to assist the commission.

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. 133, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 133, H.D. 2, and be placed on the calendar for Third Reading.

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

SCRep. 783 Finance on H.B. No. 1472

The purpose of this bill is to repeal the following income tax credits:

- (1) The energy conservation tax credit (Section 235-12, Hawaii Revised Statutes (HRS), and Section 241-4.6, HRS);
- (2) Tax credits for amounts paid by residents as taxes in other states or countries (Section 235-55, HRS);
- (3) The tax credit for household and dependent care services expenses (Section 235-55.6, HRS);
- (4) The tax credit for low-income household renters (Section 235-55.7, HRS);
- (5) The food/excise tax credit (Section 235-55.8, HRS);
- (6) The medical services excise tax credit (Section 235-55.9, HRS);
- (7) The tax credit for employment of vocational rehabilitation referrals (Section 235-55.91, HRS);

- (8) The fuel tax credit for commercial fishers (Section 235-110.6, HRS);
- (9) The capital goods excise tax credit (Section 235-110.7, HRS);
- (10) The low-income housing tax credit (Section 235-110.8, HRS, and Section 241-4.7, HRS);
- (11) Tax credits based on the pro rata share of S corporations (Section 235-129, HRS); and
- (12) The capital goods excise tax credit (Section 241-4.5, HRS).

Testimony on this bill was received from: the Department of Taxation; the Housing Finance and Development Corporation; the Chamber of Commerce of Hawaii; the Hawaii Community Reinvestment Corporation; the Tax Foundation of Hawaii; Young Brothers, Limited; Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company; Matson Navigation Company; the Hawaii Bankers Association; the Hawaiian Sugar Planters' Association; the Hawaii Society of Certified Public Accountants; the Hawaii Green Party; Inter-Island Solar Supply; Sun King; Western Pacific Mechanical; Mercury Solar; TRIOD Promotions, Inc.; Grand Solar, Inc.; GSI Solar Contracting; Hawaii Solar Energy Association, Inc.; and several private citizens.

Your Committee has amended this bill by maintaining the following income tax credits as they appear in the current law:

- (1) The energy conservation tax credit;
- (2) Tax credits for amounts paid by residents as taxes in other states or countries;
- (3) The tax credit for household and dependent care services expenses;
- (4) The tax credit for employment of vocational rehabilitation referrals;
- (5) The fuel tax credit for commercial fishers;
- (6) The capital goods excise tax credits under Sections 235-110.7 and 241-4.5, HRS;
- (7) The low-income housing tax credit; and
- (8) Tax credits based on the pro rata share of S corporations.

Your Committee also amended this bill by:

- (1) Lowering the tax credit for low-income household renters from \$50 to \$25;
- (2) Lowering the food/excise tax credit from \$55 to \$27.50;
- (3) Lowering the medical services excise tax credit from four percent to two percent of qualified medical expenses;
- (4) Reflecting that the bill will take effect beginning with taxable year 1996 rather than upon its approval; and
- (5) Making technical, nonsubstantive amendments for purposes of consistency, 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. 1472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1472, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.
(Representative Ward voted no.)

SCRep. 784

Finance on H.B. No. 2071

The purpose of this measure is to require the Office of Hawaiian Affairs (OHA) to provide twenty percent of the costs of state capital improvement projects on lands in the public land trust.

The Department of Transportation testified in support of the principle of this measure. Comments on the measure were received from OHA, the Department of Hawaiian Home Lands; ALU LIKE, Inc., and an interested individual.

By statute, OHA receives twenty percent of the revenues derived from the public land trust to be expended for the betterment of the conditions of Native Hawaiians. Rather than require OHA to use funds which have already been earmarked for Native Hawaiians to help defray the costs of state capital improvement projects (CIP's), your Committee has amended this bill by tying OHA's share of the revenues derived from the public land trust directly to the costs of state CIP's. Specifically, the bill as amended provides that OHA shall receive 20% of the public land trust revenues less 20% of the costs of state CIP's appropriated during the respective fiscal year for projects on the public lands trust. This measure applies only to projects for which funds are appropriated on or after July 1, 1995.

Your Committee has also amended this bill to take effect on July 1, 1995 rather than upon approval.

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 Representative Marumoto.
(Representative Ward voted no.)

SCRep. 785 Consumer Protection and Commerce on H.B. No. 1937

The purpose of this bill is to make necessary changes to state law to harmonize with interstate banking legislation passed by the U.S. Congress and which will take effect on September 29, 1995.

The bill preserves the ability of the Commissioner of Financial Institutions (Commissioner) to act expeditiously when a financial institution fails. The bill also preserves the Commissioner's ability to waive certain state-wide concentration limits in dealing with a failing financial institution situation.

The Commissioner submitted testimony in support of this 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. 1937, 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 Yoshinaga and Hiraki.

SCRep. 786 Consumer Protection and Commerce on H.B. No. 1251

The purpose of this bill is to allow retail licensees to accept manufacturers' promotional coupons for liquor sales.

Testimony in support of the measure was received from the Retail Liquor Dealers Association, Star Markets, Ltd., Foodland Supermarkets, Ltd., and Fastop Convenience Stores, Inc. Testimony in opposition to the bill was received from the Department of Liquor Control for the Counties of Maui, Hawaii, and Kauai, the Director of Finance of the City and County of Honolulu, and the Wine Institute.

Your Committee was informed that under federal liquor laws, manufacturers' coupons for alcoholic beverages are not prohibited and that these coupons are allowed in most states. This measure will provide small retailers with promotional tools to help compete with larger operations.

A technical, non-substantive amendment was made to 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. 1251, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1251, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 787 Consumer Protection and Commerce on H.B. No. 1942

The purpose of this bill is to clarify implementation of provisions, administrative in nature. The bill's provisions allow the Department of Commerce and Consumer Affairs to immediately enforce current provisions of chapter 436B without the need to promulgate rules.

Chapter 436 was enacted to serve as a single law which contained common provisions found in the different licensing laws or which contained provisions applicable to all licensing areas under the jurisdiction of the Department of Commerce and Consumer Affairs. Centralizing these provisions clarified administrative practices, procedures, and enforcement to give clear notice to applicants and licensees through one single point of reference. Chapter 436 has further streamlined the individual licensing laws by ridding them of provisions that are administrative in nature, allowing substantive provisions relating to specific licensure requirements to be the basis of the individual laws.

The bill allows the Department of Commerce and Consumer Affairs to implement the provisions in section 436B-9 relating to the disposing of abandoned applications and section 436B-10 relating to requiring basic information of applicants.

Regarding the handling of abandoned applications, the time period for retention has been increased from one year to two years, to provide more benefit to the applicant. The option of returning applications has been deleted because that option has had no followup by applicants and creates unnecessary postage expense and additional staff workload.

Regarding the basic information required of applicants, the enumerated items are required of all applicants no matter what the profession or vocation. The required information establishes a complete database and provides minimal information to evaluate whether an applicant is in good standing to receive licensure. Additional requirements will be provided by rule prior to implementation or enforcement. Such requirements do not apply uniformly to all professions and vocations, and the licensing authority has the discretion to impose these requirements, through adoption of rules.

Your Committee has adopted the recommendation of the Department of Commerce and Consumer Affairs regarding disclosure of the applicant's social security number if the licensing authority is authorized by federal law to require the disclosure. This is to comport with federal law.

Your Committee has made a few technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1942, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1942, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hamakawa, Hiraki, Tom, White and Thielen.

SCRep. 788 Consumer Protection and Commerce and Judiciary on H.B. No. 21

The purpose of this bill is to authorize the counties to deny, suspend, or revoke a pawnbroker license for persons convicted of a felony that relates directly to the qualifications, functions, or duties of pawnbrokers.

The measure requires a criminal history check of the applicant before a pawnbroker license is issued or reissued. The State Auditor recommended this measure as a result of a study conducted in 1994 and submitted supportive testimony to your Committees.

The State Attorney General testified in support of the bill's intent but expressed concerns about the inability of the Hawaii Criminal Justice Data Center (HCJDC) to conduct the full criminal history record check, which includes conviction and non-conviction data, and the fingerprinting of the applicant for submittal to the Federal Bureau of Investigation (FBI) because of scarcity of resources and budget and personnel restrictions.

The Honolulu Police Department testified in support of the bill's intent but recommended that the bill include secondhand dealers. The Hawaii Pawnbrokers and Secondhand Dealers Association testified in support of the bill's intent but was concerned about the costs associated with any background check, especially a fingerprint check. The City and County of Honolulu agreed with the intent of the bill but expressed concern that the counties do not have the staff, equipment, or training to obtain the quality of fingerprints necessary to conduct fingerprint searches in the national criminal history record files.

Your Committees agreed that it would be inappropriate to license a person convicted of a felony directly related to the person's functions, qualifications, or duties as a pawnbroker. Accordingly, the counties should screen out those applicants. However, your Committees did not want to tax the resources of the HCJDC or the counties. Therefore, your Committee did not include secondhand dealers in this measure. Moreover, your Committees adopted the recommendations of the HCJDC and made the following amendments:

- (1) Deleted the requirement that a full criminal history record check include non-conviction data;
- (2) Decentralized the fingerprinting for the FBI's criminal history record information by having the County Department of Finance or County Police Department perform this function;
- (3) Clarified that the FBI check is a requirement for licensing; and
- (4) Provided for the payment of a fee for the FBI check.

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. 21, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 21, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, McMurdo and Tom.

SCRep. 789 Consumer Protection and Commerce and Judiciary on H.B. No. 1923

The purpose of this bill is to amend Chapter 432, Hawaii Revised Statutes, to add a new section which would enable the Insurance Division, Department of Commerce and Consumer Affairs (DCCA), to obtain additional information on the financial condition of mutual benefit societies.

Mutual benefit societies are organizations established for the purpose of making benefit payments when a mutual benefit society member becomes sick, disabled, or dies. The Hawaii Medical Service Association (HMSA) is an example of a mutual benefit society where members regularly make monetary payments in exchange for benefits.

The State Insurance Commissioner (Commissioner) testified in behalf of DCCA. In urging passage of this bill, the Commissioner informed your Committees that supervision by the Insurance Division of the seven mutual benefit societies licensed to operate in Hawaii is limited to reviewing an organization's documents and requiring the filing of an annual financial report. This bill would require mutual benefit societies to file annual audits. The annual audits would improve the Insurance Division's financial surveillance of these organizations and also treat them in the same manner as domestic insurance companies.

Also testifying in support of the bill were the Hawaii Federation of Physicians & Dentists and the Hawaii Medical Association. The Mutual Benefit Association of Hawaii and Voluntary Employees Benefit Association of Hawaii submitted testimony in support of the intent of the bill but objected to the annual audit requirement. HMSA supported the intent of the bill, however, offered an amendment to the bill that would permit mutual benefit societies to submit financial

statements prepared by independent auditors who have employed generally accepted accounting principles or statutory methods.

We recognize the need to identify the financial resources of mutual benefit societies to protect those insured by these organizations and enable the Insurance Division to monitor these mutual benefit societies by requiring annual audits.

The bill has been amended by adding to line 10, page 10, two new sentences after "of mutual benefit society", as follows:

"The audited financial statement may use either generally accepted accounting principles (GAAP) or statutory accounting principles (SAP). If the GAAP method is used, a reconciliation of the financial statement to the SAP must be provided to the commissioner."

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. 1923, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1923, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Yoshinaga, Hiraki and McMurdo.

SCRep. 790 Consumer Protection and Commerce and Judiciary on H.B. No. 1943

The purpose of this bill is to clarify the powers and duties of the Contractors License Board (Board).

More specifically, the bill, among other things:

- (1) Clarifies that:
 - (A) Unlicensed experience may qualify for licensure;
 - (B) Contracting entities may be excluded from providing evidence of workers' compensation coverage;
 - (C) Licensees are required to provide satisfactory evidence of continuous workers' compensation and liability insurance and bonding, if applicable, to restore a forfeited license;
 - (D) The Board may impose a bond or restrict a license as a condition for restoration of a forfeited license;
 - (E) Inactive licensees are prohibited from contracting; and
 - (F) Disclosures regarding terms of a contract must be provided when contracting for new home construction; and
- (2) Establishes:
 - (A) A specific period after which an application shall be considered abandoned by the applicant; and
 - (B) A definition for "homeowner".

Testimony in support of this bill was submitted by the Board and a concerned citizen.

Your Committees have amended the measure by:

- (1) Further clarifying that the Board may delegate its summary suspension powers in accordance with the Professional and Vocational Licensing law;
- (2) Further clarifying that the Board may require additional relevant information prior to the application for a building permit; and
- (3) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 1943, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1943, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Yoshinaga, Hiraki and McMurdo.

SCRep. 791 Energy and Environmental Protection on H.B. No. 879

The purpose of this bill is to establish an interagency committee on energy conservation and recycling implementation.

Testimony was presented by the Department of Business, Economic Development, and Tourism (DBEDT); the Department of Health (DOH); the Department of Accounting and General Services (DAGS); and by the University of Hawaii's Facilities Planning and Management Office.

DBEDT delineated a number of ways in which components of this bill could save the state considerable amounts of money, among them:

- 1) Instituting the Green Lights program, through which lighting systems in state buildings will be retrofitted with energy-efficient bulbs, and which is expected to save at least \$5 million annually;
- 2) Installation of efficient, well-managed air conditioning systems for state facilities, which can save at least the same amount of money; and
- 3) Development of performance contracting with the private sector, with resulting savings appearing immediately in reduced electricity bills.

During informational briefings that took place prior to the beginning of this legislative session, both DBEDT and DAGS agreed to develop more precise plans for implementing the measures this bill is designed to address.

Your Committee has therefore chosen to pass this bill in unamended form.

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. 879 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, Takamine and Yoshinaga.

SCRep. 792 Energy and Environmental Protection on H.B. No. 22

The purpose of this bill is to require the Director of Health to provide for public hearings for all air pollution permits.

Your Committee heard testimony from the Department of Health and the Hawaii Farm Bureau in opposition to this bill as originally drafted. The argument was that the process was already cumbersome enough, the Department of Health's Clean Air Branch had trouble just dealing with the existing backlog of over two hundred permit applications, and that another layer of bureaucratic requirements was entirely unjustified.

As a consequence of the testimony, your Committee decided to excise the text of H.B. No. 22 as originally written. Your Committee has substituted language that would add a new section to Chapter 321 of the Hawaii Revised Statutes, which will allow the Department of Health the discretion of determining when certain situations with a potential environmental impact would warrant public informational briefings or hearings; it does, however, require the Department to put its guidelines for such determination in writing.

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. 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 Kanoho, Takamine and Tarnas.

SCRep. 793 Energy and Environmental Protection on H.B. No. 386

The purpose of this bill is to require the Department of Health to comply with the Hawaii Administrative Procedure Act (HAPA) regarding implementation, administration, and enforcement of Hawaii's environmental laws regarding environmental response, air pollution control, water pollution, hazardous waste, solid waste management and pollution, underground storage tanks, and asbestos removal.

Testimony was presented by the State of Hawaii (Department of Health and the University of Hawaii's Environmental Center), and by the Hawaii Sugar Planters' Association.

The Department of Health's objections to this bill dealt with a reluctance to turn flexible policies and guidelines into more rigid entities; with disagreement over the possibility that environmental enforcement actions could be stalled while a director reviews related matters; and with the bill's statement that its tenets could be enacted without additional funding.

The Environmental Center's testimony noted that HAPA already provides for the requirements which this measure proposes.

The Hawaii Sugar Planters' Association (HSPA) enthusiastically supported the bill, contending that written guidelines on compliance and enforcement would promote consistent and fair treatment for the regulated community.

As the Committee discussed this measure with its testifiers, a need became obvious for businesses to have access to environmental regulations guidance.

Using the Office of Environmental Quality Control's guide book as a model, your Committee and testifiers developed the concept of a 'rule of thumb' guide through environmental regulations.

The Department of Health's Environmental Planning Office was deemed the appropriate office to house such a collection. Your Committee held that the department should record its policies, guidelines, and the definitions of its administrative rules relating to environmental protection, and hold that collection in a central location for examination by the public. July 1, 1998 was chosen as the date by which this compilation should be complete and available.

Accordingly, H.B. No. 386 has been rewritten: Section 2, subsection 3 has been deleted and replaced with wording which reflects the above discussion; Sections 3 and 4 have been deleted, and Section 5 renumbered accordingly.

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. 386 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 386, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Takamine and Tarnas.

SCRep. 794 Energy and Environmental Protection on H.B. No. 1482

The purpose of this bill is to enable the Department of Health to regulate the use of used oil tanks, hydraulic hoists, and drainage sumps by expanding the regulatory scope of Chapter 342L of the Hawaii Revised Statutes, the Underground Storage Tank Law.

Testimony was received from the Department of Health, the Hawaii Sugar Planters Association, and the Hawaii Petroleum Marketers Association, all of which was in opposition to the bill as originally written. During the subsequent discourse between the members of your Committee and those testifying in behalf of the bill, it was determined that two-thirds of the proposed regulations in H.B. No. 1482 were already covered by existing laws.

Given such information, it became clear that while it was unnecessary to "reinvent the wheel", what was needed was an available repository within the Department of Health for information dealing with the potential hazards that were addressed by the bill, with this information made available to the public and other state and county agencies. By centralizing such information and availing it to those outside the Department of Health, a low-cost partnership for the purposes of enforcement and monitoring of existing regulations can be created among environmental programs and with the general public.

Your Committee has therefore decided to amend H.B. No. 1482 by excising the text of the original bill and:

- (1) Adding language to allow for public access to available information on the location and status of underground storage tanks and tank systems, incidents of violations or reported releases of oil or hazardous materials, reports on prevention exercises, and epidemiological studies pertinent to related health risks, and
- (2) Amending section 128E-2 of the Hawaii Revised Statutes, which deals with the Hawaii State Emergency Response Commission, to allow for the commission's review of, and subsequent annual report to the Governor and Legislature on, hazardous material and oil spill emergency preparedness exercises.

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. 1482, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1482, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, Takamine and Tarnas.

SCRep. 795 Water and Land Use Planning and Energy and Environmental Protection on H.B. No. 1790

The purpose of this bill is to ensure the continued viability of the feral pig by:

- (1) Recognizing it as a valued game mammal for subsistence purposes; and
- (2) Requiring that it be managed for this purpose when appropriate and consistent with other laws.

This bill seeks a more balanced perspective regarding the importance of various forest resources. No one disputes the significance of endemic plant life. Indeed, there are laws that seek to ensure its survival. At the same time, however, some priority should also be given to the traditional lifestyles of our people by providing some protection for the resources that they depend on. The feral pig is one such valued resource.

In addition to the importance of the pig for cultural purposes, your Committees acknowledge the significant role of the pig for subsistence purposes. In this regard, your Committees support efforts to maintain this valuable resource, especially in rural regions of this State that are suffering from economic distress as well as in those areas in which subsistence hunting is an integral part of the residents' lifestyle.

Two Big Island hunters testified in support of this bill. A Big Island couple and a concerned citizen also supported this measure. The Department of Land and Natural Resources supported the bill with certain amendments. The Sierra Club Legal Defense Fund supported the intent of the bill but had serious concerns. The Environmental Center of the University of Hawaii at Manoa, the Hawaiian Humane Society, and Hawaii Audubon Society offered comments.

After reviewing the testimony, your Committees have amended this bill by:

- (1) Broadening the recognition to include game mammals;
- (2) Recognizing that these game mammals also have cultural importance in addition to their subsistence value;
- (3) Specifying that the recognition of game mammals is limited to situations in which:

- (a) They do not threaten the habitats of threatened or endangered species; and
- (b) The continued taking of such mammals are consistent with sound management practices; and
- (4) Making technical, nonsubstantive revisions for purposes of style and clarity.

It is the intent of your Committees that this bill does not provide a legal claim for the hunting of game mammals as a native Hawaiian subsistence gathering right.

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. 1790, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1790, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kanoho, McMurdo, M. Oshiro and Yoshinaga.

(Representatives Meyer and Thielen voted no.)

SCRep. 796 Water and Land Use Planning on H.B. No. 1591

The purpose of this bill is to expedite the state land use decision-making process.

This bill would require the State Land Use Commission (LUC) to approve, deny, or modify a land use petition no later than one year after a petition is filed with the LUC.

The Office of State Planning, the LUC, the Environmental Center of the University of Hawaii at Manoa, and Hawaii's Thousand Friends offered comments on this bill.

According to the LUC, its processing timeframes for petitions have increased over the years. This increase may be attributable to various factors, including:

- (1) The fast-track processing of housing petitions;
- (2) The need to provide all parties with adequate due process to present their cases; and
- (3) An increase in the number of:
 - (a) Petitions due to the five-year boundary review;
 - (b) Interventions on petitions; and
 - (c) Issues.

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

- (1) Exempting a petition from the 365-day deadline if there is an intervenor or if a time extension is stipulated by the parties;
- (2) Deleting the requirement that the LUC must decide on a petition within 120 days after the close of the hearing; and
- (3) Making technical, nonsubstantive revisions for the purpose of 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. 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 Nekoba, Kanoho and M. Oshiro.

SCRep. 797 Consumer Protection and Commerce on H.B. No. 605

The purpose of this bill is to allow lessors of rental motor vehicles to offer lessees the option of purchasing a full tank of fuel from the lessor at a price that does not exceed the locally prevailing retail market price.

Currently, the consumer leasing a car may return the car with a full tank of fuel or return the car with less than a full tank of fuel and pay the car rental company a refueling service charge that equals the cost of gasoline to fill the tank and a surcharge for labor equal to 50% of the cost of the gasoline to refuel. This measure offers the consumer a new choice. The benefit to the consumer is the lower self-service price for the tank of fuel purchased. The consumer would then have the convenience of not having to refuel before returning the rental car and not having to pay the higher refueling service charge. The car would be rented with a full tank, and there would be a charge for a full tank based upon the current prevailing market price for self-service. Upon return, there would be no additional charge for fuel or refueling. The consumer would return the car with as near to an empty gas tank as possible. A safeguard is built into the measure because if a fuel purchase option is taken and the car is driven a hundred miles or less, the consumer will be credited with the original charge for purchase of a fuel tank and charged only the refueling charge and surcharge.

Supportive testimony was submitted by the CATRALA-Hawaii, Car and Truck Rental and Leasing Association of Hawaii, Budget Rent-A-Car, Hertz Hawaii, Avis Rent A Car Systems, Inc., and Tongg Printing Company, Inc. Your Committee was informed that the locally prevailing retail market price would be determined using the customary and usual trade practice of taking an average of prices from five service stations in the immediate locality.

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. 605 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, Hiraki, Swain, Tom, White and Yamane.

SCRep. 798 Consumer Protection and Commerce on H.B. No. 1217

The purpose of this bill is to allow the issuance of a limited license to anyone who sells policies of individual or group credit personal property insurance and credit involuntary unemployment insurance.

The Hawaii Financial Services Association (HFSA) strongly supported the passage of the bill. HFSA testified that financial services loan companies would be able to write policies for group credit property insurance and group credit involuntary unemployment insurance along with group credit life and accident and health insurance. Sales would be limited to persons who have applied and qualified for loans.

