

SCRep. 475-96 Education on H.B. No. 3503

The purpose of this bill is to establish and authorize an interdepartmental decategorization program for the development of pilot projects that may demonstrate more effective ways of serving children and adolescents with multiple challenges.

The Departments of Education, Human Services, and Health, the Office of Children and Youth, and the Mental Health Association in Hawai'i submitted testimony in support of this bill.

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

- (1) Adding the Office of Youth Services to the list of agencies participating in the program;
- (2) Adding to the responsibilities of the interagency planning group that they provide a mechanism for evaluating the effectiveness of decategorization; 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. 3503, 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. 3503, H.D. 2.

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

SCRep. 476-96 Education and Higher Education and the Arts on H.B. No. 4038

The purpose of this bill is to establish a Hawaiian Language Immersion Program at the University of Hawaii (UOH) Laboratory School beginning fiscal year 1996-1997, which would be separate from the Hawaiian Language Immersion Program currently being operated by the Department of Education (DOE).

This measure requires the task force to review and analyze means by which the laboratory school can contribute toward the expansion and improvement of the Hawaiian Language Immersion Program including reviewing and updating educational methods, establishing a Hawaiian Language Immersion Program for students selected by the laboratory school, planning for recruitment of teachers and students, and determining needs relating to materials or curricula.

In addition, the bill also establishes a permanent working group to serve as a liaison between the DOE and the laboratory school to ensure that schools within the DOE can take full advantage of the information about teaching and learning which is generated from the laboratory environment.

The University of Hawaii College of Education and the Curriculum Research & Development Group at the University, The Department of Education, The Association of Hawaiian Civic Clubs and four private citizens submitted testimony in support of the measure. One private citizen submitted written testimony in opposition to the measure.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4038 H.D.1 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Pepper, Santiago, Takamine, Yonamine and Halford.

SCRep. 477-96 Education on H.B. No. 2728

The purpose of this bill is to add a new paragraph to subsection (a) of section 296-92, Hawaii Revised Statutes (HRS), mandating that the Department of Education (DOE) prepare annual educational assessment and accountability status reports which will contain information similar to that now mandated to be prepared by the State Auditor under subparagraph (b) of the statute. The amendment retains the requirement that the DOE's report contain information as to expenditures for both location and function.

Your Committee received testimony in support of the bill from the State Auditor. The State Superintendent of Education testified against the bill.

Your Committee has amended subsection (a) of section 296-92, HRS, to add to paragraph (6), a list of the six specific elements required for the DOE's educational assessments and accountability status reports and to bring these into complete conformity with the same requirements made of the State Auditor, while retaining the requirement that DOE report its expenditures for both location and function.

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. 2728, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2728, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 478-96 Education on H.B. No. 3345

The purpose of this bill, as received by your Committee, is to transfer the Hawaii Education Council (Council) from the Department of the Attorney General to the Department of Education (DOE).

The Department of the Attorney General testified in support of the bill, stating that the transfer of the Council to the DOE would place it in the department that shares similar responsibilities.

The DOE, while having no objections to the bill, suggested that the continued need for the Council be examined in view of the State's fiscal problems.

Your Committee has therefore amended the bill to include a sunset provision to take effect on June 30, 1997.

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. 3345, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3345, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 479-96 Education on H.B. No. 3865

The purpose of this bill is to enhance student learning by promoting Hawaiian as a living language by:

- (1) Requiring the Department of Education to monitor the Hawaiian Language Immersion Program in the public schools to assess whether students are fluent in both Hawaiian and English; and
- (2) Appropriating funds to ensure the continuation of the Hawaiian Language Immersion Program for those students who are presently enrolled.

The Democratic Party of Hawaii submitted testimony in strong support of this measure. The Office of Hawaiian Affairs and the Department of Education submitted testimony in support of the intent of this measure. The chairperson of KPONO and several concerned individuals submitted testimony in opposition to this measure.

Upon careful consideration, your Committee has amended this bill by deleting the substance and inserting new language, which adds a new section to chapter 296, Hawaii Revised Statutes, relating to the Hawaiian Language Immersion Program.