The State Insurance Commissioner (Commissioner) testified in behalf of the Department of Commerce and Consumer Affairs and indicated no opposition to the bill. However, the Commissioner expressed concern about the bill's silence on the regulation of this class of license and offered assistance in developing the necessary exam procedures, standards, and investigatory procedures.

Your Committee recognizes the public benefit in allowing financial service loan companies the opportunity to better serve their customers who ask for insurance against losses that may occur as a result of an involuntary job loss or if a customer's rented home or apartment is burned down. Passage of this bill will permit the loan companies to offer credit protection on a limited basis through authorized insurance companies in the State.

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. 1217 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 Yoshinaga, Hamakawa, Hiraki and Tom.

SCRep. 799 Consumer Protection and Commerce on H.B. No. 530

The purpose of this bill is to require the Insurance Commissioner (Commissioner) to grant a certificate of authority to any applicant that is an insurer licensed under the insurance laws of at least one of three states designated by the Commissioner from among states that are accredited by the National Association of Insurance Commissioners.

This bill will make it easier for foreign insurers to enter the market in Hawaii, thereby increasing competition. More competition will result in the reduction of insurance rates.

The Department of Commerce and Consumer Affairs, State Farm Insurance Companies, and the Hawaii Insurers Council submitted comments on the bill.

After carefully considering the merits of the bill and the testimony received, your Committee has amended the measure by:

- (1) Inserting language that would permit the Commissioner the flexibility to move companies of questionable reputation doing business in otherwise rigorously regulated jurisdictions into the regular accreditation track; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 530, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 530, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Yoshinaga, Hiraki and Tom.

SCRep. 800 Consumer Protection and Commerce on H.B. No. 864

The purpose of this bill is to make housekeeping amendments to clarify and conform sections of Chapter 467, Hawaii Revised Statutes, concerning real estate brokers and salespersons.

The Real Estate Commission (Commission), Department of Commerce and Consumer Affairs, testified in support of this bill. The bill seeks to make the real estate broker licensing requirement for registered condominium hotel operators and condominium managing agents consistent with an administrative hearing determination involving an unlicensed entity's offers to manage real estate for compensation and to clarify current law authorizing the Commission to discipline licensees.

Favorable testimony was also received from the Director of the Hawaii Real Estate Research and Education Center at the University of Hawaii.

Your Committee finds that these housekeeping amendments will clarify the existing law relating to real estate brokers and salespersons. Technical, nonsubstantive amendments have been made for purposes of style, clarity, and consistency.

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. 864, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 864, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Swain and Tom.

SCRep. 801 Consumer Protection and Commerce on H.B. No. 870

The purpose of this bill is to establish standards for awarding attorneys' fees and other costs and fees in lawsuits involving collection of assessments and enforcement of documents in cooperative housing corporations.

This measure allows the cooperative to collect attorneys' fees for collecting delinquent assessments and enforcing the requirements of the condominium law and the cooperative's governing documents. The measure also protects the stockholder's right to enforce the provisions of the cooperative's governing documents while discouraging frivolous or unfounded lawsuits.

Testimony in support of the measure was received from the Community Associations Institute, Hawaii Chapter. Comments were received from the Hawaii Council of Associations of Apartment Owners.

Your Committee amended the measure to change the phrase referring to a substantiated claim to refer instead to the successful party. Definitions for "successful party" and "good faith effort" were also added.

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. 870, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 870, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 802 Consumer Protection and Commerce and Judiciary on H.B. No. 1924

The purpose of this bill is to require captive insurance companies to meet the same statutory standards imposed upon other insurance companies concerning financial reports and the penalty for the late filing of these reports.

The Deputy Insurance Commissioner testified in support of this bill. The amendments describe the information that must be included in the financial statement and provide for a penalty for a late filing or for the failure to file a report. The premium tax due date is also amended to conform with other insurance companies.

Your Committees find that the proposed changes will enable the Insurance Commissioner to regulate the insurance industry in a consistent manner by providing that captive insurance companies adhere to the same requirements imposed upon the rest of the insurance industry.

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. 1924 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 Hiraki, McMurdo and Tom.

SCRep. 803 Consumer Protection and Commerce and Judiciary on H.B. No. 1928

The purpose of this bill is to repeal the section of the law which required charitable organizations conducting charitable solicitations to:

- (1) Inform donors of their right to be deleted from donor mailing lists; and
- (2) Have procedures to effect such a deletion.

Your Committees received testimony from the Department of Commerce and Consumer Affairs outlining the reasons for the repeal of this section. First, the section articulated a prohibited act that was extremely difficult to enforce.

Second, the practical effect of the section was that charitable organizations who were not members of a mailing list clearinghouse such as the Direct Marketing Association (DMA) were at a disadvantage if they engaged in the sale, lease, or trade of mailing lists. DMA members purchase mailing lists from the Mail Preference Service (MPS), and MPS maintains demographic information and purge lists. All DMA members agree to purge persons from mailing lists if the person requests. Non-DMA members do not have a central clearinghouse to purge names of persons who wish to have their names removed. The DMA non-member can remove the name from the list it maintains, but has no control over its buyers' lists. Thus, the person's wish for removal will not be accomplished, and the uncertainty of the sanctity of the list may render the list unmarketable.

Third, the section mandated the use of a negative option in donor solicitations. A negative option is where the consumer's consent is presumed, and the consumer can only get out of the deal if he or she takes affirmative action. The negative option is one of the great banes of consumer protection agencies across the country.

Your Committees agree that the repeal of this section of the law is necessary to eradicate the potential for consumer abuse.

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. 1928 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 Tom, Hamakawa, Hiraki, McMurdo and Saiki.

SCRep. 804 Consumer Protection and Commerce and Judiciary on H.B. No. 1952

The purpose of this bill is to clarify the application of Section 431:10C-308.7, Hawaii Revised Statutes. Under this bill, the Department of Commerce and Consumer Affairs (DCCA) can only refer reported violations of the section by an attorney to the Office of Disciplinary Counsel for appropriate action.

The director of the Regulated Industries Complaints Office (RICO) which is a part of the DCCA testified that the bill is necessary to clarify the jurisdiction of RICO with respect to actions against attorneys who violate Section 431:10C-308.7. RICO's jurisdiction is limited by statute to only those professions and vocations licensed by the DCCA and the Office of Disciplinary Counsel is authorized by law to investigate and prosecute lawyers for any violations of the law.

Your Committees find that this bill clarifies any ambiguities in the law as to the jurisdiction of RICO and the Office of Disciplinary Counsel over attorneys who violate Section 431:10C-308.7 regarding client referrals between attorneys and health care providers.

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. 1952 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 Hiraki, McMurdo and Tom.

SCRep. 805 Consumer Protection and Commerce and Judiciary on H.B. No. 447

The purpose of this bill is to make state laws regulating gold and silver stamping consistent with the National Gold and Silver Stamping Act and to make it unlawful for any manufacturer or dealer to possess or manufacture gold and silver merchandise that is in violation of Section 482D-6, Hawaii Revised Statutes. Articles that are not clearly identified with distinct trademarks or quality marks will be considered contraband and subject to seizure and forfeiture.

Testimony in support of the stamping of gold and silver merchandise was received from the Honolulu Police Department (HPD), the Hawaii Pawnbrokers and Secondhand Dealers Association (HPSDA), jewelry appraisers, jewelers and goldsmiths, and consumers.

HPD testified that the stamping of articles will enable the police to trace underkarated items to the jewelry manufacturer. This ability to trace items to the manufacturer will deter underkarating of merchandise. Jewelry industry members emphasized the importance of maintaining the integrity of the industry and protecting consumers. The HPSDA requested the exemption of used, secondhand or antique merchandise from the stamping requirement.

Your Committees find that consumers will be protected from theft by deception if gold and silver merchandise is clearly and properly stamped so that items may be traceable to the manufacturer. The stamping requirement will deter the underkarating of merchandise and decrease the incidence of jewelry fraud.

The bill has been amended to specifically exempt antique items from this identification requirement. Antique jewelry is normally found on the secondary market and as such cannot be stamped according to the bill's requirements.

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. 447, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 447, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, McMurdo and Tom.

SCRep. 806 Consumer Protection and Commerce and Judiciary on H.B. No. 1939

The purpose of this bill is to protect the privacy interests of licensed massage therapists to the same extent that privacy interests of other professionals licensed by the Department of Commerce and Consumer Affairs (Department) are protected under Chapter 92F, the Uniform Information Practices Act (UIPA).

The previous provision of section 452-9, Hawaii Revised Statutes, expressly made all records of the Board of Massage Therapy (Board) available for public inspection and copying in their entirety. In comparison, public access to the records of most other professional and vocational licensing boards under the Department are governed by the UIPA and not by specific statutes pertaining to the boards.

Your Committees agree that this bill promotes the UIPA's goal of establishing uniform standards relating to the disclosure of government records. It also protects the right to privacy of personal and confidential information filed by an applicant while still assuring that other information concerning a licensee will be provided to the public as provided under Chapter 92F, UIPA.

Testimony in support of this measure was received from the Board. Testimony in opposition to this measure was received from several massage therapists. The Office of Information Practices submitted comments.

The massage therapists believe the measure would inhibit their abilities to obtain public information about a particular massage therapist licensee. The Board felt the measure did not inhibit the release of public information regarding licensees, but protected the privacy interests of licensed massage therapists to the same extent that privacy interests of other professionals licensed by the Department are protected under the UIPA.

To address this discrepancy in interpretation of the measure, your Committees amended the measure to clarify that the provisions of the UIPA would prevail in the disclosure of information maintained by the Board.

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. 1939, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1939, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hamakawa, Hiraki, McMurdo, Saiki and Tom.

SCRep. 807 Judiciary on H.B. No. 182

The purpose of the bill is to implement penal code amendments in connection with the proposals by the Committee to Conduct a Comprehensive Review of the Hawaii Penal Code in order to strengthen, clarify, and harmonize the penal code.

Your Committee received testimony generally in support of this measure from representatives of the Department of Public Safety of the State of Hawaii, the Hawaii Paroling Authority, and the American Civil Liberties Union.

Testimony which opposed certain portions of the measure was received by your Committee from representatives of the Attorney General, the Mayor of the City and County of Honolulu, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Police Department of the City and County of Honolulu, the Domestic Violence Legal Hotline, the Hawaii State Commission on the Status of Women, Hawaii Lawyers Care, the Hawaii State Coalition Against Sexual Assault, and several private citizens.

The Judiciary submitted testimony to your Committee with regard to the anticipated effects of the adoption of this measure as they affect Judiciary resources.

Your Committee notes that the bill contains 94 sections which encompass the recommendations by the Committee to Conduct a Comprehensive Review of the Hawaii Penal Code (Review Committee), established pursuant to Act 284, Session Laws of Hawaii 1993.

To the extent that such sections were not modified by your Committee, your Committee has adopted the proposals and the rationale for such recommendations as set out in the "Final Report of the Committee to Conduct Comprehensive Review of the Hawaii Penal Code" submitted to the Eighteenth Legislature of the State of Hawaii on December 28, 1994.

Your Committee expresses its deep appreciation to the members of the Review Committee, its chair and its reporter for the many excellent recommendations which have been adopted by your Committee, including proposals to clarify and simplify procedures when a defendant invokes the insanity defense, raising manslaughter to a Class A felony, simplifying the description of the murder offenses, and making lack of knowledge of age an affirmative defense as it relates to certain sex offenses, together with numerous other substantive and technical changes to the penal code.

Your Committee finds, however, that certain of the recommendations should be revised in light of the testimony received at the hearing.

Your Committee is of the opinion that reducing the maximum penalty associated with the crime of abuse of family and household members, while adding a new crime of assault in the fourth degree, carries the danger that certain individuals will not be sentenced appropriately. Section 709-906, Hawaii Revised Statutes, is a very broadly worded statute which encompasses a wide range of conduct. Your Committee believes, therefore, that the Court should retain the discretion to sentence certain individuals who commit that offense to a full year in jail, and has amended the measure to reflect this change.

Your Committee also was of the opinion that following an acquittal by reason of insanity, the application for conditional release should be extended from 90 days following commitment to 120 days and has amended the bill accordingly.

Your Committee was concerned with the proposed addition to the repeat offender statute of language which suggested that the mandatory minimums were not to be imposed in the usual case. Your Committee has therefore eliminated the "not to exceed" language which appears in Section 33. In place thereof, and in recognition of the problem that the current law is so restrictive it inhibits the efforts of the prosecutor to reach a plea bargain when the prosecutor deems the bargain to be in the interest of public safety, the measure has been amended to allow the sentencing court to reduce the mandatory minimum when the court finds that doing so is in the interest of public safety. This, for example, may occur when the public safety is better served by lessening the mandatory minimum so that a guilty plea will be obtained and a

defendant imprisoned, as opposed to failing to secure a plea and running the risk that the accused will not be convicted at trial.

Your Committee wishes to emphasize that "the interests of public safety" as used in this measure does not refer to the public safety department, and emphatically does not refer to any conditions of prison overcrowding. Rather, it refers to the safety of the public.

Your Committee has also amended the bill by deleting Class A felonies from the list of crimes where the court could dismiss a prosecution and commit the defendant to the hospital.

Your Committee finds that the proposal to permit probation for all Class A felonies should not be extended to the crimes of Sexual Assault in the First Degree and Promoting Child Abuse in the First Degree. Your Committee does not believe, given the conduct which these crimes entail, that probation would ever be an appropriate sentence, and has amended the bill accordingly.

Your Committee does find that there could be certain rare and unusual circumstances which might arise where a term of probation may be appropriate in the remaining Class A felonies for which probation is not presently an option.

Yet your Committee is concerned that even a single inappropriate sentence in such a case could undermine public confidence in both the Judiciary and the criminal justice system. In order to ensure that this discretion is not unfettered, your Committee has amended this bill by requiring the written approval of a second judge before a term of probation could be imposed in such cases.

In this connection, the sentencing section with respect to Class A felonies was amended so the sentencing for Class A felonies would mesh with the language in the section dealing with probation.

Your Committee also finds that good, solid policy reasons exist to continue the special protection afforded the elderly, children, and the handicapped in the penal code. For this reason, your Committee has amended the measure to reinstate these provisions while at the same time making their application similar to that of the repeat offender section, i.e., providing for the possibility of a reduction when do to so is in the interests of public safety or there are strong mitigating circumstances.

Your Committee wishes to emphasize that the phrase "strong mitigating circumstances" is intended to reflect the legislature's belief that the mere presence of mitigating circumstances is not sufficient for the sentencing court to deviate from the policy expressed in this section. The mitigating circumstances must be strong, i.e., they must be of such a nature that in light of those circumstances, a sentence which fully implemented the punishments contained in that section would severely trouble a fair minded person.

In addition to the above amendments, your Committee:

- (1) Changed the word "inappropriate" to "inadequate" in the section dealing with multiple sentences of imprisonment;
- (2) Eliminated the word "substantial" from the definition of bodily injury;
- (3) Used the term "law enforcement officer" instead of "police officer" in the section on aggravated murder; and
- (4) Deleted Section 75 of the original bill so as to retain the current law as it relates to theft in the second degree.

In addition, technical, nonsubstantive changes were made for the purpose of style and clarity.

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

SCRep. 808

Energy and Environmental Protection on H.B. No. 388

The purpose of this bill is to require agencies proposing or reviewing any action that is subject to the environmental impact statement law to submit a draft environmental assessment to the Environmental Council if a negative declaration is anticipated.

Testimony was received from the Office of Environmental Quality Control, the Department of Transportation, the City and County of Honolulu, and the Chamber of Commerce which spoke against the bill as originally drafted. Basically, it reflected the fact that, for the most part, the system works well enough as presently set up, and there is no need to add yet another step to an already arduous process. Concern was also expressed for the proposal to remove public input from the process and passing that to the Environmental Council.

However, testimony and discussion among your Committee's members led to the conclusion that the focus of the bill is, and should continue to be, on state agencies that are involved in a conflict-of-interest situation, i.e., a department that initiates a proposal for a particular project and then finds itself in the position of determining whether or not an environmental impact statement is required for its own project. The bill would allow the Director of the Office of Environmental Quality Control, at his or her discretion, the option of overriding the particular agency, in the event of a negative declaration, and requiring that an environmental impact statement be drafted.

Your Committee has therefore decided to amend the bill by reinstituting public input into the process and placing a time limit of five working days on the option of overriding a state agency's negative declaration.

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. 388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 388, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives M. Oshiro, Takamine, Tarnas and Yoshinaga.

SCRep. 809 Energy and Environmental Protection on H.B. No. 874

The purpose of this bill is to:

- (1) Clarify the Environmental Impact Statement Law (Chapter 341, Hawaii Revised Statutes) with specific language in order to close loopholes within the law.
- (2) Require an environmental assessment to be prepared for an action within the special management area or a critical or essential habitat.

Your Committee heard testimony from the Department of Land and Natural Resources, the Office of Environmental Quality Control, the Department of Health, the Environmental Center, the Land Use Research Foundation, Hawaiian Electric Industries and Chevron. Discussion for the most part centered on specific parts of the bill, with testifiers focusing on their particular areas of expertise.

In response to public input, specific amendments from Hawaiian Electric, the Environmental Center, the Land Use Research Foundation and Chevron were included in the drafting of H.B. No. 874, H.D. 2., which will:

- (1) Retaining the exemption from the requirement for an environmental assessment any new amendments to an existing county general plan initiated by a county;
- (2) Require an environmental assessment for any new major use requiring an air pollutant source permit under Chapter 342B; and
- (3) Removing the proposed requirement for an environmental assessment for any development on agricultural district-classified land of five or more dwelling units.

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. 874, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 874, H.D. 2, and be placed on the calendar for Third Reading.

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

SCRep. 810 Consumer Protection and Commerce and Judiciary on H.B. No. 2286

The purpose of this bill, as received by your Committees, is to establish a system of motor vehicle insurance that allow motorists to choose the:

- (1) Kind of personal injury protection they want for themselves and their family members; and
- (2) Amount of financial protection they deem appropriate.

More specifically, this bill, among other things, would allow motorists to:

- (1) Purchase a new personal injury protection (PIP) coverage to protect themselves and their family members in the event of a motor vehicle accident;
- (2) Elect traditional tort liability coverage. This option would include an inverse liability coverage (tort maintenance) to provide protection in the event injury is caused by someone who has elected the personal injury protection option; or
- (3) Choose not to purchase any motor vehicle insurance.

CURRENT SITUATION

The cost of motor vehicle insurance in the state is prohibitively high. Hawaii has consistently been ranked at the top of all states in premium rates for motor vehicle insurance. In fact, according to the March 28, 1994, edition of Auto Insurance Report, Hawaii had the "highest personal auto insurance premiums in the United States in 1992".

Along with the high cost of living, housing, and other cost factors in the state, the high premium rates for motor vehicle insurance have placed many of Hawaii's residents in a situation where they must choose between putting food on the table, paying the rent or mortgage, or purchasing motor vehicle insurance.

When placed in this situation, many of these hard working, honest and decent, law abiding citizens feel that they have but one choice. That choice often is to feed and provide shelter for their families. Consequently, many choose to drive without motor vehicle insurance, and in the eyes of the law, become criminals.

Apparently, many motorists are in this situation, as according to some reports, as many as twenty-five percent of the motorists on Hawaii's roads and highways are uninsured.

TESTIMONY

Testimony in support of this bill was received from a professor of law from the University of Virginia and a concerned citizen. The State Insurance Commissioner; the Judiciary; State Farm Insurance Companies; the Hawaii Independent Insurance Agents Association; the Chamber of Commerce of Hawaii; the Hawaii Insurers Council; the Hawaii State Chiropractic Association; the Hawaii Trial Lawyers Association; the County Council of the County of Hawaii; and many concerned citizens submitted comments on this measure.

AMENDMENTS

After carefully considering the merits of the bill and the testimony submitted, your Committees have made numerous amendments to the measure. The following are highlights of some of the more significant amendments made by your Committees:

- (1) Deleted the option to drive uninsured;
- (2) Established a recoverable damages amount of \$20,000 that injured parties who file tort claims would have to recover to receive any pain and suffering damages. This recoverable damages amount would replace the current monetary threshold under current law;
- (3) Removed the restriction against relatives providing replacement services. Relatives are ordinarily most available, do a good job since they have a personal relationship with the injured person, and are generally less expensive to use;
- (4) Added language requiring the written rejection of any benefits, options, or coverages required, to conform with existing law, thereby eliminating unnecessary litigation over whether optional coverages were actually exercised;
- (5) Inserted a provision that makes PIP benefits available to tort insureds to provide greater choice to consumers;
- (6) Clarified that uninsured motorists are liable for all losses they cause to a person insured for PIP benefits;
- (7) Replaced the provisions relating to fraudulent claims with the more comprehensive anti-fraud provisions from H.B. No. 1960. These provisions would prohibit any person, including attorneys, from fraudulently obtaining benefits or from assisting any other person in fraudulently obtaining benefits. Violators will be subject to imprisonment. Insurers who defraud by intentionally withholding benefits without a reasonable basis to withhold also will face stiff sanctions;
- (8) Removed the provisions limiting liability of insurers for advising consumers since consumers must be adequately informed in order to exercise intelligent choices. The potential for malpractice liability will encourage insurers to provide adequate assistance to consumers in understanding and exercising the choices and consequences of those choices;
- (9) Included a provision allowing the payment of motor vehicle policy premiums by credit card. This will enable consumers to structure their insurance payment plan to meet their individual needs. Also, payment flexibility will enable previously uninsured motorists to make smaller and more frequent payments;
- (10) Extended the effective date of the Act to afford insurance carriers, consumers, and other interested parties ample time to prepare for the changes in the law; and
- (11) Made technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

EFFECT OF BILL

Your Committees believe, that this bill as amended, will help to reduce motor vehicle premiums. The primary reason for this is that consumers will be afforded the right to exercise personal choice in the amount of insurance coverage that they will purchase. For example, if a person chooses to purchase only a "barebones" insurance policy (a policy that provides only PIP and property damage coverages), the person could have their premiums reduced significantly. It is believed that savings would occur because the "barebones" policy would not include coverages that would drive up premium costs (i.e. bodily injury liability coverage and collision coverage.)

With respect to tort claims, this bill establishes a recoverable damages amount that injured parties who file such claims would have to recover if they are to recover any damages for their injuries or losses. The amount in this bill is \$20,000. This means that if an injured party files a tort claim and recovers less than \$20,000, depending on the type and amount of the injured person's coverage, that party would receive nothing since the amount recovered did not reach the recoverable amount. This provision should substantially reduce no-fault costs resulting from tort claims in several respects.

First, the vast majority of minor soft tissue claims are resulting in damage awards between \$10,000 to \$15,000. The threshold amount contained in this bill would help to reduce and/or eliminate these payouts. Moreover, injured parties

will be reluctant to file lawsuits in cases involving minor claims because of their recognition that they may recover nothing while also being saddled with court and litigation costs. In this regard, plaintiffs' attorneys will be extremely careful about filing minor tort claims because if they do so and their clients do not receive anything and are forced to pay litigation costs, these attorneys could conceivably be sued for malpractice by their disgruntled clients.

Additionally, this proposal balances personal choice in the selection of insurance coverages with personal accountability—that is, the need to hold negligent drivers personally accountable for the losses or injuries that they cause. For example, if a wealthy person chooses to carry a "barebones" insurance policy and causes an accident that results in loss or injury to another party, there is no reason why the injured party should not be able to hold the negligent person personally liable. Similarly, if a driver is struck by another motorist and sustains vehicular damage, the driver who sustained property damage should be able to seek compensation from the negligent party.

With respect to the provisions making health care insurance primary, your Committees understand and appreciate the concerns expressed by businesses and employers regarding the impact on their costs for pre-paid health coverage. However, the following factors should be considered when assessing the impact of this bill on the pre-paid health system:

- (1) The administrative overhead is significantly lower for pre-paid health carriers than for auto insurance carriers. For example, the Hawaii Medical Services Association's administrative overhead is approximately seven percent of its operating expense. In contrast, the average for auto insurance companies in Hawaii is approximately twenty-two percent;
- (2) Only a portion of the PIP coverage, approximately sixty to seventy percent, is for medical services. Therefore, thirty to forty percent of the PIP cost would not shift to the pre-paid health care system;
- (3) Pre-paid health carriers have lower medical fee schedules and different utilization guidelines than auto insurance carriers; and
- (4) Co-payments, in which the individual pays for a portion of the medical care, apply in the pre-paid health system, but not in the auto insurance system. Co-payments decrease the cost to the pre-paid health system and deter over-utilization of services by patients.

Also, employers would still be able to ask employees to contribute a larger portion to the pre-paid health system.

It should also be emphasized that businesses could see a significant drop in their automobile insurance premiums.

CONCLUSION

It is imperative that the Legislature act immediately to address the automobile insurance situation in Hawaii. Your Committees believe that this bill will go a long way in reducing the cost of auto insurance, thereby improving the quality of life for many of Hawaii's residents.

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. 2286, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2286, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative McMurdo.

SCRep. 811 Finance on H.B. No. 1834

The purpose of this bill is to clarify and streamline the provisions of the Hawaii Public Procurement Code (Code), to achieve the objectives of cost-effectiveness and accountability which prompted its adoption.

The State Attorney General, the Department of Accounting and General Services, and the Department of Transportation submitted testimony on this measure.

In recognition of the popularity of computer networks, your Committee encourages the use of electronic bulletin boards for posting notices for sole source contracts, requests for proposals, and other opportunities to provide goods or services to government.

The bill has been amended by:

- (1) Deleting the definition of "public funds" and clarifying that the Code applies to all procurement contracts made by governmental bodies unless otherwise exempt;
- (2) Restoring the Attorney General's authority to review the retention of attorneys by the Housing Finance and Development Corporation, the Employees' Retirement System, and the community hospitals and the Division of Community Hospitals;
- (3) Adding an additional exemption from the Code for contracts to disburse funds as loans, under loan programs administered by a governmental body;
- (4) Prohibiting the disclosure of any information derived from proposals submitted by competing offerors to the professional screening committee; and
- (5) 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1834, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1834, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 812 Consumer Protection and Commerce on H.B. No. 2179

The purpose of this bill is to provide that proxies for which no individual is designated shall be valid for quorum purposes only and to prohibit any board of directors from restricting proxy solicitation. The bill also repeals the provision allowing an owner to indicate a desire to split the owner's vote equally among the board members.

Favorable testimonies were received from a condominium owner and Hawaii Independent Condominium & Cooperative Owners (HICCO). HICCO recommended an amendment to the bill. The Real Estate Commission, Department of Commerce and Consumer Affairs, and the Hawaii State Bar Association (HSBA) expressed reservations about the bill. The HSBA testified that the bill might result in disabling associations from conducting meetings. Chapter 514A, Hawaii Revised Statutes, might also be affected and result in eliminating the present system whereby proxies are given to the board of directors. The HSBA suggested the bill be amended to regulate the solicitation of proxies or distribution of materials.

Your Committee recognizes the need to ensure that the rights of all condominium owners are protected and that burdensome restrictions imposed upon the solicitation of proxies and the distribution of materials related to the association infringe upon the rights of an owner. This bill attempts to alleviate any problems by making sure that all owners have equal access and opportunity to participate in association matters.

Amendments to the bill have been made to incorporate the proposed changes which provide that a condominium board of directors may promulgate reasonable rules to regulate the solicitation of proxies or distribution of materials relative to the association and also allow the prohibition of commercial solicitations.

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. 2179 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2179, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Yoshinaga, Hiraki and Tom.

SCRep. 813 Consumer Protection and Commerce on H.B. No. 1169

The purpose of this bill is to permit optometrists licensed in this State to prescribe therapeutic pharmaceutical agents (TPAs).

Your Committee finds that the scope of optometric education has changed over the years, with increasing emphasis on clinical training in the area of diagnosis and treatment of diseases and disorder of the eye. Your Committee also finds that forty-one states permit their licensed optometrists to use some type of TPAs. However, your Committee is concerned that the health of the public be protected to the greatest extent possible, and has serious reservations about the great latitude permitted in the bill as received. The legislative reference bureau report In the Eye of the Beholder: the Feasibility of a Therapeutic Drug Law for Optometrists in Hawaii thoroughly details the arguments both for and against TPAs in Hawaii. In particular, the report notes that:

- (1) Ophthalmologists nationwide and in Hawaii have serious concerns over patient safety under a TPA law;
- (2) Optometrists receive less training in diagnosis and treatment of eye disease than do ophthalmologists;
- (3) The more recent optometry graduates have some classroom and clinical training in eye disease diagnosis and treatment, but older optometrists did not receive the same level of training;
- (4) The enactment of a TPA law might result in cost savings to consumers and might facilitate the continued development of managed care in the treatment of eye disease; and
- (5) The passage of a TPA law might enhance the availability, convenience, and accessibility for patients in need of treatment.

Your Committee finds that only a very cautious approach to establishing a TPA law in Hawaii is warranted. While other states' experience may be looked to for guidance, the controlling criterion for the legislature is the perceived impact on the Hawaii resident. With the limited hard data available, your Committee recommends a restricted approach. Your Committee has provided for a five-year pilot period for the TPA law, and required both the board of medical examiners and the board of optometry to submit a report to the legislature at that time, based on data received during the five-year period. The good faith cooperation of the board of medical examiners in implementing this law is expected, and an interim report by that board will also be required. Your Committee's hope is that by working together, with data rather than accusations, both sides can reach a compromise that will provide the maximum benefit to Hawaii's people.

Your Committee has amended the bill by:

- (1) Requiring the certification of optometrists to use TPAs, including the selection of an appropriate examination, to be done by the board of medical examiners;
- (2) Requiring the formulary of TPAs to be established by the board of medical examiners in consultation with the University of Hawaii school of medicine;
- (3) Creating a two-tier system of TPA-licensed optometrists, permitting optometrists who work under the supervision of an ophthalmologist in a clinic or hospital to administer and prescribe topical TPAs for conditions as permitted by the board of medical examiners upon passage of an examination, and requiring other optometrists to meet educational and clinical requirements established by the board of medical examiners before being entitled to administer or prescribe TPAs; and
- (4) Limiting the law to a five-year period, requiring an interim report by the board of medical examiners, and requiring a joint report by the board of medical examiners and the board of examiners in optometry at the end of the five year period to determine whether the scope of the law should be increased, narrowed, or abolished altogether.

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. 1169, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1169, H.D. 2.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.
(Representatives Case, Swain, Meyer and Thielen voted no.)

SCRep. 814 Consumer Protection and Commerce on H.B. No. 896

The purpose of this bill is to continue the mandated health insurance coverage for newborn adoptees. Such mandated health insurance coverage is scheduled to sunset on June 30, 1995.

Your Committee received supportive testimony from HMSA, adoptive parents, and an attorney who specializes in adoptions. The Chamber of Commerce of Hawaii submitted testimony not opposing the measure.

A technical, non-substantive amendment was made to the bill.

Your Committee agreed that this mandated health insurance coverage should continue without a sunset provision.

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. 896, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 896, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 815 Consumer Protection and Commerce on H.B. No. 471

The purpose of this bill is to encourage and facilitate further development of the state's telecommunications industry.

The bill provides for the following:

- (1) Requires each carrier to provide to a new provider of telecommunications services, among other things, interconnection to the carrier's facilities at any technically feasible and economically reasonable point within the carrier's network so that the networks are fully operable, the current interstate tariff shall apply until the Public Utilities Commission (PUC) adopts a new intrastate tariff, nondiscriminatory access to the carrier's facilities to enable transmission and routing of any service and the interoperability of networks, nondiscriminatory access to poles, ducts, conduits, and rights-of-way, and nondiscriminatory access to the carrier's network functions;
- (2) Requires each carrier to provide nondiscriminatory access of customers to the carrier of their choice without the need to dial additional digits or access codes;
- (3) Mandates the PUC to preserve and advance universal service;
- (4) Establishes a universal service fund to be administered by the PUC;
- (5) Requires the PUC to ensure the availability of number portability, as soon as it is technically feasible and economically reasonable;
- (6) Requires the PUC to ensure fair compensation of carriers for termination of services on each other's networks, respectively;
- (7) Enables the PUC to allow carriers to have pricing flexibility for competitive services;
- (8) Requires the PUC to ensure that noncompetitive services do not cross-subsidize competitive services;
- (9) Requires the PUC to ensure that all consumers are provided with nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities; and

- (10) Provides definitions for the terms "telecommunications carrier," "telecommunications common carrier," "telecommunications service," and "telecommunications."

Your Committee notes the efforts of the parties involved in Docket No. 7702, the communications infrastructure docket, toward developing the framework necessary to support the deployment of new technologies and the orderly introduction of competition in the telecommunications industry in the state. Although the development of Hawaii's telecommunications industry should proceed in an orderly and prudent fashion, your Committee believes that it is imperative that we move swiftly. Without a strong signal from our state that this industry is welcome, capital funds will not flow into our state to assist us in developing this industry.

Testimony in support of the bill was received from the PUC, the Department of Business and Economic Development, the Executive Director of the Division of Consumer Advocacy, the Hawaii Cable Television Association, the Hawaii Educational Networking Consortium, Oceanic Cablevision and its telecommunications affiliate, Oceanic Communications, the Hawaii County Council, the Estate of James Campbell, MLS Hawaii, Inc., and the Coalition for Competitive Telecommunications. Testimony in support of the intent of the bill was received from Hawaiian Electric Company, GST Telecom, Inc., and its affiliates Pacwest Telecom, Inc., and Pacwest Telecommunications Corporation, and AT & T. Comments were received from GTE Hawaiian Telephone Company and Honolulu Cellular Telephone Company.

After careful review of the testimony submitted, your Committee has amended the bill as follows:

- (1) Deleted the universal fund provision because of current fiscal concerns;
- (2) Added language to subsection (7) under the "Obligations of telecommunications carriers" section to clarify that carriers must provide nondiscriminatory access of customers to the carrier of their choice without the need to dial additional digits or codes when technically feasible and addition of language regarding the equitable distribution of costs by the PUC;
- (3) Added language to subsection (a)(1) under the "Cross-subsidies" section to clarify that cross-subsidization shall be deemed to have occurred if any competitive service is priced below the total service long-run incremental cost of providing the service as determined by the PUC;
- (4) Deleted the phrase "In the case of the local exchange carrier from subsection (a)(2) of the "Cross-subsidies" section to make this subsection applicable to any carrier that provides competitive and noncompetitive services and incurs common costs as a result of providing both types of services;
- (5) Replaced the phrase "fully distributed cost" with the phrase "allocated, direct, joint, and common costs as determined by the commission" in subsection (a)(2) of the "Cross-subsidies" section to rid the subsection of any confusion over the meaning of "fully distributed cost";
- (6) Added "cable service as defined in section 440C-3" to the definition of "telecommunications service" or "telecommunications" to alleviate the concerns of cable television companies that the proposed definition would include cable television companies, thereby increasing costs and fees of cable operators; and
- (7) Made technical, nonsubstantive changes for the purposes of style, clarity, and consistency.

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. 471, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 471, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki and Tom.

SCRep. 816

Consumer Protection and Commerce on H.B. No. 375

The purpose of this bill is to repeal those sections of Chapter 446E relating to registration and prohibited practices of unaccredited institutions.

Currently, under Section 446E-4, the Department of Commerce and Consumer Affairs (DCCA) is supposed to register unaccredited degree-granting institutions. In doing so, the DCCA is to require no more than the name and address of the institution along with copies of its promotional materials. The DCCA does not take any substantive information and does not make any assessment as to the efficacy or legitimacy of the institutions or the degrees that they confer. Because of the danger that unaccredited degree-granting institutions may advertise their programs with a statement that they have met all of the rigorous requirements of the laws of the State of Hawaii and have been duly registered by the DCCA to do business as a college or university, Section 44E-5 was enacted to prohibit unaccredited institutions from referring to "registration under this chapter, compliance with the requirements of this chapter, or to any agency or employee of the state in a manner which suggests that the state licenses, approves, or regulates its operations."

The DCCA testified that the current law has not been effective. Some unaccredited institutions have referred to registration, the DCCA, and to the Office of Consumer Protection (OCP) in discussing the registration issue. Moreover, the prohibition does not extend to independent college catalogs. The DCCA does not believe it is the appropriate agency to regulate educational institutions. Moreover, as a practical matter, the OCP does not have sufficient resources to devote to this area. That being the case, the DCCA does not want to give the consumer a false sense of security and believes it would be more prudent to tell the public that the State does not have any programs to deal with the situation and that the "buyer beware" rule governs.

The University of Hawaii in its testimony declined to support this measure.

Your Committee made a technical, nonsubstantive amendment.

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. 375, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 375, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 817 Consumer Protection and Commerce on H.B. No. 374

The purpose of this bill is to ensure that the quality associated with a college or university degree is not degraded.

As received by your Committee, this bill proposes to accomplish this by, among other things:

- (1) Providing that failure by any unaccredited institution to disclose information required by the Unaccredited Degree Granting Institution law, constitutes an unfair or deceptive act or practice under the Monopolies; Restraint of Trade law;
- (2) Detailing how penalties will be applied to violations of the aforementioned law;
- (3) Excluding state operated schools from the definition of "degree granting institutions"; and
- (4) Including in the definition of "unaccredited institution", institutions that are provisionally accredited, preaccredited, or a candidate for accreditation.

Testimony in support of the intent of the bill was submitted by the University of Hawaii. The Office of the Consumer Protector in the Department of Commerce and Consumer Affairs submitted comments on the measure.

Your Committee has concerns regarding the provision that would exclude state operated schools from the definition of "degree granting institutions", as this would also exempt these schools from meeting the extremely minimal requirements of the Unaccredited Degree Granting Institutions law. There does not appear to be any sound reason for such an exemption. In applying for accreditation, both public and private schools are judged on the merits of their self study and the degree to which they meet their own goals. In dealing with unaccredited institutions, there would appear to be no reason to allow state operated schools to state anything other than the truth about themselves.

With respect to the proposal to expand the definition of "unaccredited institution", your Committee believes that this expanded definition may cause problems in certain areas. While many schools are accredited by regional accrediting organizations, such as the Western Association of Schools and Colleges, many professional schools are accredited by professional association. For example, law schools are accredited by the American Bar Association. In these instances, the professional associations may have different definitions of "provisional accreditation" or other terms. This could result in an anomalous situation where, for example, a law school is deemed to be accredited for the purposes of the American Bar Association but is unaccredited under this law.

After carefully considering the merits of the bill and testimony submitted, your Committee has amended the measure by:

- (1) Removing the provision that would exclude state operated schools from the definition of "degree granting institutions";
- (2) Deleting institutions that are provisionally accredited, preaccredited, or a candidate for accreditation from the definition of "unaccredited institution"; and
- (3) Making technical, nonsubstantive amendments for purpose of style, clarity, and consistency.

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. 374, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 374, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 818 Consumer Protection and Commerce on H.B. No. 354

The purpose of this bill is to change the period of employment to qualify for temporary disability from four completed calendar quarters to the fifty-two weeks immediately preceding the first day of disability.

Under this measure, an individual will be credited for all qualifying employment during the current and previous year whenever employment extends over two calendar years.

The Department of Labor and Industrial Relations (DLIR) submitted testimony in support of this measure.

Based on the recommendation of the DLIR, your Committee amended the effective date of this measure to apply to disabilities occurring after December 31, 1995. This amendment will give the DLIR time to revise existing claim forms and to notify affected insurers and self-insured employers.

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. 354, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 354, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 819 Consumer Protection and Commerce on H.B. No. 269

The purpose of this bill is to ensure that consumers are not misled to believe they are purchasing 100 percent Kona coffee when they are, in fact, purchasing a Kona coffee blend.

The measure clarifies the general use of the term "Kona coffee."

Your Committee received supportive testimony from the Kona County Farm Bureau and the Hawaii Food Industry Association. Testimony in opposition to the measure was received from the Board of Agriculture.

Your Committee made a few technical, nonsubstantive amendments for purposes of clarity, consistency, 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. 269, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 269, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 820 Consumer Protection and Commerce on H.B. No. 184

The purpose of this bill is to exempt limousines from certain motor vehicle sun screening regulations.

Under present law, side windows to the rear of the driver and rear windows on vans, minivans, trucks, and buses are exempt from sun screening requirements provided that the vehicles are equipped with rearview mirrors on both sides.

This measure exempts side windows and rear windows on limousines regulated by the Public Utilities Commission from the motor vehicle sun screening requirements of section 291-21.5 of the Hawaii Revised Statutes. Thus, commercial limousines would be allowed to tint the windows to the rear of the driver darker than 35 percent. The darker tint would allow a higher level of security for the transportation of certain passengers. Allowing an exemption for limousines would make it possible for limousine service providers to handle both low and high security contracts with the same vehicles.

The measure also clarifies the area to be measured in inspections of front windshield tints.

Your Committee received supportive testimony from the Department of Transportation, Travel Plaza Transportation, Inc., and the Hawaii Transportation Association. The Public Utilities Commission (PUC) also submitted testimony not opposing the inclusion of the limousines that it regulates in this exemption. The PUC noted that the exemption, however, would not cover all limousines because some limousines operated as taxis are regulated by the counties under chapter 445 of the Hawaii Revised Statutes.

Accordingly, your Committee amended this measure to provide for the exemption of all limousines, including those limousines regulated by the counties under chapter 445 as well as those limousines regulated by the PUC under chapter 271.

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. 184, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 184, H.D. 2.

Signed by all members of the Committee except Representative Tom.

SCRep. 821 Consumer Protection and Commerce on H.B. No. 18

The purpose of this bill is to clarify the respective roles of the State and the counties relative to the regulation of jitney services.

The proposed measure clarifies jurisdiction between the State and the counties by requiring jitney services not regulated by the counties to be under the jurisdiction of the Public Utilities Commission. Jitney services which are under the jurisdiction of the counties shall be exempt from regulation by the Public Utilities Commission.

Your Committee received supportive testimony from the Honolulu Public Transit Authority, the Oahu Taxi Owners Association, Inc. (OTOA), the Leeward Oahu Transportation Association, and the Committee on Sensible Transit. The Public Utilities Commission also submitted testimony not opposing the intent of the bill.

Your Committee adopted the recommendation of OTOA by deleting the word "unsubsidized" in the definition of jitney. Your Committee agreed that whether the service is subsidized or not should be a choice made between the county and the providers. All jitney services whether subsidized or not should be regulated under the same jurisdiction.

Your Committee also made a few technical, non-substantive changes for purposes of style, clarity, and consistency.

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. 18, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 18, H.D. 2.

Signed by all members of the Committee except Representative Tom.

SCRep. 822 Consumer Protection and Commerce on H.B. No. 1713

The purpose of this bill is to establish a means of registration with the Department of Agriculture for persons interested in becoming an organic certifier, provided that each person registering submits a copy of the organic standards to which the person subscribes.

Testimony in support of the bill was received from the Department of Agriculture, the Hawaii Organic Farmer's Association, and a number of individual farmers. Your Committee believes that under this legislation, the consumer will be able to obtain information regarding the organic certifier's standards. Further, this legislation provides an effective means of promoting environmentally-sound farming practices for agricultural production.

Your Committee amended the bill by making a few technical, non-substantive amendments.

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. 1713, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1713, H.D. 2.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 823 Judiciary on H.B. No. 360

The purpose of this bill is to allow the Police Department to continue issuing citations by mail to drivers who illegally use the high occupancy vehicle (HOV) lanes.

The Department of Transportation, the Honolulu Police Department, and the Leeward Oahu Transportation Management Association testified in support of this measure.

Your Committee finds that the police are hesitant about stopping violators using the HOV lanes, because stopping violators creates additional traffic congestion and defeats the purpose of the HOV lane. Allowing the police to issue citations by mail would alleviate this problem.

As affirmed by the record of votes of 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. 360 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 824 Water and Land Use Planning on H.B. No. 582

The purpose of this bill is to direct the Departments of Business, Economic Development and Tourism (DBEDT), and Land and Natural Resources (DLNR), to develop a plan to encourage ecotourism by using existing resources and the recently established ad-hoc joint task force.

Your Committee received testimony in support of this bill from DBEDT and The Chamber of Commerce of Hawaii. DLNR and the Sierra Club offered comments on this measure.

Your Committee recognizes the need for the development of ecotourism. By mandating the development of an ecotourism plan, this bill reinforces the importance your Committee feels this subject holds.

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. 582, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 825 Ocean Recreation and Marine Resources on H.B. No. 252

The purpose of this bill is to allow the Department of Land and Natural Resources to designate one boat slip in each small boat harbor for use by a Coast Guard auxiliary vessel equipped and operated to answer emergency search and rescue calls. The Coast Guard would pay the regular boat slip rate for the designated slip.

Testimony in support of this measure was received from the United States Coast Guard Auxiliary and from several citizens. The Department of Land and Natural Resources supported the intent of this bill.

While the bill was not amended, your Committee expressed concern that the Department of Land and Natural Resources must act quickly to designate which harbors currently need a slip for a Coast Guard auxiliary vessel, and must also prioritize which harbors will need such a slip in the future.

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. 252, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Nekoba.

SCRep. 826 Ocean Recreation and Marine Resources on H.B. No. 2008

The purpose of this bill is to authorize the Department of Land and Natural Resources (Department) to issue licences to possess or sell aquatic life raised in an aquaculture facility, regardless of restrictions regulating fishing, possessing, or selling of aquatic life from any non-aquaculture source.

Testimony in support of this measure was received from the Department and a citizen. Another citizen submitted comments supporting the intent of the bill.

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. 2008 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Nekoba.

SCRep. 827 Finance on H.B. No. 929

The purpose of this bill is to transfer the administrative responsibility of the Hawaii State Commission on the Status of Women from the Department of Human Services to the Office of the Lieutenant Governor.

Testimony in support of this measure was submitted by the Office of the Lieutenant Governor, the Governor's Office of Children and Youth, the Hawaii State Commission on the Status of Women, the Hawaii Civil Rights Commission, and the Hawaii Women Lawyers.

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. 929, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 828 Finance on H.B. No. 1041

The purpose of this bill is to add a retired member of the Employees' Retirement System to, and remove a member of the clergy from, the Board of Trustees of the Public Employees Health Fund.