As amended, this bill:

- (1) Requires the Board of Education to establish performance standards in cooperation with various Hawaiian Language Immersion schools, and parents and educators of students who attend Hawaiian Language Immersion schools;
- (2) Requires the Department of Education to submit a report to the Legislature prior to the convening of the Regular Session of 1997 that contains the performance standards;
- (3) Requires the Department of Education to submit an educational status report on the results of assessments for Hawaiian Language Immersion schools of educational outcomes, including reference to such student performance standards and school-by-school assessment models as may be adopted by the Board of Education;
- (4) Requires the Department of Education and the Office of Hawaiian Affairs to develop a cooperative agreement for the expansion of the Hawaiian Language Immersion Program;
- (5) Establishes Hawaiian Language Immersion Programs in Waimea and Kona, Hawaii, and Kekaha and Waimea Canyon, Kauai, subject to the availability of qualified teachers and funding;
- (6) Appropriates funds for the Hawaiian Language Immersion Programs in Waimea and Kona, Hawaii, and Kekaha and Waimea Canyon, Kauai for staffing, equipment, and supplies, provided that additional funds are identified;
- (7) Appropriates funds for the Hawaiian Language Immersion Programs at Anuenue School on Oahu and Nawahiokalaniopuu School on Hawaii; and
- (8) Makes technical, nonsubstantive amendments for purposes of clarity and consistency.

Your Committee requests that when the Department of Education and the Office of Hawaiian Affairs plan for the funding of the Hawaiian Language Immersion Programs, that they consider the variety of needs of the schools.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3865, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3865, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 480-96 Education on H.B. No. 4127

The purpose of this bill is to require that all public high school students complete a course in cardiopulmonary resuscitation (CPR) in order to graduate, beginning with the class of 1998.

The administrator of the Hawaii State Fire Council, the Fire Chief of the Honolulu Fire Department, the Hawaii Fire Chiefs Association, the Hawaii County Fire Department, the Fire Chief of the County of Maui, the Kauai Fire

Department, the Honolulu Police Department, the State of Hawaii Organization of Police Officers, the Hawaii Nurses' Association, the Hawaii Medical Service Association, the American Red Cross, the American Heart Association-Hawaii Affiliate, several physicians and other health care professionals, several firefighters, and numerous concerned individuals submitted testimony in support of this measure. The Department of Education and the Hawaii State Teachers Association submitted testimony in support of the intent of this measure.

The Department of Education stated that they currently offer some CPR information in sophomore health classes. However, your Committee is concerned that this information is limited and not part of every school's health curriculum. Therefore, your Committee believes that the Department of Education should ascertain the number of schools that offer this CPR information, and more importantly, objectively assess the quality of the information provided to sophomore level students. Such an assessment should be done as a function of the CPR Task Force which is being established by this bill. Thereafter, the CPR Task Force will advise the Department of Education on the implementation of the CPR training program in our schools.

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

- (1) Deleting the provisions that would add a new chapter to the Hawaii Revised Statutes entitled "Cardiopulmonary Resuscitation Training";
- (2) Deleting the requirements that the Department of Education must set the prerequisites and priorities for enrollment and certification;
- (3) Deleting the requirement that the Department of Education is responsible for conducting approved courses for instructors in CPR training;
- (4) Authorizing the Department of Education to adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to allow each public high school's School/Community-Based Management Council or the public high school's principal to develop and administer CPR training programs as a requirement for graduation; and
- (5) 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. 4127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4127, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 481-96 Economic Development and Business Concerns on H.B. No. 3305

The purpose of this bill is to transfer the balance of moneys remaining in the Department of Business, Economic Development, and Tourism (DBEDT) Capital Loan Revolving Fund collected pursuant to Act 267, Session Laws of Hawaii (SLH) 1991, to the Department of Health (DOH) Leaking Underground Storage Tank Fund.

This bill also expands the permissible uses of moneys in the Leaking Underground Storage Tank Fund.