The Hawaii Public Employees Health Fund Board, the Hawaii Government Employees Association (HGEA), and the President of the Hawaii State Teachers Association testified in support of this measure. The Department of Budget and Finance, the Department of Human Resources Development, and the Retirees Unit of the HGEA submitted testimony in support of the intent of this measure. Comments were submitted by the City and County of Honolulu Department of Personnel.

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. 1041, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 829 Finance on H.B. No. 1732

The purpose of this bill is to extend the existence of the Martin Luther King, Jr. Commission by four years to June 30, 1999.

The Democratic Party of Hawaii, the Hawaii Civil Rights Commission, and two commissioners of the Martin Luther King, Jr. Commission testified in support 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. 1732 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 830 Finance on H.B. No. 2275

The purpose of this bill is to increase the number of barrels of malt beverage that brewpub licensees may manufacture on their premises per license year, from three thousand to five thousand barrels.

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. 2275, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 831 Consumer Protection and Commerce on H.B. No. 1940

The purpose of this bill is to allow pharmacists to fill prescriptions or orders from any practitioner licensed in the State and to clarify and add new guidelines regarding licensing requirements for pharmacists in the State.

The measure proposes to:

- (1) Amend the definition of prescription to allow pharmacists to fill orders or prescriptions from any practitioners licensed by the State to prescribe prescription drugs within the scope of the practitioner's scope of practice. Recent legislative enactments gave naturopaths and advanced nurse practitioners some prescriptive authority. Accordingly, the amended definition of prescription will allow pharmacists to accept these orders or prescriptions. Additionally, the measure proposes to allow these practitioners to dispense the prescription drugs that fall within their scope of authorized practice from their offices.
- (2) Add a licensing requirement that applicants verify for both license by examination and license by reciprocity that they do not have encumbered licenses to practice pharmacy in any state or territory of the United States. If any license is or has been encumbered, applicants must provide the information requested by the Board of Pharmacy.
- (3) Require an applicant to establish proficiency in English only if the pharmacy school is located outside the United States in a country where the official language is not English.
- (4) Clarify that every applicant, except an applicant applying by reciprocity under Section 461-8.5, is required to take an examination and file the application form at least 60 days before the exam. If an applicant is taking the exam in another state pursuant to the National Association of Boards of Pharmacy Score Transfer Program, the applicant must file the application form no later than 90 days after the date of examination.
- (5) Delete language that provides an exception for reciprocity applicants to meet the minimum experience requirement, which is otherwise required of all other applicants.

Your Committee received supportive testimony from the Board of Pharmacy and the Department of Public Safety.

Your Committee amended Section 2 of the bill by adding language to subsection (5) to read as follows:

- "(5) Does not have an encumbered license or a pending disciplinary action or unresolved complaint in the practice of pharmacy in any state or territory of the United States, or if any license has been or is encumbered, the applicant shall provide all information requested by the board."

Further, in Section 5 of the bill, your Committee added language to subsection (4) to read as follows:

- "(4) The pharmacist does not have an encumbered license or a pending disciplinary action or unresolved complaint in the practice of pharmacy in any state or territory of the United States, or if any license has been or is encumbered, the pharmacist shall provide any information requested by the board; and"

Other technical, non-substantive amendments were made to the bill.

Your Committee notes that this measure will upgrade the quality of pharmacists that are licensed in this State.

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. 1940, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1940, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 832 Consumer Protection and Commerce on H.B. No. 1971

The purpose of this bill is to provide consistency between federal and state laws in the regulation of medical devices.

The existing statute limits the Department of Health's ability to enforce compliance with federally-established rules known as "good manufacturing practices" (GMPs) to drug products only. GMPs describe the proper methods, facilities, and controls for the manufacture, packaging, storage, and installation of all devices for human use. The Code of Federal Regulations contains GMPs not only for drug products, but also for medical devices. Medical devices include a wide variety of medical products ranging from simple items such as band aids and condoms to sophisticated devices such as heart replacement valves. Federal regulations are enforced by the U.S. Food and Drug Administration (FDA) for products which are introduced into interstate and international commerce but are not necessarily enforced for products which are manufactured and sold within the State of Hawaii.

This measure gives the Department of Health the authority to regulate the manufacturing of medical devices under federally-established GMPs. Your Committee received supportive testimony from the Department of Health and the Department of Public Safety. Your Committee's intent is to insure that medical devices will be safe, effective, and properly labeled for consumer use.

Your Committee made a few technical, nonsubstantive amendments for purposes of clarity, consistency, 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. 1971, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1971, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 833 Finance on H.B. No. 898

The purpose of this bill is to authorize the issuance of special purpose revenue bonds of up to \$45,000,000 for the Kapiolani Health Care System and its not-for-profit subsidiaries to finance capital costs related to construction, renovation, and capital equipment purchases.

The Kapiolani Health Care System testified in support of this measure.

Your Committee has amended this bill by:

- (1) Repealing the June 30, 1995, sunset provision for special purpose revenue bonds to ensure that the special purpose revenue bonds authorized by this measure can be issued; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 898, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 898, H.D. 2.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 834 Finance on H.B. No. 1148

The purpose of this bill is to transfer the Governor's Agriculture Coordinating Committee to the Department of Agriculture.

The Hawaii Farm Bureau Federation testified in support of this measure. The Chairperson of the Board of Agriculture and the Chair of the Hilo Hamakua Diversified Agricultural Task Force commented on this measure.

Your Committee had made technical, nonsubstantive amendments to correct technical 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. 1148, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1148, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.
(Representative Isbell voted no.)

SCRep. 835 Finance on H.B. No. 1524

The purpose of this bill is to exempt cultural parks from state concession public bidding requirements.

The City and County of Honolulu Department of Parks and Recreation; the President, Acting Executive Director, and other members of the Friends of Waipahu Cultural Garden Park; and several interested citizens submitted testimony in support of this measure.

Your Committee has amended this bill by:

- (1) Exempting the Waikiki Aquarium from the state concession public bidding requirements; and
- (2) Making technical, nonsubstantive 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. 1524, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1524, H.D. 1.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 836 Finance on H.B. No. 1789

The purpose of this bill is to ensure that the agreement reached in the bankruptcy court concerning the maintenance of the lower Hamakua ditch will be honored by the parties to the agreement.

The Hamakua/North Hilo Agricultural Cooperative testified in support of this measure. The Board of Agriculture submitted testimony supporting the intent of this measure.

Your Committee has amended this bill by:

- (1) Inserting an appropriation amount of \$1 to facilitate further discussion; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

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. 1789, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1789, H.D. 3.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 837 Finance on H.B. No. 2143

The purpose of this bill is to allow war veteran organizations to obtain direct leases for campsites and other sites under the control of the Department of Land and Natural Resources (DLNR) at nominal consideration, from the Board of the Land and Natural Resources.

The Director of the Office of Veterans Services submitted testimony in support of the measure but indicated that it defers to the DLNR. The DLNR also submitted comments on this measure.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2143, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2143, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 838 Consumer Protection and Commerce and Judiciary H.B. No. 7

The purpose of this bill is to stop new motor vehicle dealers from utilizing temporary motor vehicle "paper" plates for advertising or other purposes.

Your Committees received testimony from the City and County of Honolulu who testified that several motor vehicle dealers are utilizing temporary motor vehicle "paper" plates for advertising, drawing pictures, or writing thank you notes. The purpose of the information contained on the paper plate is to identify the vehicle owner and to indicate the expiration date of the paper plate.

Because your Committees were concerned that the bill penalized the motor vehicle operator for a motor vehicle dealer's violation, your Committee amended the bill to delete the sections referring to an operator being fined or deemed at fault for having an invalid paper plate. The City and County of Honolulu did not oppose this amendment.

Your Committees also added a savings clause to the bill.

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. 7, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 7, H.D. 1.

Signed by all members of the Committees except Representatives Garcia, McMurdo, Yamane, Kawananakoa and Meyer.

SCRep. 839 Consumer Protection and Commerce and Judiciary on H.B. No. 187

The purpose of this bill is to increase the sanctions against motor carriers who violate Hawaii's motor carrier law.

The existing fines in the motor carrier law were established in 1969.

The bill increases the civil penalty for unlawful operation by a motor carrier from \$100 to up to \$1000. Continuing violations are increased from a maximum of \$50 to not less than \$50 and not more than \$500 for each additional day. The bill also authorizes the Public Utilities Commission to publicize the names of violators in a newspaper of general circulation.

Your Committees received testimony in strong support of this measure from the Public Utilities Commission and the Hawaii Transportation Association.

Your Committees were concerned about the possible publication of names of carriers who were in the process of appealing their citations. Accordingly, your Committees amended the bill to indicate that the names of the carriers who were in the appellate process could not be published until the findings of violations had been affirmed.

Your Committees agreed that higher penalties and the publication of names of violators will act as more effective deterrents to noncompliance with the motor carrier law.

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. 187, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 187, H.D. 1.

Signed by all members of the Committees except Representatives Garcia, McMurdo, Yamane, Kawananakoa and Meyer.

SCRep. 840 Consumer Protection and Commerce on H.B. No. 1557

The purpose of this bill is to clarify that only those persons licensed under Chapter 457, Hawaii Revised Statutes, may use the title of "Registered Nurse, R.N., or Nurse" and "Licensed Practical Nurse, L.P.N., or Nurse" and that only persons recognized by the Board of Nursing (Board) as an advanced practice registered nurse may use the title "Advanced Practice Registered Nurse, A.P.R.N., or Nurse."

The Board submitted testimony in support of the bill. The Hawaii Nurses' Association submitted testimony in support of the original intent and language of the bill. The Department of Health and the Hawaii Government Employees Association submitted testimony in support of the intent of the bill. Comments were received from Child & Family Service supporting the original language of the bill but expressing concerns that the Board was not specifically directed to establish rules for the delegation of the administration of medication and other special tasks of patient care to nursing assistants.

Upon careful consideration, your Committee made the following amendments:

- (1) Adopted the recommendation of the Board to delete the definition of nurse as a "person licensed under this chapter." The Board had testified that this definition would alter the interpretation of several other sections within Chapter 457, Hawaii Revised Statutes;
- (2) Deleted the title "nurse" from the list of titles which includes practical nurse, registered nurse, and advanced practice registered nurse;
- (3) Inserted the original language of the bill regarding the delegation of administration of nursing tasks based on professional nursing standards and the definition of the scope of practice of nursing; and
- (4) Made technical, non-substantive changes for the purposes of style, clarity, and consistency.

It is the hope of your Committee that in the establishment of rules regarding the delegation of administration of nursing tasks, the Board of Nursing exercise prudence and caution in determining whether a nursing assistant should be dispensing medications in various care situations.

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. 1557, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1557, H.D. 2.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 841 Consumer Protection and Commerce on H.B. No. 1848

The purpose of this bill is to repeal the requirement that raw agricultural commodities and processed foods, produced or prepared in foreign countries whose regulations regarding pesticides residue control do not meet U.S. standards, be labeled "THIS PRODUCT NOT CERTIFIED FOR TOXIC PESTICIDE RESIDUE."

Testimony in support of the measure was received from the Department of Agriculture. Your Committee notes that the current law has never been enforced because the Department of Agriculture does not have the ability to identify which countries' regulations do not meet the U.S. standards and because the law does not provide for rulemaking powers or penalties. However, the consumer is already protected from adulterated imported food products by the Federal Food and Drug Administration and the Food and Drug Branch of the Hawaii Department of Health.

A technical, non-substantive amendment was made to the measure.

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. 1848, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1848, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki and Tom.

SCRep. 842 Consumer Protection and Commerce on H.B. No. 2352

The purpose of this bill is to exempt public utilities maintenance and service vehicles from the sixty foot length limitation.

Testimony in support of this bill was received from the Department of Wastewater Management (Department) of the City and County of Honolulu.

In its testimony, the Department stated that there are several vehicle types required for the maintenance and service of public utilities, including septage pumping, sludge hauling, and facilities maintenance, that exceed the sixty feet limit. Replacing these vehicles would be a difficult and expensive undertaking, and create a hardship for public utilities that are limited by current financial constraints.

Since these vehicles are being operated on behalf of the community for the benefit of public health and safety, their continued operation seems appropriate.

Similar exemptions have been granted to agricultural vehicles and articulated buses.

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. 2352 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Swain, Tom and White.

SCRep. 843 Judiciary on H.B. No. 111

The purpose of this bill is to amend the statutes concerning lobbyists, by:

- (1) Consolidating all of the laws concerning lobbyists into one chapter;
- (2) Redefining "lobbyist";
- (3) Providing an additional time period for reporting; and
- (4) Establishing administrative enforcement authority with the State Ethics Commission.

Favorable testimony was received from the Hawaii State Ethics Commission, the Attorney General's Office, and Common Cause Hawaii.

Your Committee agrees that public policy considerations dictate disclosure of the Commission's preliminary conclusions, decisions, findings of fact and conclusions of law, and administrative fines it assesses. The increase in the threshold for reporting from \$275 to \$750 appears to be justified in light of today's economy. Enforcement of the provisions of the lobbyist statute by the Ethics Commission is logically provided for by this measure. Furthermore, your Committee was of the opinion that \$275 was an excessive fine for failing to file a report, and therefore lowered the fine to \$100. Finally, your Committee was of the opinion that the exclusion of travel expenses should not be limited to off-island travel only, since there are lobbyists who come from out of state.

Your Committee amended this bill by:

- (1) Providing reference to those matters which will be a matter of public record;
- (2) Deleting "off-island" from the description of travel costs; and
- (3) Decreasing the administrative fine for wilful failure to file a statement or report from \$275 to \$100.

As affirmed by the record of votes of 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. 111, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 111, H.D. 2.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 844 Judiciary on H.B. No. 715

The purpose of this bill is to establish a felony offense for those who are convicted of habitually driving under the influence of intoxicating liquors or drugs.

Testimony in support of this bill was received from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Honolulu Police Department, the Governor's Highway Safety Council Impaired Driving Task Force, Mothers Against Drunk Driving, and the Hawaii Medical Association.

The Office of the Public Defender testified in opposition to this bill stating that the philosophy established in the Penal Code to address the repeat offender is by way of enhanced penalties, rather than an elevation of the classification of the offense.

Testimony presented by the Honolulu Police Department indicated that 23 percent of those who were arrested for DUI in 1994 had been previously convicted of driving under the influence of intoxicating liquor. Seventy persons who were arrested for DUI had been convicted four or more times. Your Committee finds that repeat offenders who have not responded to previous court sanctions and treatment opportunities should receive stricter penalties. As a whole, these persons are overrepresented in fatal crashes and other accidents and should be dealt with more severely than our present laws mandate.

Your Committee believes that a felony classification for DUI will serve as a sufficient deterrent to those who currently drink and drive. The knowledge that a fourth DUI offense will be charged as a felony, replete with the plethora of serious consequences associated with this class of offense, will likely convince repeat offenders to avoid driving under the influence.

Your Committee has amended this bill by eliminating the provision relating to applicability of the law to persons who have been sentenced one or more times pursuant to section 291-4(b)(3) or 291-7(b)(3). These sections refer to a third conviction for driving under the influence of intoxicating liquor and a third conviction for driving under the influence of drugs. This bill already includes as an element of habitually driving under the influence, three convictions for DUI.

Your Committee has also amended this bill by adding language with respect to what constitutes a DUI conviction in another jurisdiction. Your Committee believes that fairness dictates that each element of the applicable DUI offense in another jurisdiction must comport with Hawaii's DUI laws.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 715, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 715, H.D. 1.

Signed by all members of the Committee except Representatives Herkes, McMurdo, Menor, Kawanakoa and Thielen.

SCRep. 845 Judiciary on H.B. No. 716

The purpose of this bill is to reduce the alcohol concentration required for a driving under the influence arrest from .10 to .08 grams of alcohol or more per one hundred milliliters or cubic centimeters of blood or two hundred ten liters of breath, and to repeal statutory references to the ignition interlock system.

Your Committee received testimony in support of this bill from the Governor's Highway Safety Council Impaired Driving Task Force, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii Medical Association, Mothers Against Drunk Driving, the Department of Health, the Honolulu Police Department, the Hawaii Chapter of the American College of Emergency Physicians, the Healthcare Association of Hawaii, and the Wahiawa Neighborhood Board. Your Committee received testimony in opposition to this bill from Liquor Dispensers of Hawaii.

Your Committee received testimony from the Honolulu Prosecuting Attorney and Mothers Against Drunk Driving that there is a great variation in the way alcohol affects different individuals, and there is no simple definition of the precise blood alcohol content (BAC) at which impairment begins. The differences between individuals depends on one's tolerance to alcohol, as well as other factors such as body weight, sex, amount of food in the digestive tract, and time spent drinking.

Your Committee finds that lowering the BAC to .08 would set the threshold for driving under the influence of intoxicating liquors at a level at which driving skills are proven to be compromised for the vast majority of drivers. In 1985, the American Medical Association reported that at a BAC of .08, a driver has at least four times the probability of causing a crash as the driver does at a BAC of zero. Driving skills which are affected by a BAC of .08 are complex tracking tasks, complex reaction time, information processing, psychomotor performance, visual functions, and divided attention tasks where subjects must attend to multiple stimuli at the same time.

Your Committee believes that a .08 BAC is a limit which is reasonable and necessary for the safety of all. The decreased level is an important step toward reducing impaired driving in Hawaii.

Persons convicted of driving under the influence of intoxicating liquor (DUI) receive a myriad of penalties which serve sufficient deterrent and punitive purposes. Your Committee finds that the requirement to provide proof of financial responsibility pursuant to HRS §287-20 following an administrative revocation proceeding or a first time DUI conviction poses a severe financial burden on offenders. The proof of financial responsibility requirement results in a 100% to 400% surcharge to the person's already increased insurance premiums.

Many persons cannot afford the surcharge, and thus cannot obtain insurance. As a result, many of Hawaii's most dangerous drivers add to the ranks of the staggering number of persons who elect to drive without insurance. Your Committee believes that HRS §287-20 should not serve as an impediment to the first time DUI offender in obtaining sufficient insurance coverage. The intent of HRS §287-20 was not to increase the number of uninsured drivers in Hawaii.

Your Committee finds that the requirements of proof of financial responsibility should not be coupled with the strict criminal penalties mandated by a first time DUI conviction or with the administrative revocation hearing, in which only a preponderance of the evidence standard is used. HRS §287-20 should not operate as an unintended statutory penalty to the first time DUI offender.

Accordingly, your Committee has amended this bill by adding a section which eliminates the proof of financial responsibility requirements for first time DUI offenders and for persons whose license is revoked for the first time pursuant to the administrative revocation process.

Your Committee has also amended this bill by retaining the existing BAC of .05 as the level at which an individual is presumed not to be under the influence of intoxicating liquor. Your Committee believes that there is not a sufficient showing to reduce the level.

Technical, non-substantive amendments have also been made to this 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. 716, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 716, H.D. 1.

Signed by all members of the Committee except Representatives Herkes, McMurdo, Menor, Kawanakoa and Thielen.

SCRep. 846 Judiciary on H.B. No. 1036

The purpose of this bill is to allow the State of Hawaii Department of Human Services (DHS) to release the identity and addresses of licensed or certified foster parents to bona fide foster parents associations, unless the court, or in a voluntary placement, the DHS, determines that such disclosure would not be in the best interest of a child. The identity and addresses provided to a foster parent association shall not be released by the association without the foster parents' consent.

Favorable testimony was received from DHS, the Hawaii State Foster Parents Association, and from a foster parent.

This bill would allow the release by DHS of the identity and mailing address of foster parents to bona fide foster parents associations, and also allow the release by the association of the identity and mailing address of foster parents provided

the foster parents consent to the said release. The purpose for allowing this release would be to enable foster parents to develop local support groups for training by foster parents associations, and to thus develop a strong support system among foster parents. Studies in other states have shown that such a strong support system from which foster parents can derive information and respite services from their contact with other foster parents results in a greater retention rate and a stronger recruitment program. The current shortage of foster homes dictates a need for enabling and encouraging interaction among foster parents.

An amendment was made for clarity by adding "or the relative caregiver's consent" at the end of section 1.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1036, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1036, H.D. 2.

Signed by all members of the Committee except Representatives McMurdo and Menor.

SCRep. 847 Judiciary on H.B. No. 1173

The purpose of this bill is to provide that the provisions of the traffic code relating to obedience to the traffic laws apply to privately-maintained roads used by the general public.

Your Committee received testimony in support of this bill from the County Council, County of Hawaii.

Your Committee finds that there is an inconsistency and ambiguity between HRS §46-16 and HRS §291C-21 which relate to enforcement of traffic regulations by law enforcement officers.

HRS §46-16 permits law enforcement officers to enforce the traffic code on private streets, highways, or thoroughfares which have been used continuously by the general public for a period of not less than six months. HRS §291C-21 states that the provisions of the traffic code relate to the operation of vehicles exclusively on public highways.

The County of Hawaii has interpreted the existing laws as prohibiting enforcement of the traffic code on private streets, roads, highways and thoroughfares. Consequently, County of Hawaii law enforcement officers do not enforce traffic regulations in private subdivisions.

Your Committee finds that HRS §§46-16 and 291C-21 should be harmonized in order to clearly define the jurisdiction of law enforcement personnel to enforce the traffic code. Your Committee emphasizes that the enforcement of traffic regulations is limited to private streets, roads, highways, and thoroughfares which are regularly used by the general public.

Accordingly, this bill has been amended by crafting the substantive language in HRS §46-16 relating to traffic code enforcement on private streets, highways, or thoroughfares into HRS §291C-21. For purposes of specificity, private roads have also been included.

As affirmed by the record of votes of 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. 1173, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1173, H.D. 1.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 848 Judiciary on H.B. No. 1491

The purpose of this bill is to ensure that evidence is safely obtained to aid in the conviction of persons suspected of driving under the influence of intoxicating substances by:

- (1) Requiring a medical facility to provide at the request of the police, a blood sample of a person suspected of being intoxicated except in cases where the medical personnel responsible for taking the sample determines in good faith that recovering or attempting to recover the blood sample represents an imminent threat to the health of the medical personnel or others; and
- (2) Exempting from liability any person who complies with a request to withdraw blood under the direction of a police officer.

The Governor's Highway Safety Council's Impaired Driving Task Force, the Department of the Prosecuting Attorney, the Honolulu Police Department, Mothers Against Drunk Driving and members of the public testified in support of this measure. The Office of the Public Defender testified in opposition.

Your Committee finds that in many instances requests from police for blood samples of parties involved in collisions resulting in injury or death are denied by the treating physicians or the medical facility.

This measure allows for the recovery of blood samples by hospital personnel yet provides protection to hospital personnel by giving them the ability to make a determination in good faith as to whether the recovery or attempted recovery of the blood sample would represent a threat to their health.

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

- (1) Replacing the word "accident" with "collision" for the purpose of clarity as recommended by the Honolulu Police Department; and

(2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1491, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1491, H.D. 2.

Signed by all members of the Committee except Representatives Herkes, McMurdo, Menor, Kawanakoa and Thielen.

SCRep. 849 Judiciary on H.B. No. 2051

The purpose of this bill is to have Hawaii's commercial driver's licensing law conform with federal standards.

The Department of Transportation testified in support of this measure.

Your Committee finds that passage of this measure will ensure that the State does not lose federal highway funds in the amount of \$4,368,025 for the first year and \$8,763,411 in each subsequent year.

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

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2051, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2051, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 850 Consumer Protection and Commerce and Judiciary on H.B. No. 1386

The purpose of this bill is to provide a penalty for a person who operates a facility without a proper license under Chapter 321, Hawaii Revised Statutes.

Testimony in support of this bill was received from the Department of Health.

The bill was amended to clarify that the penalty is a civil one that should be imposed in addition to any applicable criminal penalties.

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. 1386, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1386, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Hamakawa, Hiraki, McMurdo and Saiki.

SCRep. 851 Consumer Protection and Commerce on H.B. No. 1839

The purpose of this bill is to incorporate the changes to the Federal Meat Inspection Regulations into the Hawaii Administrative Rules governing the Hawaii Meat Inspection Program. The bill also brings the language of the state law in line with other Hawaii statutes.

Testimony in support of the bill was received from the Department of Agriculture.

Technical, non-substantive changes for the purposes of style, clarity, and consistency were made to 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. 1839, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1839, H.D. 1.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 852 Consumer Protection and Commerce on H.B. No. 895

The purpose of this bill is to authorize the Department of Health's regulation of assisted living facilities to ensure that these facilities will be operated at an acceptable level of quality.

Testimony in support of the bill was received from the Department of Health, Child and Family Service, and the Kokua Council. The Executive Office on Aging also testified in support of the bill but expressed concerns about the Long Term Care Ombudsman's ability to adequately service the people in these assisted living facilities.

Accordingly, your Committee adopted the recommendation of the Executive Office on Aging and deleted the section of the bill that amended Section 349-12, Hawaii Revised Statutes. Technical, non-substantive changes for purposes of style, clarity, and consistency were also 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. 895, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 895, H.D. 1.

Signed by all members of the Committee except Representatives Yoshinaga, Hiraki and Meyer.

SCRep. 853 Finance on H.B. No. 1254

The purpose of this bill is to transfer the functions and authority of the Office of Collective Bargaining to the Department of Human Resources Development.

The Department of Human Resources Development and the Office of Collective Bargaining, testified in support of this measure. The Hawaii Government Employees Association also testified on 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. 1254, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 854 Finance on H.B. No. 1686

The purpose of this bill is to extend health insurance coverage under the Hawaii Public Employees Health Fund to unmarried children under the age of twenty-three who are full-time students at an educational institution.

The Hawaii Government Employees Association and the Hawaii State Teachers Association submitted testimony in support of this measure. The Hawaii Public Employees Health Fund and the Department of Budget and Finance submitted comments on 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. 1686 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 855 Finance on H.B. No. 2107

The purpose of this bill is to establish a Coffee Inspection Revolving Fund, including start up moneys, to be used by the Department of Agriculture.

The Hawaii Farm Bureau, the President of Kona Mountain Coffee Inc. and Hawaii Coffee Growers Association testified in support of this measure. The Department of Agriculture submitted comments on 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. 2107, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 856 Finance on H.B. No. 1257

The purpose of this bill is to ensure accessibility and opportunity for higher education by:

- (1) Establishing the University Operations Special Fund (Fund) for the deposit of income generated through student tuitions, fees, and other income-producing sources;
- (2) Specifying that moneys deposited into the Fund be expended to continue or increase the operations of the University of Hawaii in its own income-producing activities and services;
- (3) Authorizing the Board of Regents to use revenues from the Fund to provide full or partial tuition waivers to financially needy resident students who are otherwise qualified, but unable to afford tuition;
- (4) Stating that the highest legislative appropriation within the last five years will determine the base beginning with fiscal year 1995-1996; and
- (5) Specifying that full-time tuition for:
 - (a) Residents enrolled at the University of Hawaii community colleges not exceed twenty percent of the annual cost of education per full-time student;
 - (b) Residents enrolled at any University of Hawaii undergraduate, graduate, law, medicine, lower division, or upper division campus not exceed thirty percent of the annual cost of education per full-time student; and
 - (c) Non-residents enrolled at any of the University of Hawaii campuses not be less than two times the tuition fee for resident students pursuant to section 304-4(b), Hawaii Revised Statutes.

The University of Hawaii submitted testimony in support of the intent of this measure. Testimony was also received from the Tax Foundation of Hawaii.

Your Committee has amended this bill as follows:

- (1) Specified that language appearing in Section 4, which authorizes the Board of Regents to use revenues from the Fund for tuition waivers, be included in the Hawaii Revised Statutes;
- (2) Specified that language appearing in Section 5, which establishes a formula for legislative appropriations, be included in the Hawaii Revised Statutes;
- (3) Revised the effective date to July 2, 1995, and provided for a repeal on July 1, 1999; and
- (4) Made 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. 1257, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1257, H.D. 2.

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

SCRep. 857 Finance on H.B. No. 1913

The purpose of this bill is to repeal Chapter 206P, Hawaii Revised Statutes, or the Hawaii Telecommunications and Information Industries Act.

Specifically, this measure would repeal the Hawaii Information Network Corporation (or Hawaii INC) and the Information Industry Advisory Council.

This measure would eliminate duplication and result in the consolidation of activities that are already conducted by the High Technology Development Corporation of the Department of Business, Economic Development, and Tourism (DBEDT) and the Information and Communication Services Division of the Department of Budget and Finance.

The Department of Budget and Finance and DBEDT 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. 1913 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 858 Finance on H.B. No. 1828

The overriding purpose of this bill is to provide comprehensive legislation recognizing, adopting, and implementing the general understandings outlined in that certain Memorandum of Understanding, dated on or about December 1, 1994, and signed by the Department of Hawaiian Home Lands (DHHL), the Department of Land and Natural Resources, the Office of the Attorney General, the Office of State Planning, and the Independent Representative of the Beneficiaries of the Hawaiian Home Lands Trust.

Your Committee received testimony in favor of this bill from the Waimanalo Hawaiian Homes Association, Ka Lahui Hawaii, the Hawaiian Home Lands Action Network, the Court-Appointed Independent Representative, representatives of the DHHL wait-list beneficiaries, the Association of Hawaiian Civic Clubs, the State Council of Hawaiian Homestead Associations, the Kaimuki Neighborhood Board No. 4, the Waiohuli Hawaiian Homesteaders, Inc., the Paukukalo Hawaiian Homestead Community Association, Inc., the Ahupua'a Maui Island, the Native Hawaiian Legal Corporation, the Hawaiian Home Lands Trust Individual Claims Review Panel, the Office of State Planning, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, the Attorney General, and several individuals.

Your Committee also heard testimony from Title Guaranty of Hawaii which noted the reservations of the title insurance industry about insuring title on the properties which are or may be subject to claims by beneficiaries of Hawaiian home lands. This testimony suggested several amendments to the bill to address these concerns and to ensure that matters relative to the marketability and insurability of the titles of affected lands will be fully and finally resolved in this bill.

This bill is designed to resolve each and every outstanding claim of title actually asserted or which could have been asserted by DHHL on behalf of the beneficiaries as to each and every parcel of land which was identified or which could have been identified as properly belonging to the trust in exchange for payment by the state in trust to DHHL of a certain settlement amount. The result of this effort is intended to be the full and final resolution of all title claims relating to the Hawaiian home lands by any and all beneficiaries or alleged beneficiaries of the Hawaiian Home Lands Trust and any persons and entities claiming through them, against any and all persons or entities (excluding only the federal government, and only with respect to some claims), relating in any way to (a) the alleged wrongful or improper treatment and use of lands subject to the Trust by the State of Hawaii or other parties, and (b) the alleged wrongful alienation of lands subject to the Trust. In so doing, the legislative intent is to bring complete finality to all such claims in order to promote the full utilization of all lands which are or are otherwise alleged to have been or to be Trust lands, free and clear of any and all such claims.

The background to these efforts can be summarized as follows. In 1921, the federal government enacted the Hawaiian Homes Commission Act. The Act recognized certain trust responsibilities by the federal government toward certain beneficiaries, defined in the Act as "native Hawaiians."

Under the Act, over 200,000 acres of land in Hawaii were designated as "Hawaiian home lands." These lands were located on most of the islands, including Hawaii, Maui, Oahu and Kauai.

The Act also established the Hawaiian Homes Commission to manage the Hawaiian home lands. The Commission's powers with respect to management and alienation of the Hawaiian home lands were closely prescribed in order to assure that the Hawaiian home lands were preserved and used for the benefit of native Hawaiians.

Because the Hawaiian home lands had not been precisely surveyed in their entirety, the description of those lands in the Act was indefinite. Congressional intent could not be discerned because the legislative history was inconclusive.

Thus, over time potential claims arose as to whether particular parcels (aggregating, by some estimates, around 40,000 acres) were or were not Hawaiian home lands. These claims took two general forms: (a) those alleging that lands which were alienated by the federal, territorial or state government subsequent to the Act were Hawaiian home lands and thus should not have been alienated, and (b) those alleging that lands which had passed out of original government ownership prior to the Act were encompassed by the Act and therefore subject to its provisions.

A second group of potential claims related to the management and permitted uses of the Hawaiian home lands by the Commission and its successor, DHHL. Since 1921, those uses have included the leasing of small parcels to native Hawaiians for agricultural and homestead use, the licensing of other parcels for hospital, school and other public uses, and the withdrawal of other parcels for airport and other uses. These potential claims addressed the propriety of some such uses, licenses and withdrawals as well as the adequacy of the compensation paid to the Commission and DHHL for them.

In 1959, under the Hawaii Admission Act, the federal government transferred complete responsibility for the Hawaiian Homes Commission Act and the Hawaiian home lands to the new State. The State, in turn, created the DHHL, which assumed the responsibilities of the Commission and proceeded to administer the Act.

The efforts to resolve these claims and disputes can be summarized as follows. Prior to 1988, potential claims against the State with respect to the Act were precluded by the doctrine of sovereign immunity. Potential claims relating to the Act against non-sovereign persons or entities such as private landowners, however, were not precluded, and were being asserted with increasing frequency.

In the late 1980s, two other trends became apparent. The first was that the increasing assertion of potential claims with respect to lands which were either clearly or arguably Hawaiian home lands was seriously clouding title to such lands and affecting their marketability, i.e., affecting the ability of many citizens to conduct such basic rights as buying, selling, utilizing and borrowing against their land. The second was a more complete public realization that the Act, as administered, had not fully discharged the trust obligation undertaken toward native Hawaiians.

Accordingly, all three branches of government, together with other interested parties, became engaged in various efforts having as their ultimate collective goal the complete and final resolution of all potential claims relating to the Act. In 1988, the Legislature passed and the Governor signed the Native Hawaiian Trusts Judicial Relief Act, which provided both a controlled waiver of the State's sovereign immunity against some potential claims as well as a mechanism for the resolution of all such claims.

Since 1988, the Legislature, working with the executive branch, has carefully controlled, monitored and modified the claims resolution process, all toward the final goal described above. Of particular note is the Legislature's interaction with the judicial branch in the appointment of an independent representative to advocate the interests of the class of any and all past, present and future beneficiaries of the Trust. Beyond the active voice thereby given to all such beneficiaries in the full and final resolution of their claims, the primary reason the independent representative's participation is of such import to your Committee is the total reliance placed by the committee on the independent representative's authority to commit the class of all past, present and future Trust beneficiaries to the complete and final settlement of all claims intended by this bill.

Specifically, Act 395, Session Laws of Hawaii 1988, required the Governor to present a proposal to the Legislature, prior to the convening of the 1991 regular session, to resolve controversies which arose between August 21, 1959 (statehood), and July 1, 1988. It did not specifically address the period from the Act of 1920 to statehood. The resultant Governor's Action Plan to Address Controversies under the Hawaiian Home Lands Trust and the Public Land Trust was accepted by the Legislature in its adoption of SCR No. 185 in 1991.

The Governor's action plan, among other actions, proposed convening a task force of representatives from DHHL, the Department of Land and Natural Resources, the Office of State Planning, and the Department of the Attorney General to accelerate the review and decision-making process concerning DHHL's land title and compensation claims. The actions of the task force were to include verifying title claims, determining if improper uses were still in existence and should be canceled or continued if authorized by DHHL, conducting appraisals and determining the appropriate compensation for past and continued use of Hawaiian home lands, pursuing all avenues for return of lands and compensation from the federal government for wrongful actions during the territorial period.

In 1992, the Legislature approved settlement of the first package of claims covering gubernatorial executive orders and proclamations which had set aside 29,633 acres of lands for public uses such as forest reserves, schools, and parks. Act 316, Session Laws of Hawaii 1992, provided \$12,000,000 to pay verified claims and provide other means to resolve public use controversies.

In 1993, the Legislature approved further means to resolve verified claims. Act 352, Session Laws of Hawaii 1993, extended the period within which to pay compensation, continued the authorization to the State to pursue claims against

the United States for the federal government's wrongful actions, and authorized land exchanges to resolve alienations of Hawaiian home lands.

In accordance with these actions, the State has canceled all wrongful set asides of Hawaiian home lands that remain in the control of the State; paid compensation for most wrongful uncompensated use of Hawaiian home lands from August 21, 1959 through October 28, 1992; paid fair market rent as set by the Hawaiian Homes Commission and/or DHHL for continuing uses from October 28, 1992, through June 30, 1995; paid fair market rent for the use of lands under Nanaikapono Elementary School through April 4, 1996; and initiated land exchanges for Hawaiian home lands held by the federal government under lease for nominal rents of \$1 for sixty-five years at Pohakuloa and Kekaha.

In 1994 the task force continued to verify and value the substantial claims which remained unresolved, including claims for lands in Lualualei and Waimanalo on Oahu, Anahola, Molokaa, Kamalomalo, and Waimea on Kauai, Puukapu, Keaukaha, Panaewa, and Kawaihae on Hawaii, Kula on Maui, and Kalaupapa on Molokai; and compensation for periods of public use of trust land not already paid. A separate administrative initiative resulted in the transfer of 16,518 acres of additional, useable lands to DHHL.

The remaining actual and potential disputes surrounding the Hawaiian home lands have continued to cause great uncertainty in the real estate, mortgage, and title insurance industries throughout the state. This in turn has caused great anxiety among many of our citizens who over the years have sold and purchased this real property in good faith, believing the title to be free and clear. These innocent citizen landowners are now faced with the threat of not being able to obtain title insurance policies necessary to sell, mortgage, or refinance their properties.

Many owners of land adjacent to these Hawaiian home lands are also affected by these uncertainties for many related reasons, including the actual or potential claim that all or part of their lands may be Hawaiian home lands. It is therefore in the public interest to see that any and all potential clouds on these titles be removed as soon as possible.

In sum, a need exists to (a) release and settle all past, present, and future title claims against all such lands, (b) provide indemnity against any claims which may arise after the effective date of the settlement effected by this Act, and (c) ensure that this settlement concludes all parties and issues forever as to these questions. Additionally, in order to properly utilize those Hawaiian home lands which are recognized and acknowledged for the full benefit of the beneficiaries, there is a need for a substantial, consistent, and predictable funding mechanism for DHHL and any successor entity to allow for the appropriate planning and development of these lands.

To achieve these goals, your Committee further finds that the establishment of the Hawaiian Home Lands Settlement Trust Fund will result in such a funding and indemnity mechanism. In establishing the trust and that mechanism, your Committee adhered to the spirit of the Memorandum of Understanding. That document provided for a total payment in the amount of \$600,000,000 over a period of twenty years. However, your Committee believes that it would be more prudent and in the public interest to effectuate the intent of the Memorandum of Understanding by making, within the period of a year or less, the payment of \$320,000,000, which is the present value of the Memorandum of Understanding's amount but computed in today's dollars without twenty years' worth of interest and inflation.

In order to obtain the funds to make such a payment, your Committee provided for a 1% general excise and use tax surcharge which will be in effect only for one year's time for the period January 1, 1996, to December 31, 1996. By thus avoiding the interest and administrative charges normally connected with bond financing which would accrue if the moneys were paid over a longer period of time, the state will save in excess of \$900,000,000.

An additional benefit which will result from the immediate payment will be that the mechanism for assuring good title to the lands in question will be put in place now rather than years from now. It will thus provide an early certainty to the state, DHHL, private citizens who are owners of lands affected by the dispute, and the title insurance and mortgage industries with respect to the full marketability and insurability of thousands of acres of Hawaii lands.

Furthermore, full payment now assures DHHL of the state's performance of this agreement, which would otherwise be subject to the future uncertainties and changes in circumstances which may adversely affect the state's ability to perform under a 20-year payment plan.

For all these reasons, your Committee feels that it is in the interest of all citizens of Hawaii to settle all Hawaiian home lands claims on behalf of all such beneficiaries once and for all, and therefore intends that this settlement shall have the same effect as res judicata for all possible future title claims.

To these ends, your Committee has amended this bill to address five (5) major areas of concern. The concerns, which are covered by the amendments, can be summarized as follows:

- (1) As the culmination of many years of effort, the settlement with DHHL must be full and final as to all lands and claims relating to titles in the Hawaiian home lands, including the period enactment of the Act in 1921 and the advent of statehood in 1959, so that (1) all past and present title claims will be compromised and released, and (2) no further title disputes will arise in the future. The bill was therefore amended to provide that it would operate as a settlement with prejudice as if under Rule 41(a)(1)(B), Hawaii Rules of Civil Procedure, and would also operate as res judicata as to all issues and parties.
- (2) The settlement must be such that titles to the lands in question are stabilized so that title insurance, mortgages, etc., can be obtained. The bill was therefore amended to provide for the re-affirming of all patents (including all deeds, grants, and conveyances of any kind) granted by the Territory and the State of Hawaii since the time when the Hawaiian Homes Commission Act became law.
- (3) The settlement amount of \$320,000,000 would be paid during the calendar year following enactment of this bill, to be funded by a 1% general excise and use tax surcharge to end after one year, rather than over a

period of years, in order to provide substantial savings to the state in the interest and administrative charges normally connected with bond financing that would have accrued had the state followed a previous proposal of paying a total of \$600,000,000 to DHHL at the rate of \$30,000,000 per year for twenty years.

- (4) A "settlement trust fund" will be set up by this payment for the primary purpose of use by DHHL for the beneficiaries of the Hawaiian home lands, subject to a superior lien for indemnifying the state against any claims regarding titles in Hawaiian home lands which may at least be alleged in the future. Despite language in the bill to the effect that all possible title claims are being settled, it is possible that some unforeseen title claims may arise in the future, and the indemnification mechanism was provided so that such claims would not be seen as a serious threat to title to the various parcels and the state would not have to pay again for such claims. However, nothing in this bill is intended to preclude suit for monetary damages by a beneficiary of the Hawaiian home lands trust against the state, DHHL, or any other person or entity for possible future misconduct connected with the management, administration, supervision, or disposition by the state, or any governmental agency of any lands or interests in land which are or were or are alleged to have been Hawaiian home lands, or to have been covered by the Hawaiian Homes Commission Act of 1920, such as, for example, a future improper transfer of Hawaiian home lands from the trust, or mismanagement on the part of DHHL.
- (5) Your Committee notes that nothing in this bill is intended to release or settle any claims by DHHL or the beneficiaries against the federal government relating to the alienation or use of the Hawaiian home lands which are not otherwise resolved by this bill. Nor is this bill intended to resolve other claims by native Hawaiians unrelated to the Hawaiian home lands which arose out of the 1893 overthrow, the 1898 annexation, or under the public land trust. However, the bill was amended to preclude any indirect claims against the state which might occur in the situation where a claim against the federal government is denied by, or tendered to the state by, the federal government.

Your Committee in good faith has provided a bill that fairly balances and protects the interests of the state and its citizens, DHHL, and the beneficiaries of the trust in measures that are certain, definite, and final, so that the benefits and promises of the settlement are not illusory and the anticipated payment by the state in fact results in the intended finality of claims. Your Committee has also made certain technical, non-substantive amendments for purposes of style, clarity, and conformity of language to the substantive amendments effected.

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. 1828, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1828, H.D. 2.

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

SCRep. 859 Finance on H.B. No. 1950

The purpose of this bill is to provide the Consumer Advocate with the flexibility in staffing to proactively advance the cause of utility consumers by:

- (1) Increasing the number of utility analysts that are exempt from civil service from two to five; and
- (2) Deleting the salary cap for these analysts.

The Department of Commerce and Consumer Affairs' Division of Consumer Advocacy and Hawaiian Electric Co. and its subsidiaries testified in support of this bill.

Your Committee has amended this bill by:

- (1) Reducing the number of utility analysts from five to four;
- (2) Restoring the salary cap but increasing the cap to not more than \$65,000; and
- (3) Making technical, nonsubstantive revisions for the purpose of 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. 1950, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1950, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 860 Finance on H.B. No. 1998

The purpose of this bill is to require that all state construction contracts over \$15,000 include a signed certification from the bidder or offerer that a written safety and health plan for the job will be available and implemented by the notice-to-proceed date of the project.

The Department of Labor and Industrial Relations testified in support of the bill. The Hawaii Business League submitted testimony in basic support of the bill.

Your Committee has amended the bill by making technical, nonsubstantive amendments to conform with legislative drafting style and for clarity and consistency.

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. 1998, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1998, H.D. 1.

Signed by all members of the Committee.

SCRep. 861 Consumer Protection and Commerce on H.B. No. 552

The purpose of this bill is to allow financial services loan companies to charge nonrefundable discount, points, loan fees, and loan origination charges on unsecured consumer loans to lessees of land subject to the Hawaiian Homes Commission Act.

Currently, under the Hawaiian Homes Commission Act, a mortgage on a lessee's leasehold interest is permitted only under a few special permanent mortgage programs insured by the Farmers Home Administration, Federal Housing Administration, and the Veterans Administration. Lessees can only get permanent long term loans from a few lenders who use these special government insured loan programs. Conventional mortgages are not available. Until recently, no financing for construction or home improvement loans were available. One or two banks are now offering construction and home improvement loans to lessees, on which they may charge points.

Supportive testimony was received from the Hawaii Financial Services Association, Inc. and the Department of Hawaiian Home Lands. The Commissioner of Financial Institutions also submitted comments on this bill. Your Committee believes that this bill will increase the loans available to finance construction and home improvements for lessees of Hawaiian home lands.

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. 552 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 862 Judiciary on H.B. No. 112

The purpose of this bill is to provide greater openness in the proceedings of the State Ethics Commission.

Favorable testimony was received from the State Ethics Commission and the League of Women Voters of Honolulu.

Your Committee finds that the public is entitled to disclosure of charges and alleged violations of the State Ethics Code upon a finding by the Ethics Commission of probable cause. Furthermore, hearings which are closed under present law should be open to the public, as well as the decision rendered after the hearing, the findings, and the record of the proceedings. Complaints filed against legislators, former legislators, other government employees and former employees, and delegates to the constitutional convention should also be a matter of public record, as well as any disciplinary action taken.

Your Committee was of the opinion that given these major steps taken towards greater disclosure and openness, a balance would be achieved by requiring that the Commission be given sixty days to hold a hearing after it issues a notice of hearing following the finding of probable cause. Failure to hold a hearing within the sixty days should result in a dismissal of the charge and statement of alleged violation, in the interests of moving ahead with the disposition of the complaint. Also, your Committee was of the opinion that a four-year statute of limitations is adequate, as opposed to the six-year period provided in the bill. While your Committee recognizes that three years may not be an adequate time period in some circumstances, an additional year, for a total of four years, should be sufficient for the Commission to take appropriate action.