Your Committee notes that Act 267, SLH 1991, required a fee of \$250 per tank from underground storage tank owners and operators. The revenues were collected by the DOH and were deposited into the DBEDT Capital Loan Revolving Fund to make loans to businesses to replace, upgrade, close, take remedial action relating to, and clean up releases from, their underground storage tanks.

According to DOH testimony, the collection of the fee was repealed on January 1, 1994. Only one loan of \$104,000 was granted prior to that date, thereby leaving approximately \$1,600,000 in the Capital Loan Revolving Fund. Subsequently, a roundtable convention, consisting of major oil companies, the transportation industry, retail gas dealers association, and independent petroleum marketers, was convened on November 8, 1995, to discuss the usage of the remaining moneys in the Capital Loan Revolving Fund, with a consensus that the moneys be transferred to the Leaking Underground Storage Tank Fund.

Your Committee received testimony from the DOH in strong support of the bill. The DBEDT submitted testimony in support of the intent of the bill.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3305, H.D. 1, and recommends that it be referred to the Committee on Finance.

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

SCRep. 482-96 Economic Development and Business Concerns on H.B. No. 3207

The purpose of this bill, as received by your Committee, is to expedite and facilitate the building permit approval process by:

- (1) Deeming any set of plans and specifications stamped by a specified licensed professional and included in the professional's license scope of work to be in compliance with all state, county, and federal rules and regulations, where those federal rules and regulations are enforced by the state or county agency requiring the submitted set of plans and specifications to be reviewed for the issuance of building permits;

- (2) Allowing any licensee submitting plans for approval under the new section in the bill to request in writing that the plans and specifications be reviewed for approval by the appropriate agency;
- (3) Requiring the licensee to make corrections immediately to comply with county, state, and federal rules and regulations when the licensee's plans and specifications are found to be in violation;
- (4) Providing a means of resolution for any changes deemed necessary by county, state, and federal agencies after construction has commenced to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects (Board);
- (5) Requiring the Board to use a "best efforts" standard in determining if the licensee should be fined or should have the license suspended or revoked;
- (6) Defining "best efforts" to mean the level of professional knowledge that the Board expects of a licensee, covering the scope of work included in the license that the licensee should have doing business in the State; and
- (7) Allowing a licensee to appeal to the Board for county and state agency decisions concerning compliance to the appropriate laws and rules.

The Department of Transportation, the Hawaii Operating Engineers Industry Stabilization Fund, Pacific Resource Partnership, the Executive Director of the 75 member companies of the Hawaii Chapter of Associated Builders and Contractors, and two private citizens submitted testimony in support of the bill. Testimony in support of the intent of the bill was submitted by the County of Hawaii and the Construction Industry Legislative Organization. Comments were submitted by the Department of Health, the Board, and Hawaii State Council AIA. Your Committee received opposing testimony from Pacific Geotechnical Engineers, Inc., Consulting Engineers Council of Hawaii, and DPIC Companies, Inc.

Your Committee recognizes that there are many areas in the building permit approval process that needs to be streamlined to expedite the start of construction projects in the State. One particular area of improvement is in greater coordination, interaction, and communication among and within the various state agencies. Greater coordination of state and county regulatory procedures is also necessary to help reduce the time it takes for applicants to obtain the required approvals from state and county agencies to begin construction. This bill sets forth several provisions for speeding up the processing time and approval of state agency building permit reviews.

Upon careful consideration, your Committee has amended this bill by deleting the substance and inserting new language. As amended, this bill:

- (1) Requires that any county building permit application requiring state agency approval undergo the consolidated application process under section 201-62, Hawaii Revised Statutes;
- (2) Specifies that the Department of Business, Economic Development, and Tourism (DBEDT) be the lead agency that administers and facilitates the consolidated application procedure for county building permit applications that require state agency approval;
- (3) Establishes a Permit Process Task Force (Task Force) within DBEDT to:
 - (a) Streamline and facilitate the state permit approval process;
 - (b) Examine the consolidated application process and review all state agency rules pertaining to the state permit approval process;
 - (c) Identify all permits and approvals the state currently requires from applicants seeking permits;
 - (d) Determine which permits shall be approved by administrative rule and which permits shall be approved by departmental review;
 - (e) Adopt a plan and make recommendations to enable all applicants seeking state agency approval for permits to undergo permit by rule rather than by review; and
 - (f) Provide recommendations to expedite and facilitate the permit approval process within each state agency;
- (4) Requires the Task Force to submit annual reports to the Legislature on their findings, recommendations, and actions taken; and
- (5) Makes DBEDT responsible for certifying all applications that have obtained permit approval from the appropriate state agencies.