Your Committee amended the bill by:

- (1) Adding language on page 7, line 12 for the sixty-day time limit to hold a hearing; and
- (2) Decreasing the statute of limitations on page 3, line 18 from six years to four years.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 112, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 112, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.

SCRep. 863 Judiciary on H.B. No. 1763

The purpose of this bill is to facilitate the process of permitting fishponds. This bill will centralize the authority to regulate and oversee the development and restoration of fishponds by establishing a Hawaiian fishpond permitting program within the Department of Land and Natural Resources.

Testimony was received from the Department of Health, the Department of Land and Natural Resources, the Office of State Planning, the Oceanic Institute, and the Environment Center.

Your Committee finds that there is a need to preserve and revitalize the unique, traditional system and methodology of fishponds created and used by the kanaka maoli of Hawaii. Your Committee recognizes that the current regulatory structure may serve as a hindrance to the reconstruction, restoration, repair and use of Hawaiian fishponds in their traditional manner. Your Committee feels that the current permitting process must be streamlined in order to expeditiously and efficiently restore Hawaiian fishponds. The Department of Land and Natural Resources is the agency best suited to advance this goal.

Your Committee recognizes the importance of restoring customary and traditional practices exercised prior to 1778, as well as the need to ensure a clean and healthful environment. Restored fishponds are not just environmentally benign. They can also enhance our natural resources.

In amending this bill, your Committee has addressed a number of concerns. It has crafted language to ensure that this new chapter is not abused by those whose activities could cause environmental degradation. It has clarified the permitting requirements that are consolidated under this new chapter.

Further, your Committee has amended this bill so as not to jeopardize any federal authorization or federal funding by passage of this Act.

This bill has been substantially rewritten as follows:

- (1) Section 2 specifies:
 - (A) The criteria for an application for a fishpond permit;
 - (B) Streamlines the permitting process while ensuring compliance with environmental regulations; and
 - (C) Requires the Department of Land and Natural Resources to consult with the Department of Health and Office of State Planning prior to issuing a permit;
- (2) Section 3 authorizes the Department of Land and Natural Resources to adopt rules for the issuance of permits;
- (3) Section 4 establishes a Hawaiian aquaculture development program to facilitate the streamlining of the permitting process;
- (4) Section 5 delineates penalties for violations of the chapter;
- (5) Section 6 specifies procedures relating to the enforcement of the chapter;
- (6) Section 7 allows institution of civil actions for injunctive and other relief;
- (7) Section 8 authorizes a cease and desist order in the event that a serious threat to public health, safety, or the environment is posed;
- (8) Section 9 prohibits a fishpond permit in specified circumstances;
- (9) Section 10 requires that the management plan necessary for a fishpond permit address certain criteria;
- (10) Section 11 authorizes the Department of Land and Natural Resources to enter into agreements with the federal government and other state agencies to implement the requirements of the chapter; and
- (11) A provision is also added which ensures that the existing rules for Hawaiian fishponds remain in effect until new rules are adopted.

As affirmed by the record of votes of 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. 1763, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1763, H.D. 3.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 864 Judiciary on H.B. No. 283

The purpose of this bill is to exempt from attachment and execution, all property located in this state belonging to a resident judgment debtor from that portion of any judgment from another state for the failure to pay income tax on benefits received from a pension or other retirement plan.

Your Committee received testimony in support of this bill from the National Association of Retired Federal Employees and a number of concerned citizens, and in opposition from the Hawaii State Attorney General, State of Hawaii Department of Taxation and the Tax Foundation of Hawaii.

The State of Hawaii does not impose a tax on its retirees who receive pensions and reside in other states. Retirees who reside in Hawaii who receive pensions from other states should be afforded protection from taxation by other jurisdictions. A number of other states have enacted legislation providing this protection.

Your Committee finds that a number of Hawaii retirees are being financially impacted by the imposition of income taxes by California and other states on the pension income they receive that is related to the performance of services during their residency in those other states.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 283 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 865 Judiciary on H.B. No. 937

The purpose of this bill is to make interference with access to a public beach, shoreline, or other public recreational area a petty misdemeanor.

Testimony was received by the Office of State Planning, the Department of Land and Natural Resources, Share Onomea Access, Public Access Shoreline Hawaii, and a member of the public supporting this measure.

Your Committee finds that it is important that the people of Hawaii have access to their public beaches, shorelines, and recreational areas without unlawful restriction or interference by private landowners. Providing the counties with a mechanism for imposing criminal sanctions on individuals who restrict the public's right of access will deter this unlawful behavior.

As affirmed by the record of votes of 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. 937 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 866 Judiciary on H.B. No. 1313

The purpose of this bill is to assist in the determination of the rightful successors to 999-year homestead leases by:

- (1) Providing genealogy as well as general research assistance to individuals who believe they may have an interest in a homestead lease; and
- (2) Providing mediation, binding, and nonbinding arbitration services for disputes regarding interests in homestead lands.

The Office of Hawaiian Affairs and the Department of Land and Natural Resources (DLNR) testified in support of this measure.

Your Committee finds the inability of lessee families to determine the rightful successors to homestead leases causes tremendous conflicts among some families. Because many of these families have lost or have not kept accurate records regarding successorship, there is a need for the Office of Hawaiian Affairs to help clear up these title disputes.

Further, your Committee finds that rightful successors of a homestead lease have had problems in purchasing the lease in fee since DLNR requires an interested purchaser to submit a probate court determination that the person is the rightful successor to the lease. Without that determination, DLNR will not initiate the purchasing process.

Such a determination in court becomes costly and burdensome, and may lead to greater ill will among family members. Your Committee finds that the successor determination program proposed by this measure will provide persons interested in purchasing the lease in fee with an alternative to probate court.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1313, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 867 Water and Land Use Planning on H.B. No. 234

The purpose of this bill is to identify important agricultural lands to ensure their continued availability.

This bill establishes a land evaluation and site assessment (LESA) system to identify important agricultural lands. It proposes to:

- (1) Establish a scoring formula for both the land evaluation rating system as well as the site assessment rating system;
- (2) Require the Land Use Commission (LUC) to establish a threshold land evaluation score to determine specific lands that are important;
- (3) Provide recognition of unique lands that meet specific criteria;

- (4) Require a two-thirds vote of an approving authority to approve reclassification and rezoning of important agricultural lands; and
- (5) Convene a temporary Agricultural Production Goals Committee.

The Hawaiian Farm Bureau Federation testified in support of this bill. The University of Hawaii's (UH) College of Tropical Agriculture and Human Resources supported passage of this bill with an amendment. The Hawaii Association of Realtors also supported the intent of this bill with reservations. The LUC, the Office of State Planning, the County of Hawaii's Planning Department, the Land and Water Committee of the Hawaiian Sugar Planters' Association, the Land Use Research Foundation of Hawaii, the UH's Environmental Center, and Hawaii's Thousand Friends offered comments on this bill.

Your Committee has amended this bill by:

- (1) Deleting from the site assessment rating system the factor relating to "consistency with state plans or programs" due to difficulty in mapping this factor;
- (2) Requiring, rather than authorizing, the LUC to consider:
 - (a) Existing agricultural uses; and
 - (b) Acreage necessary to accommodate foreseeable increases in agricultural production goals in establishing the threshold scores; and
- (3) Making technical, nonsubstantive revisions for purposes of clarity and consistency.

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. 234, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 234, H.D. 1.

Signed by all members of the Committee except Representatives Nekoba, Kanoho and M. Oshiro.

SCRep. 868 Water and Land Use Planning on H.B. No. 1717

The purpose of this bill is to provide agricultural lots for farmers, thereby supporting diversified agriculture in this State.

This bill allows property owners within the agricultural district to subdivide their land into intensive agricultural subdivision lots of not less than 10 acres. These leasehold lots need not meet infrastructure requirements, because the bill exempts them from all county subdivision ordinances. Farm dwellings or employee housing are prohibited.

The Land Use Research Foundation of Hawaii and a concerned citizen supported this measure. The Department of Agriculture and the Office of State Planning supported the intent of this bill. The City and County of Honolulu's Department of Land Utilization and Hawaii's Thousand Friends offered comments.

Your Committee has amended this bill by:

- (1) Requiring that the intensive agricultural subdivision lots must be used solely for agricultural purposes for at least 35 years. This period would allow the tenant sufficient time to repay a loan taken out for capital improvements; and
- (2) Making technical, nonsubstantive revisions for the purpose of 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. 1717, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1717, H.D. 2.

Signed by all members of the Committee except Representatives Nekoba, Kanoho, McMurdo, M. Oshiro and Yoshinaga.
(Representative Thielen voted no.)

SCRep. 869 Legislative Management on H.B. No. 1385

The purpose of this bill is to simplify the instructions a medical practitioner is required to write on a prescription drug form. The bill also amends and clarifies definitions relating to pharmacists, practitioners, prescriptions, and prescription drugs.

Testimony in support of this measure was received from the Department of Health, the Department of Public Safety, and the Hawaii Pharmaceutical Association.

Under current law, when prescribing a prescription drug, if a practitioner does not want a generic drug substituted for a brand name drug, the practitioner must manually write "brand medically necessary" or "do not substitute" on each prescription form. If a practitioner has not written these specific instructions on a prescription form, a pharmacist must offer a prescription drug consumer a choice between a brand name drug or a generic version and inform the consumer of the retail price difference.

This bill would allow the use of a prescription form with two signature lines at the opposite ends of the form. Under the left line would be printed the words, "brand medically necessary." Under the right line would be printed the words, "substitution permitted." A practitioner would sign on the appropriate line to specify exact instructions. If the instructions allow a substitution, a pharmacist would still be required to offer a consumer a choice between the brand name or generic drug and inform the consumer of the price difference.

Your Committee is satisfied that this procedure would not result in an increase in the sale of brand name prescription drugs and thus increase consumer medical costs. The procedure would improve communication between practitioners and pharmacists and would ease the unnecessary burden created by requiring a practitioner to handwrite instructions on each prescription form when specifying brand name drugs. In some instances practitioners require the use of brand medication because of the narrow therapeutic range of certain medications.

Upon consideration, your Committee has amended this bill by deleting the requirement for the Legislative Reference Bureau to conduct a study to determine whether the enactment of this measure has decreased the use of generic drugs. This information is readily available from pharmacists and medical insurers.

Your Committee has also 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 Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1385, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1385, H.D. 2.

Signed by all members of the Committee except Representatives Say, Souki and Ward.

SCRep. 870 Consumer Protection and Commerce on H.B. No. 1485

The purpose of this bill is to prevent activities in areas under the control of liquor licensees that are potentially injurious to the health, safety, and welfare of the public, including criminal activities, by allowing the county liquor commissions to revoke, suspend, or place conditions or restrictions on any liquor license upon:

- (1) Petition of the director of the appropriate county agency charged with regulating liquor licenses;
- (2) Proper notice to the licensee; and
- (3) A hearing before the appropriate county liquor commission.

Currently, the law allows the county liquor commissions to withhold the issuance of renewed licenses if noise created by the licensee's patrons exceed standards contained in state or county noise or vibration codes. However, the current law is silent regarding the county liquor commissions' authority with respect to criminal activities occurring on liquor licensee's premises.

The Department of Finance of the City and County of Honolulu, the liquor administrators of the various counties, and the Downtown Neighborhood Board No. 13, submitted testimony in support of the intent of the bill.

After carefully considering the merits of the bill and the testimony received, your Committee has amended the measure by, among other things:

- (1) Retaining existing language that allows liquor licensees to take corrective measures meeting the liquor commission's approval to obtain a renewed license that has been withheld because of violations to noise or vibration codes;
- (2) Clarifying that, with respect to the revocation or suspension of a liquor license, the hearing before the Liquor Commission is subject to the Administrative Procedure law; and
- (3) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 1485, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1485, H.D. 2.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 871 Finance on H.B. No. 745

The purpose of this bill is to strengthen the State's efforts to prevent and reduce nonpoint source pollution by appropriating funds for:

- (1) The development of a comprehensive statewide nonpoint pollution control program as required by federal law; and
- (2) The Hawaii nonpoint source water pollution management program.

These appropriations would be matched by the federal government.

The Department of Health, the Hawaii Chapter of the Sierra Club, the Hawaii Audubon Society, the Hawaii Association of Conservation Districts, Life of the Land, Koolau Agricultural Co., the Natural Resources Defense Council, and the Central Maui Soil and Water Conservation District testified in support of the intent of the bill. The Office of State Planning and the Environmental Center commented on this measure.

Your Committee has amended this bill by:

- (1) Reducing the appropriations to \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive revisions 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. 745, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 745, H.D. 2.

Signed by all members of the Committee.

SCRep. 872 Finance on H.B. No. 1486

The purpose of this bill is to authorize nonresident, unlicensed hunters to take game birds in commercial or private shooting preserves provided that:

- (1) The Department of Land and Natural Resources adopts rules;
- (2) The licensee includes in each quarterly report:
 - (a) Additional information on the number of nonresident hunters who are permitted to take game birds without a hunting license;
 - (b) The number of hunting days per unlicensed, nonresident hunter; and
 - (c) The amount of fees collected; and
- (3) The private and commercial shooting preserve licensees who allow unlicensed, nonresident hunters to hunt, pay an amount equal to the current nonresident Hawaii hunting license for each unlicensed, nonresident hunter.

Your Committee made technical, nonsubstantive amendments to the bill 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. 1486, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1486, H.D. 2.

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

SCRep. 873 Finance on H.B. No. 1683

The purpose of this bill is to provide for a permanent statewide program on HIV and AIDS by establishing a State Commission on HIV/AIDS (Commission).

The Department of Public Safety, the Acting Director of the Governor's Committee on HIV/AIDS, Kapiolani Health Care System, and a private citizen testified in support of this measure. The Department of Health and the Department of Human Services testified in support of the intent of this bill, but indicated their reservations on the bill's fiscal implications.

Your Committee has amended this bill by:

- (1) Changing the total number of members on the Commission to twenty-two members;
- (2) Specifying that of the twenty-two members:
 - (a) Seven members shall serve as ex officio, nonvoting members; and
 - (b) Five members each shall serve three-year, two-year, and one-year terms, upon after serving their terms, members shall serve three-year terms; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1683, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1683, H.D. 1.

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

SCRep. 874 Finance on H.B. No. 1687

The purpose of this bill is to allow the Board of Trustees of the Hawaii Public Employees Health Fund (Health Fund) to negotiate and use other competitive procedures to select an insurance carrier or third-party administrator for any benefit plan offered by the Health Fund.

The Hawaii Government Employees Association and the Hawaii State Teachers Association supported this measure. The Health Fund also testified on the measure.

Your Committee has amended this bill by exempting the Health Fund from Chapter 103D, Hawaii Revised Statutes (Hawaii Public Procurement Code), to enable the Health Fund to negotiate or solicit bids for benefit plan coverages.

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. 1687, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1687, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 875 Judiciary on H.B. No. 201

The purpose of this bill is to permanently designate the humuhumunukunua'pua'a (Rhinecanthus rectangulus) as the official state fish.

The Department of Land and Natural Resources commented on this bill. The manager of Hanohano Enterprises, Inc. and an Aquacultural Technician testified in favor of this measure. The Green Valley Conservancy, the children of Seagull Elementary School and a member of the public submitted testimony supporting this measure.

After careful consideration, your Committee finds that a statewide popular vote was held in 1984 which resulted in the humuhumunukunua'pua'a being designated the official State fish by the 1985 Hawaii State Legislature. Although the humuhumunukunua'pua'a is no longer the "official" state fish, it is widely recognized as such and since it was previously chosen by popular vote, your Committee finds that it should once again be designated the official fish of the State of Hawaii.

Your Committee has amended this bill by making a technical, nonsubstantive amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 201, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 201, H.D. 1.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 876 Judiciary on H.B. No. 523

The purpose of this bill is to define any public assistance obtained by fraudulent device as an act of theft.

The Department of Human Services submitted testimony in support of the intent of this measure.

Currently all offenses identified in Hawaii Revised Statutes (HRS) §346 are misdemeanors regardless of the amount of money involved. Your Committee believes that the act of fraudulently obtaining public assistance benefits should be treated similarly to offenses relating to theft where the classification of the offense is based upon the monetary amount of the theft.

This measure allows prosecution for the offenses enumerated in HRS §346 as misdemeanors or felonies based upon the monetary amount involved.

Your Committee finds that there is a need to implement more effective deterrents against welfare fraud.

Upon careful consideration, your Committee has amended this bill by making numerous technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 523, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 523, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Hamakawa, Herkes, McMurdo, Menor, Saiki and Kawanakoa.

SCRep. 877 Judiciary on H.B. No. 599

The purpose of this bill is to change the conditions under which a person arrested for drunken driving may be considered for a conditional permit. This bill amends the provisions authorizing the issuance of a conditional permit to drive for the driver subject to administrative revocation proceedings under Hawaii Revised Statutes (HRS), Chapter 286 Part XIV, by permitting the issuance of a conditional permit to drive if there was no prior alcohol enforcement contact during the five years preceding the arrest.

Testimony in support of this measure was received from the Office of the Public Defender.

Currently, HRS §286-264 does not allow the administrative driver's license revocation hearings officer the discretion to grant conditional permits to those arrested for driving under the influence of intoxicating liquor if they have a prior alcohol enforcement contact. It does not matter how long ago the prior contact occurred.

HRS §286-264 is inconsistent with HRS §286-261(1)(b) which penalizes the offender depending on whether there were prior alcohol contacts within specified time periods. It is also inconsistent with HRS §291-4(1)(B) which allows issuance of a conditional permit if there were no prior driving under the influence (DUI) convictions within the preceding five years.

Your Committee finds that it was an oversight to exclude language relating to a specified time period for prior alcohol enforcement contacts with respect to issuance of a conditional permit at the administrative revocation hearing.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 599 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives White, Herkes, McMurdo, Menor, Kawananakoa and Thielen.

SCRep. 878 Judiciary on H.B. No. 2152

The purpose of this bill is to allow residents of the islands of Lanai and Niihau to run for the Office of Hawaiian Affairs (OHA) under the seats for Molokai and Kauai.

Under current law, a candidate running for an island representative seat must be a resident of the island of Hawaii, Maui, Molokai, Kauai, or Oahu. Although the island representative of Molokai represents the interests of Lanai and the island representative of Kauai represents the interests of Niihau, no provision is made for residents of the islands of Lanai and Niihau to run for island seats. Instead, residents of Lanai and Niihau can only run for at-large seats.

Your Committee finds that this measure rectifies this situation by clarifying that one of the members of the board of trustees shall reside on the island of Molokai or Lanai and represent Molokai, and another shall reside on the island of Kauai or Niihau and represent Kauai.

OHA testified in support of this measure. The Association of Clerks & Election Officers testified supporting the intent of this measure and recommended a constitutional amendment to ensure that the islands of Lanai and Niihau are appropriately represented.

As affirmed by the record of votes of 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. 2152 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives McMurdo, Menor, Saiki, Yoshinaga and Thielen.

SCRep. 879 Judiciary on H.B. No. 1977

The purposes of this bill are to:

- (1) Conform the state water pollution control law to federal requirements;
- (2) Authorize the Director of Health to regulate the by-products of wastewater such as reclaimed water, sewage sludge, and other removed substances;
- (3) Clarify that monetary penalties may be imposed through administrative proceedings and civil lawsuits;
- (4) Establish that non-criminal penalties for obstructing inspections may be imposed administratively;
- (5) Expand the list of factors considered in imposing administrative penalties to conform with the 1994 Environmental Summit bills on air and water pollution administrative penalties; and
- (6) Clarify that administrative penalties may be imposed for both past and ongoing violations.

The Department of Health testified in support of this measure.

Your Committee finds that the changes in the law under this measure will:

- (1) Conform with federal law which will be in effect at the time of this bill's passage; and
- (2) Clarify the Department of Health's authority to seek penalties for violations.

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. 1977, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1977, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, McMurdo and Menor.

SCRep. 880 Consumer Protection and Commerce and Judiciary on H.B. No. 379

The purpose of this bill is to prohibit the discharge of oil into any landfill.

The Department of Health (Department) submitted testimony supporting the intent of the bill. In its testimony, the Department expressed concerns regarding the impact that this bill may have on the disposal of motor oil generated by "Do-It-Yourself" oil changers on the Neighbor Islands.

Currently, the City and County of Honolulu is able to accommodate used oil which is disposed in an Oil Eater Box or similar absorbent material, because it will be burned at the HPOWER plant. However, according to the Department, provisions in this bill could significantly impact Neighbor Island residents who do not presently have the option of waste incineration.

Your Committees have amended the bill by:

- (1) Prohibiting oil generated by commercial businesses or operations from being disposed of in landfills; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 379, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 379, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Hamakawa, Hiraki, McMurdo and Saiki.

SCRep. 881 Consumer Protection and Commerce on H.B. No. 26

The purpose of this bill is to create more flexibility for transporting motor vehicles interisland while still deterring attempts to move stolen vehicles interisland.

The current law requires an owner of a motor vehicle to present a current certificate of ownership and current no-fault insurance card to the shipper.

Your Committee received testimony in support of this measure from the Honolulu Police Department and the Hawaii Bankers Association.

Testimony in opposition to the measure was received from Young Brothers, Ltd. The previous draft of the measure required an owner of a vehicle to present either a current certificate of ownership or a notarized written consent from the legal owner, a current certificate of registration, and a no-fault insurance card. Young Brothers, Ltd. contended that the presentation of a certificate of ownership to the shipper has been extremely burdensome for the legal owner to produce because the certificate of ownership is not oftentimes readily available.

Upon consideration, your Committee adopted the recommendation proposed by Young Brothers, Ltd. Your Committee amended the bill to require the legal owner of a vehicle to present a current certificate of registration, picture identification, and no-fault insurance card. Where a person who arranges the shipment of a vehicle is not the legal owner, a current certificate of registration, a notarized written consent from the legal owner, and a no-fault insurance card are required.

The bill as amended will ease the burden of the legal owner of a vehicle in shipping a vehicle interisland. The measure in total provides flexibility for movement of vehicles interisland while still providing police sufficient control over the shipment of stolen vehicles.

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. 26, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 26, H.D. 2.

Signed by all members of the Committee except Representative Tom.
(Representative Herkes voted no.)

SCRep. 882 Consumer Protection and Commerce on H.B. No. 1838

The purpose of this bill is to incorporate the changes to the Federal Poultry Inspection Regulations into the Hawaii Administrative Rules governing the Hawaii Poultry Inspection Program. The bill also brings the language of the state law in line with other Hawaii statutes.

Testimony in support of this bill was received from the Department of Agriculture.

Your Committee amended the bill to clarify the definition of the term "processed." Technical, non-substantive amendments for the purposes of style, clarity, and consistency were also 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. 1838, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1838, H.D. 1.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 883 Consumer Protection and Commerce on H.B. No. 2076

The purpose of this bill is to authorize the Department of Health to develop uniform billing formats for professional health care services and institutional provider services and to develop a core dataset for public health assessment, policy development, and consumer information.