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. 3207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3207, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

The purpose of this bill is to simplify the implementation and improve the effectiveness of the State Enterprise Zones Program (Program) by:

- (1) Expanding the types of businesses that are eligible to participate in the Program to include education and training services, information technology services, medical and health care services, and telecommunication services;
- (2) Limiting the eligibility of service businesses to maritime and aviation repair, as well as telecommunications services, information technology services, medical and health services, and education and training services;
- (3) Revising the hiring requirements of businesses by increasing the average annual number of full-time employees and eliminating the low-income hiring requirements; and
- (4) Making nonsubstantive "housekeeping" amendments to clarify the Program.

The Department of Business, Economic Development, and Tourism submitted testimony in support of this bill. The Department of Taxation submitted testimony indicating that it is not opposed to the enactment of the bill. Your Committee also received comments from the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3360 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 484-96 Economic Development and Business Concerns on H.B. No. 3852

The purpose of this bill is to facilitate the issuance of special purpose revenue bonds for ETV Hawaii/Elephant Television, Inc., in compliance with federal tax laws, by:

- (1) Increasing the authorized bond issuance amounts from \$6,000,000 to \$10,000,000; and
- (2) Extending the lapsing date in which the special purpose revenue bonds can be issued, from June 30, 1998, to June 30, 2001.

Your Committee recognizes the need for this bill so that ETV Hawaii/Elephant Television, Inc. can obtain the necessary funding to proceed in its efforts to create a full service film and television production facility in the State. It is believed that this facility will accrue positive economic benefits and opportunities for Hawaii's film, television, and computer industries.

Supporting testimony was received from the President of ETV Hawaii/Elephant Television, Inc.

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. 3852 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 485-96 Economic Development and Business Concerns on H.B. No. 3980

The purpose of this bill is to appropriate funds for the establishment of the Molokai Telemarketing Project (Project), a joint venture between the Maui Research and Technology Park, the Maui Economic Development Board (MEDB), and the Hawaii High Technology Development Corporation (HTDC).

Your Committee notes that the Project objectives are to develop the capability in Molokai to:

- (1) Perform telemarketing activities to support the visitor industry in the State; and
- (2) Convert paper records into electronic format (remote digital data conversion).

Expanding the use of existing telecommunications infrastructure in Molokai to support telemarketing and remote digital data conversion programs would provide much-needed economic development opportunities for the State's highest unemployment region.

Your Committee received testimony from MEDB. The Executive Director and CEO of HTDC submitted testimony supporting the concept of establishing the Project, but specified that HTDC cannot support an appropriation that is not included in the 1996-1997 Supplemental Budget.

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. 3980 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Morihara and Marumoto.

SCRep. 486-96 Economic Development and Business Concerns on H.B. No. 1436

The purpose of this bill, as received by your Committee, is to mandate that the Public Utilities Commission (PUC) require all public utilities providing:

- (1) Local exchange telecommunications services to provide all exchange and intra-lata toll services to end-users only through a retail subsidiary that is separate from the local exchange telecommunications provider; and
- (2) Telecommunications services to provide all other telecommunications services to other carriers on a wholesale basis.

Your Committee has amended this bill by deleting the substance and inserting new language. As amended, this bill creates a new section under chapter 269, HRS, that:

- (1) Prohibits a telecommunications carrier providing basic service and service to captive customers from promoting, marketing, selling, or advertising any service offering where intrastate services that are not competitive are to be bundled and sold in conjunction with non-jurisdictional services, unless authorized by the PUC;
- (2) Requires the telecommunications carrier to notify the PUC 30 days prior to the marketing of any intrastate service that is not competitive jointly with competitive non-jurisdictional services;
- (3) Requiring notice to the PUC to include supporting documentation that would assure the PUC that there has been no shifting of costs to intrastate services that are not competitive;
- (4) Requiring PUC to adopt rules necessary to implement the new section; and
- (5) Defining "captive customers" to mean those customers of services that have been determined to be noncompetitive by the PUC.

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. 1436, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1436, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 487-96 Economic Development and Business Concerns on H.B. No. 3203

The purpose of this bill is to bring together world-class scientists, engineers, economists, corporate and industry representatives, and policymakers to conduct applied research relating to sustainable development by appropriating funds for projects of the Center for a Sustainable Future.

The Director Emeritus, the interim director, and a faculty member of the Hawaii Institute of Marine Biology, the Chairperson of Mauna Lani Resort, Inc., the Polynesian Voyaging Society, and concerned individuals submitted testimony in support of this measure. The University of Hawaii submitted testimony in support of the intent of this measure. The Department of Business, Economic Development, and Tourism (DBEDT) submitted testimony in appreciation of the intent of this measure.

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

- (1) Changing the appropriation amount from \$1,000,000 to \$2 for the purpose of continued discussion;
- (2) Designating the University of Hawaii as the expending agency, rather than DBEDT; 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 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. 3203, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3203, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 488-96 Economic Development and Business Concerns on H.B. No. 3308

The purpose of this bill is to provide a more realistic framework under which the Department of Business, Economic Development, and Tourism (DBEDT) may act to assist Hawaii's emerging recycling industry.

Among other things, this bill:

- (1) Dissolves the Governing Board (Board) of the Clean Hawaii Center (Center) on June 30, 1996, and authorizes DBEDT to assume the duties of the Board;
- (2) Authorizes DBEDT to appoint committees from the public and private sectors to provide advice and direction for the Center's operation until its closure in 1999;
- (3) Enables the direct transfer of funds from:

- (a) Federal, county, and other state agencies into the Clean Hawaii Fund for administrative expenses; and
- (b) The Environmental Management Special Fund to the Clean Hawaii Fund to carry out the purposes of the Integrated Solid Waste Management Act;
- (4) Eliminates the deadline date for the Center to foster the growth of a reuse or recycling industry;
- (5) Requires DBEDT to submit a final report to the Legislature on the operation of the Center on or before January 1, 1999; and
- (6) Includes contracts in the duties of the Center to provide targeted assistance to recycling businesses.

Your Committee recognizes that dissolving the Board will save administrative and financial overhead that could be better applied to program operations of the Center and will better facilitate in expediting and achieving the goals of the Center.

Testimony in support of the bill was submitted by DBEDT, the Board, and the City and County of Honolulu Department of Public Works. The Department of Health submitted testimony in support of the bill but deferred to DBEDT regarding the exact details of the Center's restructuring. Your Committee also received testimony from three concerned citizens.

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. 3308 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 489-96 Economic Development and Business Concerns on H.B. No. 4117

The purpose of this bill is to stimulate certain types of business activities and employment through tax and other incentives by:

- (1) Establishing contracting as a qualified business under the current enterprise zone law; and
- (2) Creating an exception to certain requirements for eligibility for manufacturers, producers of agricultural products, and contractors.

A Kauai County councilmember, the Kauai Economic Development Board, and the Kauai Chamber of Commerce submitted testimony in support of this measure. The Tax Foundation of Hawaii and the Legislative Information Services of Hawaii submitted comments on this measure. The Department of Business, Economic Development, and Tourism submitted testimony in opposition to this measure.

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

- (1) Deleting corporations, partnerships, or sole proprietorships engaged in selling retail, agricultural products, or engaged in contracting from the definition of "qualified business";
- (2) Clarifying that certain eligibility requirements are not applicable to agricultural producers in any county with a population of seventy thousand or less; 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 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. 4117, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4117, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 490-96 Economic Development and Business Concerns on H.B. No. 4125

The purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism (DBEDT) to make loans to businesses that are located in counties with populations under 100,000, which have suffered from a catastrophic natural disaster.