The Department of Health, the Hawaii Medical Association, the Chamber of Commerce of Hawaii, and the Kokua Council submitted supportive testimony. The Insurance Commissioner supported the intent of the bill. Comments were submitted by the Hawaii Medical Service Association, Hawaii Right to Life, and the Hawaii Federation of Physicians & Dentists in opposition to the bill.

Your Committee amended the bill to clarify that the Department of Health should develop policies and procedures to ensure privacy and confidentiality and appropriate use and access to data that are consistent with other statutes dealing with the same subject matter. It is the intent of your Committee that other statutes that do or should allow public access to Department of Health records, including parental access, should take precedence. Technical, non-substantive amendments for the purposes of style, clarity, and consistency were also made to 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. 2076, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2076, H.D. 1.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 884 Judiciary on H.B. No. 486

The purpose of this bill is to extend immunity to public and private landowners for the purpose of gathering.

Favorable testimony was received from the Council of Hawaiian Organizations, and a private individual, and comments were received from the Hawaii Trial Lawyers Association.

The present statute under Chapter 520, Hawaii Revised Statutes (HRS), provides limited immunity to public and private landowners for recreational purposes. This enables landowners to make land and water areas available for public use.

Your Committee agrees that this immunity should be extended to traditional gathering activities, as provided for by the Constitution and section 7-1, HRS. These provisions and other laws govern Native Hawaiians engaged in subsistence, cultural or religious practices. While the value of including gathering under Chapter 520, HRS, is warranted, your Committee was of the opinion that gathering was not actually a recreational purpose, and should be afforded separate recognition as a Native Hawaiian cultural practice.

Your Committee amended this bill by:

- (1) Removing the language regarding "gathering" from the definition of "recreational purpose";
- (2) By adding a definition of "Native Hawaiian purpose"; and
- (3) By separately referring to "Native Hawaiian" throughout Chapter 520, HRS.

The foregoing definition of "Native Hawaiian purpose" includes a reference to the traditional and customary rights of Native Hawaiians including gathering, and other laws concerning subsistence, and cultural or religious practices.

As affirmed by the record of votes of 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. 486, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 486, H.D. 2.

Signed by all members of the Committee except Representatives Yoshinaga and Hiraki.

SCRep. 885 Judiciary on H.B. No. 1800

The purpose of this bill is to waive liability of participating employers when a vocational education student works with a private business as a part of the student's curriculum.

Your Committee received testimony in support of this bill from the Department of Education, Hawaiian Electric Company, the Hawaii Joint Apprenticeship Community for the Sheet Metal Industry, the West Oahu Employment Corporation, and Waialua High and Intermediate School. The Department of Labor and Industrial Relations and the State Director of Vocational Education submitted testimony in support of the intent of this bill. The Hawaii Trial Lawyers Association testified in opposition to this bill.

The Department of Education and private businesses have been working together to provide students with opportunities to apply knowledge and skills acquired in the classroom through vocational student internship programs. Partnerships

with businesses allow students to receive real life work experiences and provide hands-on applications to augment the theoretical academic study that they receive in school.

Your Committee finds that many businesses have been reluctant to enter partnerships that allow students to intern in the workplace due to the risk of liability as a result of an on the job injury. Your Committee believes that businesses should not be exposed to great financial risk when they participate in internship programs, but also believes that students should not have to forego redress for injuries which have occurred through their participation in a vocational or career internship program.

Your Committee believes that unremunerated student interns should be treated similarly to volunteers as defined in chapter 90. This would enable the State to provide protection for the student pursuant to chapter 90 and would relieve the financial burden of participating businesses.

Therefore, your Committee has completely rewritten this bill by amending chapter 90 to include an unremunerated student intern within the definition of a volunteer.

As affirmed by the record of votes of 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. 1800, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1800, H.D. 1.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 886 Judiciary on H.B. No. 2333

The purpose of this bill is to provide legal representation for county officers or employees who are prosecuted for acts done in the performance of their job capacities.

Your Committee received testimony in support of this bill from Hawaii Government Employees Association, the Department of Wastewater Management of the City and County of Honolulu, the Honolulu Police Department, and the County of Hawaii Office of the Corporation Counsel.

Your Committee finds that the counties have a responsibility and an obligation to represent their officers and employees when they are subject to prosecution for criminal acts or are sued in civil matters related to actions taken in the course and scope of their employment. Presently, legal representation is afforded to police officers, firefighters, and liquor inspectors. Your Committee believes that county officers and employees should receive similar protections.

Your Committee finds that legal representation should not be provided for acts involving gross recklessness, malice, or willful misconduct. Such conduct does not normally encompass situations where an employee is simply doing his or her job, and therefore the county should not expend public money for purposes of defending the employee. Accordingly, this bill has been amended to limit the conduct in which an employee is entitled to legal representation.

Your Committee also finds that former officers and employees of the county should be entitled to legal representation. These persons should not forego the protections provided to others for acts arising out of the performance of their powers and duties simply because their employment status has changed. Therefore, your Committee has amended this bill to provide for legal representation of former officers and employees.

Further, this bill has been amended by excluding police officers, firefighters, and liquor inspectors from the provisions of the section because these persons are afforded legal representation under existing statutes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2333, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2333, H.D. 1.

Signed by all members of the Committee except Representatives McMurdo and Yoshinaga.

SCRep. 887 Finance on H.B. No. 1404

The purpose of this bill is to establish a two-year pilot project to make the following improvements at Aikahi Elementary School:

- (1) Expansion of the school library; and
- (2) Construction of ancillary special education facilities and administrative offices;

through the appropriation of funds for fiscal year 1995-1996.

Members of the school's faculty and several concerned citizens submitted testimony in support of this measure. The Department of Education submitted testimony in support 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. 1404, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 888 Finance on H.B. No. 1425

The purpose of this bill is to promote the recycling and reduction of recoverable materials from the state's waste stream by establishing a State Recycling Coordinator position.

The Department of Health testified in support of the intent of this measure. The Clean Hawaii Center, and students from Aiea Elementary School, Pearl Ridge Elementary School, Webling Elementary School, and Waimalu Elementary School testified in support of this bill.

Your Committee encourages the respective counties to consider contributing funding for the State Recycling Coordinator position.

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. 1425, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 889 Finance on H.B. No. 1559

The purpose of this bill is to maintain the existence of community-based primary health care centers throughout the state by repealing the sunset date from Act 70, Session Laws of Hawaii 1992, which established the system of community-based primary health care centers.

This bill also clarifies that Hawaii's mandatory pre-paid health insurance law is an emerging managed care system for state-supported health care.

The Department of Health and a concerned citizen submitted testimony in support 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. 1559 and recommends that it pass Third Reading.

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

SCRep. 890 Finance on H.B. No. 1613

The purpose of this bill is to allow all health benefits under the health benefits plan of the Hawaii Public Employees Health Fund to be negotiated between the public employer and the appropriate collective bargaining units.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO testified in support of this measure. Testimony was received from the Department of Budget and Finance, the Department of Human Resources Development, the Director of Personnel of the City and County of Honolulu, the Director of Civil Service of the County of Hawaii, and the President of the Hawaii State Teachers Association.

Your Committee has amended this bill by deleting the substance and inserting language to establish that the average final compensation for members of the Employees' Retirement System is to be based only on the member's base salary.

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, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1613, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 891 Finance on H.B. No. 1716

The purpose of this bill is to support the University of Hawaii-Hilo Theatre Program (Program) by establishing the University of Hawaii-Hilo Theatre Revolving Fund, into which funds generated by the Program are to be deposited and from which expenditures related to this Program are to be paid.

The University of Hawaii testified in support of the intent of this bill.

Your Committee has amended this bill by making technical, nonsubstantive revisions for purposes of style and clarity, and to conform with current statutes.

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. 1716, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1716, H.D. 1.

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

SCRep. 892 Finance on H.B. No. 2137

The purpose of this bill is to provide the Waikiki Aquarium with administrative and financial flexibility.

This bill establishes the Waikiki Aquarium and Marine Research Center (Center) as an educational and research institution administratively attached to the University of Hawaii. The Center, at any time, may incorporate as a nonprofit corporation to administer its operations.

The Waikiki Aquarium, the Friends of the Waikiki Aquarium, and the United Public Workers submitted comments on 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. 2137, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 893 Finance on H.B. No. 401

The purpose of this measure is to establish the Environmental Protection Agency which will encompass the functions and employees of parts of the Department of Health, the Office of Environmental Quality Control, and the Office of State Planning.

The Hawaii Audubon Society and the Koolau Agricultural Co. testified in support of this measure. The Department of Health, the Office of Environmental Quality Control, and concerned citizens submitted testimony in support of the intent of this measure.

Your Committee finds that the current system of managing the State's environmental resources is diffused among various state, county, and federal agencies. Consolidation of environmental management functions will allow the more efficient use of present resources.

This measure indicates the Legislature's commitment to protect the environment by working to achieve coordinated, proactive resource management. However, your Committee notes that additional measures must be taken either in this bill or in future legislation to better clarify the role that this new agency will play as well as the duties and responsibilities of those departments that are to provide support, services, and personnel to this agency. With this in mind, Your Committee has passed this measure in the hope that it will facilitate further dialogue and discussion on a matter of such great importance to the future of our island state.

This bill has been amended by making technical, nonsubstantive revisions for the purposes of style, clarity, and consistency.

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. 401, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 401, H.D. 2.

Signed by all members of the Committee.

SCRep. 894 Finance on H.B. No. 840

The purpose of this bill is to clearly define the mission of the Marine Patrol Unit and the Harbor Patrol Unit by, among other things:

- (1) Transferring the Marine Patrol Unit from the Department of Public Safety to the Department of Land and Natural Resources; and
- (2) Transferring the Harbor Patrol Unit from the Department of Public Safety to the Department of Transportation.

The Department of Public Safety and the Department of Land and Natural Resources submitted comments on this measure.

Your Committee has amended this bill by:

- (1) Deleting the appropriation section; and
- (2) Making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

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. 840, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 840, H.D. 3.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 895 Finance on H.B. No. 974

The purpose of this bill is to formally reauthorize the Hui 'Imi Task Force (Task Force) for the implementation phase of the recommendations contained in The Hui 'Imi Task Force on Hawaiian Services report by:

- (1) Establishing the Task Force permanently within the Office of the Lieutenant Governor; and
- (2) Renaming the Task Force as the Hui 'Imi Pono Advisory Council (Advisory Council).

In addition, this bill appropriates funds for each year of the 1995-1997 fiscal biennium to staff the Advisory Council.

Testimony in support of this bill was received from the Kamehameha Schools/Bernice Pauahi Bishop Estate; the Association of Hawaiian Civic Clubs; Papa Ola Lokahi; the Diocesan Director of Catholic Charities; and a member of the Hui 'Imi Task Force. The Office of the Lieutenant Governor and the Hui 'Imi Task Force also submitted testimony on the bill.

Your Committee has amended this bill by:

- (1) Adding the Department of Health to the Advisory Council;
- (2) Authorizing the Lieutenant Governor to add or remove organizations from the Advisory Council's membership, upon the Advisory Council's recommendation;
- (3) Allowing each organization on the Advisory Council to designate a person to represent that organization on its membership;
- (4) Including the Department of Education under the advisement of the Advisory Council;
- (5) Stipulating that the Advisory Council shall secure external matching funds from non Hui 'Imi members and in-kind resources from its members;
- (6) Changing the appropriation amount to \$1 for the purpose of continued discussion; and
- (7) Making technical, nonsubstantive 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. 974, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 974, H.D. 2.

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

SCRep. 896 Finance on H.B. No. 1409

The purpose of this bill is to ensure the continued performance of music by clarifying the purposes for which the income and capital gains of the State of Hawaii Endowment Fund (Fund) may be used.

Under this bill, the income and capital gains can only be used to pay for musicians' salaries and not for administrative salaries, compensation, and other expenses. In addition, the Hawaii Symphony Orchestra replaces the Honolulu Symphony as the primary recipient of these revenues.

The Hawaii Opera Theatre submitted testimony in support of this bill. The State Foundation on Culture and the Arts submitted testimony in support of the intent of this bill.

Your Committee has amended this bill by:

- (1) Requiring that the income and capital gains from the Fund shall be transferred on a quarterly basis to the State Foundation on Culture and the Arts for the production of music by an Oahu-based symphony orchestra;
- (2) Deleting the definition of "operations of the Hawaii symphony" and related provisions which specified the manner in which the income and capital gains may be expended; and
- (3) Making technical, nonsubstantive revisions for purposes of clarity and consistency.

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. 1409, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1409, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 897 Finance on H.B. No. 331

The purpose of this bill is to appropriate funds for the Safe Haven Pilot Project, which is designed to provide essential services to homeless mentally ill persons.

Testimony in support of this measure was submitted by the Affordable Housing Alliance; the Oahu Alliance for the Mentally Ill; the Kalihi-Palama Health Center; the Mental Health Association in Hawaii; United Self-Help; the Sisters of Saint Joseph of Carondelet; the Homeless Ohana Association; the Kokua Council for Senior Citizens; the Department of Housing and Community Development of the City and County of Honolulu; Catholic Charities of the Diocese of Honolulu; and a private citizen. The Department of Health submitted testimony in support 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. 331 and recommends that it pass Third Reading.

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

SCRep. 898 Finance on H.B. No. 376

The purpose of this bill is to:

- (1) Recognize the Hawaii Symphony Orchestra as the official symphony orchestra of the State; and
- (2) Provide a stable source of annual funding to ensure its existence and maintain the exceptionally high quality of its musicianship.

The State Foundation of Culture and the Arts; the Executive Director of the Hawaii Symphony Orchestra; the Hawaii State AFL-CIO; the Hawaii Opera Theater; a member of the orchestra; and other interested individuals testified in support of this measure. The Department of Accounting and General Services also presented testimony on this bill.

Your Committee has amended this bill by:

- (1) Specifying that revenues shall be provided through an appropriation from the State Foundation on Culture and the Arts instead of through an annual appropriation from the General Fund;
- (2) Removing provisions that the appropriation shall be expended for presenters, other than the Hawaii Symphony Orchestra, that employ its musicians; and
- (3) Making technical, nonsubstantive revisions for purposes of clarity and consistency.

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. 376, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 376, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 899 Finance on H.B. No. 529

The purpose of this bill is to require the Hawaiian Hurricane Relief Fund (HHRF) to:

- (1) Establish rates based on the design and construction of a home; and
- (2) Require the identification of hazard zones for hurricanes with rates to be set accordingly.

The Executive Director of HHRF and the Hawaii Independent Insurance Agents Association testified in support of this measure. The State Farm Insurance Companies commented on the bill.

Your Committee has amended this bill by:

- (1) Requiring HHRF to consult with the Insurance Rating Bureau in the development of the hazard zones; and
- (2) Making a technical, nonsubstantive revision to conform with legislative drafting 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. 529, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 529, H.D. 2.

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

SCRep. 900 Finance on H.B. No. 547

The purpose of this bill is to allow special license plates to be issued to Hawaii residents who are Pearl Harbor survivors.

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. 547 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Isbell, Jones and Kahikina.

SCRep. 901 Finance on H.B. No. 548

The purpose of this bill is to allow special license plates to be issued to Hawaii residents who are former prisoners of war.

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. 548 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Isbell, Jones and Kahikina.

SCRep. 902 Finance on H.B. No. 614

The purpose of this bill is to require the Department of Land and Natural Resources to establish fishing areas to be used primarily for pole fishing.

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. 614, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Isbell, Jones and Kahikina.

SCRep. 903 Finance on H.B. No. 1045

The purpose of this bill is to establish a Commission on Government Organization and Efficiency to review state government operations; and to make recommendations to ensure cost-effectiveness and efficiency, by proposing an amendment to Article XVI of the Hawaii State Constitution.

The Chamber of Commerce of Hawaii testified in support of this measure. The Economic Development Corporation of Honolulu testified in support of the intent of this measure. Comments were received from the Department of Budget and Finance.

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. 1045 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 904 Finance on H.B. No. 1903

The purpose of this bill is to facilitate the construction, expansion, and maintenance of educational facilities in the state by authorizing the Director of Finance to issue \$90,000,000 in general obligation bonds for each year of the 1995-1997 fiscal biennium to be deposited into the State Educational Facilities Improvement Special Fund.

The Department of Budget and Finance submitted testimony in support of this measure. The Department of Education submitted testimony in support 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. 1903 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 905 Finance on H.B. No. 2030

The purpose of this bill is to expand the bulk sales law to apply to all transfers, not just to sales. This bill would also increase the penalties for noncompliance with the bulk sales law.

The Department of Taxation testified in support of this measure and suggested that the bulk sales law should be moved from Section 237-43, Hawaii Revised Statutes (HRS), to Chapter 231, HRS, so that it would apply to all state taxes. The Tax Foundation of Hawaii and the Hawaii Association of Realtors also commented on the bill.

Your Committee has amended this bill by:

- (1) Creating a new section in Chapter 231, HRS, to incorporate the bulk sales law and repealing Section 237-43, HRS;
- (2) Excluding residential real property from the definition of property; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

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. 2030, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2030, H.D. 1.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 906 Finance on H.B. No. 2215

The purpose of this bill is to stabilize and ultimately reduce homeowners' insurance costs by authorizing the Director of Finance to secure necessary funds to satisfy the share of liability currently reinsured by the Hawaii Hurricane Relief Fund.

The Hawaii Hurricane Relief Fund, the Insurance Commissioner, and the State Farm Insurance Companies testified in support of the intent of the bill.

Your Committee has amended this bill by:

- (1) Reducing the revenue bond authorization to \$1 for each fiscal year; and
- (2) Making technical, nonsubstantive revisions for the purpose of 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. 2215, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2215, H.D. 2.

Signed by all members of the Committee.

SCRep. 907 Finance on H.B. No. 114

The purpose of this bill is to revise the Campaign Spending Law by:

- (1) Making the proceedings of the Campaign Spending Commission (Commission) open to the general public in situations where the Commission determines that probable cause exists;
- (2) Providing for the employment of a full-time Executive Director of the Commission; and
- (3) Appropriating funds for one additional investigator for the Commission.

The Democratic Party of Hawaii submitted testimony in support of this bill. Comments on this bill were submitted by the Commission.

Your Committee has amended this bill by:

- (1) Changing the appropriation sum from \$70,000 to \$1, for fiscal year 1995-1996; and
- (2) Making technical, nonsubstantive amendments to conform with legislative drafting style and current state statutes.

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. 114, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 114, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 908 Finance on H.B. No. 404

The purpose of this bill is to require funds from liquor license fees in excess of twenty percent of the Liquor Commission's current budget to be returned or credited annually to existing licensees.

The Department of Finance of the City and County of Honolulu and the liquor administrators of the City and County of Honolulu and the Counties of Kauai, Maui, and Hawaii, submitted testimony in support 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. 404 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 909 Finance on H.B. No. 518

The purpose of this bill is to encourage energy cost savings in public buildings.

This bill requires the State to consider the feasibility of installing cool storage air-conditioning systems in air-conditioned public buildings and facilities planned after July 1, 1995. The installation of a cool storage air-conditioning system will be required whenever a feasibility study indicates a simple payback of five years or less.

The Hawaiian Electric Company testified in support of this bill. The Department of Accounting and General Services 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. 518, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 910 Finance on H.B. No. 566

The purpose of this bill is to assist the former employees of Waialua Sugar Company in meeting their housing needs by:

- (1) Providing low-interest loans to meet their mortgage loan payments; and
- (2) Making grants to address administrative, maintenance, and infrastructure improvement costs to ensure the continued operation of Waialua Sugar Company housing units.

The Housing Finance and Development Corporation testified in support of the intent of this measure. The Office of State Planning commented on this measure.

Your Committee has amended this bill as follows:

- (1) Applied the loan and grant programs to former employees of Kau Agribusiness as well as Waialua Sugar Company;

- (2) Added funding for the development and implementation of housing strategies to provide or preserve affordable housing for the former employees of Waialua Sugar Company and Kau Agribusiness; and
- (3) Made technical, nonsubstantive revisions 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. 566, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 566, H.D. 1.

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

SCRep. 911 Finance on H.B. No. 935

The purpose of this bill is to enable liquor commission inspectors and investigators to have the same retirement benefits as firefighters and police officers.

Testifying in support of the bill were the Honolulu Liquor Commission, the Hawaii County Department of Liquor Control, the Maui Department of Liquor Control, the Hawaii Government Employees Association, the Kauai Department of Liquor Control, and seven individuals. The Employees' Retirement System commented on the bill.

Your Committee has amended this bill by:

- (1) Designating that those individuals employed as liquor commission inspectors or investigators after December 31, 1995, rather than after the effective date of this bill, are class A members;
- (2) Designating that after December 31, 1995, rather than on December 31, 1995, existing liquor commission inspectors and investigators shall be class A members, except for those who have elected to remain class C members; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 935, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 935, H.D. 1.

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

SCRep. 912 Finance on H.B. No. 1318

The purpose of this bill is to transfer five of the seven positions within the Market Development Branch of the Department of Agriculture to the Department of Business, Economic Development, and Tourism.

The Department of Agriculture, the Department of Business, Economic Development & Tourism, the Hawaii Farm Bureau, the Hawaii Egg Producers Association, Hawaii Fruit Company, Fresh Foods Hawaii, and Bill's Farm submitted comments on 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. 1318, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Alcon.

SCRep. 913 Finance on H.B. No. 1643

The purpose of this bill is to extend for two years the nursing facility tax by:

- (1) Deleting the conditional termination of the tax, which is contingent upon the tax being qualified as permissible under section 1903(w) of the Social Security Act; and
- (2) Extending from July 1, 1995, to July 1, 1997, the absolute sunset date of the nursing facility tax.

The Department of Health, the Healthcare Association of Hawaii, Oahu Care Facility, Hale Makua, Leeward Nursing Home, Crawford's Convalescent Home, Life Care Center of Hilo, Hawaii Long Term Care Association, the Convalescent Center of Honolulu, and a number of individuals submitted testimony in support of the bill. The Department of Human Services supported the bill on the condition that the nursing facilities that are affected by the nursing facility tax also supported it.

The Tax Foundation of Hawaii, Hale Omao, Liliha Healthcare Center, Nuuanu Hale Hospital, and Hale Ho Aloha, Inc. submitted comments on the bill.

Your Committee has amended this bill by:

- (1) Deleting the sunset date of the nursing facility tax; and
- (2) Making technical, nonsubstantive revisions 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. 1643, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1643, H.D. 1.

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

SCRep. 914 Finance on H.B. No. 1819

The purpose of this bill is to transfer the authority and supervision of private schools from the Department of Education to an independent commission for the purposes of licensing private schools and teacher certification.

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. 1819, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Isbell, Jones and Kahikina.

SCRep. 915 Finance on H.B. No. 1859

The purpose of this bill is to:

- (1) Clarify the method of appointment of special deputy attorneys general;
- (2) Authorize the Commissioner of Securities to retain the services of attorneys;
- (3) Authorize the Director of the Office of Consumer Protection to retain the services of special consumer protection attorneys for the prosecution of consumer-related matters; and
- (4) Authorize the methods of payment of these attorneys.

The Department of the Attorney General and the Office of Consumer Protection testified in support of this bill.

Your Committee has amended this bill by making a technical, nonsubstantive amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1859, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1859, H.D. 2.

Signed by all members of the Committee.

SCRep. 916 Finance on H.B. No. 2239

The purposes of this bill are to:

- (1) Exempt federally funded positions from the hiring freeze established by Act 212, Session Laws of Hawaii (SLH) 1994; and
- (2) Authorize the Department of Labor and Industrial Relations to designate which positions to eliminate or hold vacant based on the number of positions vacated pursuant to Act 212, SLH 1994.

The Department of Labor and Industrial Relations testified in support of the intent of this measure. The Department of Budget and Finance offered comments on this measure.

Your Committee has amended this bill by:

- (1) Exempting from Act 212, SLH 1994, department heads, deputies or assistants to department heads, the administrative director of the state, and positions in:
 - (a) Community hospital facilities of the Department of Health;
 - (b) Correctional facilities in the Department of Public Safety; and
 - (c) Programs that are one hundred percent federally funded;
- (2) Deleting the provision that authorizes the Department of Labor and Industrial Relations to designate which positions to eliminate or hold vacant based on the number of positions vacated pursuant to Act 212, SLH 1994; and
- (3) Making technical, nonsubstantive 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. 2239, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2239, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 917 Finance on H.B. No. 131

The purpose of this bill is to approve a proposed land exchange of public lands at Hanalei, Kauai, for privately held lands at Waioli, Hanalei, Kauai, to allow for the expansion of Hanalei Elementary School.

The Department of Land and Natural Resources, and the principal, students, and alumni of Hanalei Elementary School testified in support of this measure. The Department of Education testified in support of the intent of this measure. Comments were also submitted by the Office of Hawaiian 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. 131 and recommends that it pass Third Reading.

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

SCRep. 918 Finance on H.B. No. 419

The purpose of this bill is to strengthen the State's commitment to perpetuate the Hawaiian language.

This bill provides financial as well as staff support for the Department of Education's (DOE) Hawaiian Language Immersion Program known as the Papahana Kaiapuni Hawaii.

The Association of Hawaiian Civic Clubs, a teacher of the Hawaiian Language Immersion Program, three parents who have children in the immersion program, and 15 individuals testified in support of this bill. The DOE offered comments.

Your Committee has amended this bill by:

- (1) Directing the DOE to study the feasibility of establishing an immersion program in Anuenue Elementary School in Honolulu; and
- (2) Making technical, nonsubstantive revisions 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. 419, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 419, H.D. 2.

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

SCRep. 919 Finance on H.B. No. 513

The purpose of this bill is to establish the Marine and Coastal Affairs Program within the Office of State Planning to assist the Governor and the Legislature in carrying out the policies, principles, and recommendations of the Hawaii Ocean Resources Management Plan.

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. 513, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Isbell, Jones and Kahikina.

SCRep. 920 Finance on H.B. No. 595

The purpose of this bill is to improve the State's ability to stop the illegal diversion of prescription drugs by establishing an electronic prescription accountability system to monitor the prescribing and dispensing of schedule II controlled substances in Hawaii.

The Department of Public Safety and the City and County of Honolulu's Department of the Prosecuting Attorney testified in support of this measure.

Your Committee has amended this bill by:

- (1) Inserting \$1 in sections 4 and 5 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive revisions for the purpose of 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. 595, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 595, H.D. 1.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 921 Finance on H.B. No. 1586

The purpose of this bill is to add collective bargaining units 9 (nurses) and 10 (institutional, health, and correctional workers) to the bargaining units that rely on compulsory binding arbitration.

This bill also proposes to use a single arbitrator instead of a three-person arbitration panel to resolve disputes between the employers and bargaining units 9, 10, 11, and 12.

The Chief Negotiator for the State of Hawaii, the Department of Human Resources Development, and the United Public Workers testified in support of this measure. The Hawaii Government Employees Association and the City and County of Honolulu's Department of Personnel offered comments.

Your Committee has amended this bill by:

- (1) Requiring that the following bargaining units also rely on compulsory binding arbitration:
 - (a) Unit 2 (supervisory employees in blue collar positions);
 - (b) Unit 3 (nonsupervisory employees in white collar positions);
 - (c) Unit 4 (supervisory employees in white collar positions);
 - (d) Unit 6 (educational officers and other Department of Education personnel under the same salary schedule);
 - (e) Unit 8 (University of Hawaii and community college system personnel, other than faculty); and
 - (f) Unit 13 (professional and scientific employees, other than registered nurses); and
- (2) Making technical, nonsubstantive revisions 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. 1586, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1586, H.D. 2.

Signed by all members of the Committee.

SCRep. 922 Finance on H.B. No. 2089

The purpose of this bill is to require that any rate credit, reimbursement, earning, or interest derived from the Hawaii Public Employees' Health Fund from a carrier or self-insurance plan be used to:

- (1) Finance the active employees' and public employers' contributions for that respective benefit plan if the moneys are returned from a plan for active employees; and
- (2) Reimburse the State or respective county general fund if the moneys are returned from a plan covering retirees or other beneficiaries.

The Department of Budget and Finance, the Board of Trustees of the Hawaii Public Employees Health Fund, and the President of the Hawaii State Teachers Association testified on this measure.

Your Committee has amended this bill by deleting the provision that any rate credit, reimbursement, earning, or interest derived from the Hawaii Public Employees' Health Fund be used to finance the active employees' and public employers' contributions for that respective benefit plan if the moneys are returned from a plan for active employees.

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. 2089, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2089, H.D. 1.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.

SCRep. 923 Finance on H.B. No. 63

The purpose of this bill is to require the Department of Human Services (DHS) and the Department of Health (DOH) to develop a system whereby professional representative payees, who are not personal friends or relatives of persons disabled by addiction, disburse welfare benefits to clients to prevent these benefits from being used on alcohol and drugs instead of alcohol and drug treatment.

The DOH, the Legal Aid Society of Hawaii, and the Mental Health Association in Hawaii testified in support of this measure. The DHS testified in support of the intent of this bill. Comments were received from the Oahu Alliance for the Mentally Ill.

Your Committee has amended this bill by:

- (1) Removing the requirement that DOH and DHS develop a representative payee system;
- (2) Specifying that the issuance of welfare benefits are for disabled persons and have a primary diagnosis of substance abuse;
- (3) Authorizing DOH to designate representative payees;

- (4) Providing that representative payee services are applicable to persons referred from DHS who receive financial assistance and have a primary medical diagnosis of substance abuse;
- (5) Appropriating \$1 to be expended by the Department of Health to carry out the purposes of this bill; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

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. 63, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 63, H.D. 2.

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

SCRep. 924 Finance on H.B. No. 704

The purpose of this bill is to preserve agricultural water systems previously used by sugar plantations that have ceased operations by authorizing the Board of Agriculture to:

- (1) Acquire these water systems; and
- (2) Manage, operate, and maintain acquired water systems for various uses, including the establishment of fees and fines.

The Hawaii Farm Bureau testified in support of the measure. The Chairperson of the Board of Agriculture submitted testimony in support of the intent of the bill.

Your Committee has amended the bill by:

- (1) Limiting acquisition to access easements, rights of way, and existing water sources; and
- (2) Prohibiting the acquisition of irrigation facilities not used for agriculture.

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. 704, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 704, H.D. 3.

Signed by all members of the Committee except Representative Alcon.

SCRep. 925 Finance on H.B. No. 976

The purpose of this bill is to assist in facilitating the efforts of native Hawaiians to determine their will to be governed by an indigenous sovereign nation of their own choosing by:

- (1) Appropriating funds for the Hawaiian Sovereignty Elections Council (Council) to fulfill its mandate and purpose; and
- (2) Provide additional time for the Council to educate the community by rescheduling the plebiscite to 1996.

Testimony in support of the bill was received from the Chair and various members of the Hawaiian Sovereignty Elections Council; the Executive Director of the Native Hawaiian Legal Corporation; the President of Paukukalo Hawaiian Homestead Community Association, Inc.; Waiohuli Hawaiian Homesteaders, Inc.; the Acting Deputy Head of State for the Nation of Hawai'i; and numerous other private individuals. Your Committee also received comments on this measure from the Association of Hawaiian Civic Clubs, Ka Lahui Hawaii, and other interested individuals.

Your Committee has amended this bill by:

- (1) Removing provisions to extend planning and conducting the plebiscite from 1995 to 1996;
- (2) Extending to fiscal year 1995-1996, the appropriation contained in Section 12 of Act 200, SLH 1994;
- (3) Changing:
 - (a) The year of the appropriation from fiscal year 1995-1996 to fiscal year 1996-1997; and
 - (b) The amount of the appropriation from \$860,024 to \$1;
 for completing the plebiscite-related functions and planning an election of delegates; and
- (4) Making technical, nonsubstantive 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. 976, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 976, H.D. 2.

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

SCRep. 926**Finance on H.B. No. 1765**

The purpose of this bill is to address issues involved in the development of a drainage infrastructure for the secondary urban center on Oahu.

Specifically, this bill will authorize the City and County of Honolulu to:

- (1) Establish a Kaloi Gulch Drainage District for the area impacted by the water runoff from the Kaloi Gulch drainage basin;
- (2) Establish a development plan for Kaloi Gulch; and
- (3) Establish a special tax on property located in the Kaloi Gulch Drainage District to be used to pay the debt service on bonds issued to provide funds for improvements to the District.

The Department of Public Works of the City and County of Honolulu testified in support of the measure. The Department of Housing and Community Development of the City and County of Honolulu, HASEKO (Ewa), Inc., and Schuler Homes, Inc. testified in support of the intent of this measure. The University of Hawaii and Gentry Homes, Ltd. commented on the bill.

Your Committee has amended this bill by:

- (1) Deleting the requirement that state agencies participate in the costs of the improvements; and
- (2) Exempting state property from the special tax provisions.

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. 1765, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1765, H.D. 3.

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

SCRep. 927**Finance on H.B. No. 1997**

The purpose of this bill is to create a mechanism for enforcing the Family Leave Law.

The Department of Labor and Industrial Relations and the Chamber of Commerce of Hawaii submitted comments on the bill.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1997, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1997, H.D. 3.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 928**Finance on H.B. No. 380**

The purpose of this bill is to increase funding to address oil spills by:

- (1) Increasing the State Environmental Response Tax (Tax) from five to thirty cents on each barrel of petroleum product sold by a distributor to a retail dealer or end user;
- (2) Repealing the provision to discontinue the Tax when the balance of the Environmental Response Revolving Fund (Fund) exceeds \$7,000,000 and to reinstate the Tax when the balance is less than \$3,000,000; and
- (3) Appropriating \$200,000 to develop an oil spill prevention plan.

It should be noted that the bill does not accurately reflect the stated intent of the previous committee that considered this bill. In Stand. Com. Rep. No. 85 the Committee on Energy and Environmental Protection stated that, to further the debate on the matter, it amended the bill to repeal the Tax.

Some testifiers commented upon this stated intent; others commented on the bill's actual purpose; still others commented on a previous form of the bill.

The Department of Health (DOH), the Board of Water Supply of the City and County of Honolulu, and Hawaiian Electric Company opposed the repeal of the Tax. The Office of State Planning supported an oil tax sufficient to support the state's environmental programs.

Chevron USA and the Western States Petroleum Association supported the elimination of the Tax. The Chamber of Commerce of Hawaii submitted testimony in general opposition to tax increases.

The Tax Foundation of Hawaii and the Hawaii Transportation Association submitted comments on the bill.

Testimony was also received relating to H.B. No. 380, which proposed to expand the uses of the Fund. The Hawaiian Sugar Planters' Association and BHP Hawaii opposed the use of the Fund to finance environmental programs unrelated to the narrow original purpose of the Fund.

Your Committee amended the bill as follows:

- (1) Increased the Tax to fifteen cents instead of thirty cents;
- (2) Expanded the scope of the Fund to include expenditures for recycling programs, clean water, waste water, underground storage tanks, nonpoint source pollution, and hazardous waste;
- (3) Authorized the DOH to transfer moneys from the Fund to the general fund to be used as matching funds required to comply with certain federal programs;
- (4) Required the DOH to prepare an annual report to be submitted to the Legislature on the uses of moneys expended from the Fund;
- (5) Deleted the appropriation for the development of the oil spill prevention plan;
- (6) Added an appropriation for staffing the environmental management and environmental health administrator programs of the DOH; and
- (7) Made technical, nonsubstantive amendments for purposes of consistency 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. 380, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 380, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 929 Finance on H.B. No. 183

The purpose of this bill is to expedite the registration of new motor vehicles by allowing other parties, in addition to the county Directors of Finance, to register such vehicles.

This bill allows the county Directors of Finance to enter into a contract with private entities for the registration of new motor vehicles.

The Director of Finance of the City and County of Honolulu and the owner of a private corporation testified in support of this measure.

Your Committee has amended this bill by:

- (1) Allowing the counties to impose a county vehicle ad valorem tax; and
- (2) Making technical, nonsubstantive revisions 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. 183, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 183, H.D. 1.

Signed by all members of the Committee except Representatives Alcon, Kanoho, M. Oshiro and Suzuki.
(Representative Ward voted no.)

SCRep. 930 Finance on H.B. No. 1512

The purpose of this bill is to appropriate funds for each year of the 1995-1997 fiscal biennium for agricultural research and development.

Specifically, this bill appropriates \$1,000,000 for each year of the 1995-1997 fiscal biennium, provided that up to half of the amount for each fiscal year will be released for sugarcane research, only if the funds are matched by the Hawaii Agricultural Research Corporation.

The Hawaii Tropical Fruit Growers Association testified in support of this bill.

Your Committee has amended this bill by:

- (1) Changing the \$1,000,000 appropriation to \$1 for each year of the 1995-1997 fiscal biennium to facilitate further discussion;
- (2) Replacing the \$500,000 appropriation with unspecified amounts to facilitate further discussion; and
- (3) 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. 1512, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1512, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 931 Finance on H.B. No. 2038

The purpose of this bill is to strengthen the enforcement authority of the Department of Taxation by consolidating the criminal tax penalties applicable to all state taxes administered by the Department of Taxation.

The Department of Taxation and the Chamber of Commerce of Hawaii testified in support of this measure. The Tax Foundation of Hawaii submitted comments on this measure.

Your Committee has amended this measure by:

- (1) Amending other sections of the Hawaii Revised Statutes to conform with the amendments proposed in the bill; and
- (2) Making technical, nonsubstantive revisions to correct numerous drafting errors and for purposes of style, clarity, and consistency.

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. 2038, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2038, H.D. 2.

Signed by all members of the Committee except Representatives Isbell, Ito and Ward.

SCRep. 932 Finance on H.B. No. 298

The purpose of this bill is to authorize chartered student organizations of the University of Hawaii to use public funds to obtain legal services.

The University of Hawaii, the Campus Center Board and the Board of Publications at the University of Hawaii at Manoa, and the University of Hawaii Chartered Student Organization KTUH-FM testified in support of this measure. The Department of the Attorney General testified on the bill.

Your Committee has amended this bill to correct a technical 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. 298, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 298, H.D. 2.

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

SCRep. 933 Finance on H.B. No. 1277

The purpose of this measure is to increase the salaries of:

- (1) Supreme court justices;
- (2) Intermediate appellate court judges;
- (3) Circuit court judges; and
- (4) District court judges.

The Judiciary, the Hawaii Institute for Continuing Legal Education, the Hawai'i Trial Judges Association, and the Hawaii State Bar Association testified in support of this measure.

Your Committee has amended this bill by:

- (1) Deleting the specific salary and percentage increases of the justices and judges to an unspecified sum to facilitate further discussion on this bill; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

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. 1277, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1277, H.D. 2.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 934 Finance on H.B. No. 1353

The purpose of this bill is to remove the election function from the Lieutenant Governor and to re-assign that function to a new Office of Elections. The bill creates an Elections Appointment Panel appointed by the Governor which, in turn, appoints a Chief Election Officer.

The Office of the Lieutenant Governor testified in support of this measure. The Department of Human Resources Development commented on the bill.

Your Committee has amended this bill by:

- (1) Changing the manner of selecting four of the five members of the Elections Appointment Panel by having the Governor select appointees from lists submitted by:
 - (a) The Senate President;
 - (b) The Speaker of the House of Representatives;
 - (c) The members of the Senate belonging to the party or parties different from that of the Senate President; and
 - (d) The members of the House of Representatives belonging to the party or parties different from that of the Speaker of the House of Representatives.

The method of selecting these four members replaces the prior method of having each of these individuals and groups select a member directly;

- (2) Authorizing the Chief Election Officer to adopt rules governing elections;*
- (3) Removing from statute, while maintaining the legal effect of, the provision transferring the election function from the Lieutenant Governor to the new Chief Election Officer;
- (4) Making minor revisions to the provisions ensuring that employees transferred from the Office of the Lieutenant Governor to the Office of Elections will maintain and continue their duties, salaries, benefits, and privileges; and
- (5) Making technical, nonsubstantive revisions for purposes of style and clarity and for conformance with conventional drafting practices.

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. 1353, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1353, H.D. 2.

Signed by all members of the Committee.

SCRep. 935

Finance on H.B. No. 2094

The purpose of this bill is to amend the campaign spending laws to encourage citizen participation in the electoral process by, among other things:

- (1) Precluding commissioners from taking an active part in political management or in political campaigns;
- (2) Requiring that contractors who receive \$150,000 or more in government contracts during the four years before an election file a report with the Campaign Spending Commission (Commission);
- (3) Requiring any committee whose sole electoral activity consists of direct contributions or expenditures in the aggregate of more than \$1,000 per election to register with the Commission prior to making the contribution or expenditure;
- (4) Requiring that loans to candidates in excess of \$100 be disclosed;
- (5) Providing that a candidate with aggregate contributions less than \$2,000 is exempt from filing electronically;
- (6) Allowing a candidate to appoint on a fee or voluntary basis, a person other than an officer or treasurer to prepare and file reports with the Commission;
- (7) Setting contribution limits from individuals and political parties;
- (8) Prohibiting a holder of an elected office to include the phone number of the officeholder's state or county office in any advertisement published after the officeholder has filed to run for office in the next election;
- (9) Authorizing the Commission to refer intentional, knowing, or reckless violations to the Attorney General or county prosecutor in lieu of an administrative determination; and
- (10) Establishing the Hawaii Election Campaign Fund as a trust fund within the state treasury.

The Democratic Party of Hawaii and the American Association of Retired Persons submitted testimony in support of this measure. The Campaign Spending Commission submitted testimony on this measure.

Your Committee has amended this bill by:

- (1) Providing that a person is to apply for matching public funds within sixty calendar days after the general election;
- (2) Providing that any candidate or candidate's committee who receives in the aggregate more than fifty percent of the established limits for the respective office for election period in any primary, special, or general election from a person, shall be required to return and deposit any excess to the Hawaii Election Campaign Fund;
- (3) Prohibiting any person or other entity to make contributions to a political party in an aggregate amount greater than \$100,000 in any election year;
- (4) Clarifying that expenditure limits for publicly financed campaigns apply to each election;
- (5) Clarifying that additional reports are only for the primary and special elections, and not for the general election;
- (6) Stating that each report prior to each election should also contain the amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of more than \$250;
- (7) Providing that each candidate, whether or not successful in a primary or special primary election, is to file a final primary report stating the amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of more than \$250;
- (8) Extending the statute of limitations for prosecution for violations from two to three years; and
- (9) 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. 2094, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2094, H.D. 2.

Signed by all members of the Committee except Representatives Alcon, M. Oshiro and Suzuki.

SCRep. 936 Finance on H.B. No. 104

The purpose of this bill is to establish a fifteen-member Long-Term Care Advisory Commission (Commission) to determine the feasibility of implementing and administering the Hawaii Long-Term Care Trust Fund.

The American Association of Retired Persons, the Coalition for Affordable Long Term Care, a member of the Family Hope Coalition, the National Association of Retired Federal Employees, the Kokua Council for Senior Citizens, and a private citizen testified in support of this measure. The Executive Office on Aging and the Retirees Unit of HGEA/AFSCME Local 152 testified in support of the intent of this bill. The Department of Taxation, the Chamber of Commerce of Hawaii, and the Healthcare Association of Hawaii commented on the measure.

Your Committee has amended this measure by:

- (1) Changing the expending agency from the Department of Commerce and Consumer Protection to the Executive Office on Aging; 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. 104, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 104, H.D. 2.

Signed by all members of the Committee.

SCRep. 937 Finance on H.B. No. 115

The purpose of this bill is to appropriate funds to increase public access to legislative proceedings.

Specifically, these funds are for the production and distribution of television broadcasts of legislative proceedings of the 1996 Regular Session.

Common Cause Hawaii, the League of Women Voters of Honolulu, the Kokua Council for Senior Citizens, and several concerned citizens submitted testimony in support of this measure. The Department of Accounting and General Services and the Commission on Persons with Disabilities submitted testimony in support 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. 115, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 938 Finance on H.B. No. 392

The purpose of this bill is to reduce the State's dependence on fossil fuels by providing a financial incentive to encourage state agencies to lower their utility costs.

More specifically, under this bill, an agency that implements energy savings practices would continue to receive appropriations for energy expenditures at a level equal to appropriations made prior to the implementation of the energy savings practices.

The Department of Health and the County of Hawaii testified in support of this bill. The Department of Business, Economic Development, and Tourism offered comments on this bill.

Your Committee has amended this bill by making technical, nonsubstantive revisions 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. 392, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 392, H.D. 2.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 939 Finance on H.B. No. 792

The purpose of this bill is to authorize the Board of Regents of the University of Hawaii to establish an optional retirement plan for certain University of Hawaii employees.

The University of Hawaii and the University of Hawaii Professional Assembly testified in support of this bill. The Hawaii Government Employees Association and the Administrator of the Employees' Retirement System commented on the measure.

Your Committee has amended the bill by:

- (1) Stating that employees who separate from service or leave the State, shall not be allowed to retain any health fund benefits; and
- (2) Making technical, nonsubstantive revisions 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. 792, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 792, H.D. 2.

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

SCRep. 940 Finance on H.B. No. 931

The purpose of this bill is to ensure the availability and affordability of insurance by clearly defining and establishing penalties for fraudulent insurance acts.

More specifically, this bill requires the Legislative Reference Bureau to examine the feasibility of establishing a separate division to detect, investigate, and prosecute insurance fraud within the Department of the Attorney General or another appropriate department.

Supporting testimony was received from the Department of Commerce and Consumer Affairs, the National Federation of Independent Business, State Farm Mutual Insurance Company, and the Hawaii Insurers Council. The Honolulu Police Department, the Government Employees Insurance Company, and Corneil & Associates, Inc. submitted comments on this measure.

Your Committee has amended this bill by:

- (1) Expanding the definition of a fraudulent insurance act to include acts or omissions committed by any person who knowingly and fraudulently intends to obtain benefits, deny benefits, obtain benefits compensation for services provided, or provides legal assistance or counsel to obtain benefits or recovery through fraud or deceit;
- (2) Including additional activities that constitute insurance fraud as follows:
 - (a) Misrepresenting or concealing a material fact;
 - (b) Fabricating, altering, concealing, making a false entry in, or destroying a document;
 - (c) Making or causing to be made any false or fraudulent statements with regard to entitlements or benefits, with the intent to discourage an injured worker from claiming benefits or pursuing a workers' compensation claim; or