This bill also specifies that the:

- (1) Interest of the loans will bear simple interest at the rate of two percent a year; and
- (2) Payments required under the loan may be deferred, but no loans will be forgiven.

It is your Committee's understanding that this bill will ease the borrowing terms for small business concerns in counties with populations of less than 100,000 people who have been affected by a catastrophic natural disaster.

Testimony in support of the bill was received from a Kauai County councilmember and the Kauai Economic Development Board. The DBEDT submitted testimony in support of the concept of the bill.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4125 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 491-96 Ocean Recreation and Marine Resources on H.B. No. 4118

The purpose of this bill is to establish a three-year Small Boat Harbor Pilot Program (Pilot Program) to allow one state small boat harbor to be privately operated and managed in accordance with an agreement to be entered into between a selected marina board and the Department of Land and Natural Resources (DLNR).

Testimony in support of this measure was received from the Ala Wai Marina Committee and the Chairman of the Board and Chief Executive Officer of Alexander and Baldwin, Inc. The Chairperson of the Board of Land and Natural Resources also submitted testimony on this bill.

It is the intent of your Committee that by establishing a Pilot Program to allow one small boat harbor to be privately managed, no other state small boat harbor shall be adversely affected. Because state small boat harbors are operated, maintained, and managed with funds from the Boating Special Fund, your Committee intends that funds that would have been expended for the maintenance of the Pilot Program may be expended for the benefit of other state harbors.

Your Committee has amended this bill by:

- (1) Changing the length of the Pilot Program from three years to five years;
- (2) Specifying that the agreement that allows a marina board to manage a small boat harbor shall be a concession lease;
- (3) Defining concession lease or lease as a transfer of the right to possess and use fixed and floating docks and adjacent lands in a small boat harbor in consideration of rent based on the amount of annual debt service owned on state general obligation bonds used to finance small boat harbor capital improvements or annual lease rent, whichever is greater, plus twenty percent of mooring fees;
- (4) Exempting the Pilot Program concession lessee from the state Public Procurement Code;
- (5) Requiring that the primary factor used in selecting a proposal from a marina board for inclusion in the Pilot Program shall be a sound financial plan;
- (6) Changing the requirement for mailing ballots to registered boat owners at a small boat harbor who are considering entering into a concession lease by:
 - (a) Requiring ballots be mailed out only to boat owners of a small boat harbor selected by DLNR as eligible to become a concession lessee;
 - (b) Changing the ballot question to request boat owners to vote in favor or against entering into a concession lease agreement; and
 - (c) Requiring that the ballots include: a summary of the marina board's financial plan, information on the advantages and disadvantages of state run marinas and community-based management, and a copy of the Act authorizing the Pilot Program;
- (7) Requiring the marina board selected to participate in the Pilot Program to contract with a private management company prior to entering into the concession lease;
- (8) Allowing the selected marina board to collect revenues generated from parking and other permits and convert short-term revocable permits existing on the date of the concession lease to sublease arrangements to be managed by the marina board;
- (9) Requiring the selected marina board to accept full financial and legal responsibility for its activities;
- (10) Stating that the concession lease not be deemed to be a disposition of public lands;
- (11) Requiring that the selected small boat harbor remain the property of the state and any improvements added during the term of the concession lease shall revert to state ownership upon expiration of the lease term;
- (12) Adding a provision to protect existing harbor staff with respect to existing bargaining unit contracts;
- (13) Deleting the provision that would allow the selected marina board to have access to the books and records of DLNR;
- (14) Requiring DLNR to provide marina boards with information on marina operations that is necessary for a marina board to prepare a proposal for the Pilot Program and requiring the marina board to provide access to marina board records for the purpose of executing the Pilot Program concession lease with DLNR;

- (15) Deleting the provision stating DLNR may terminate the contract for the convenience or interests of the State;
- (16) Requiring the selected marina board to:
 - (a) Obtain liability insurance in addition to hurricane insurance;
 - (b) Post a performance bond;
 - (c) Be responsible for funding and implementing any major improvement or repair required for the small boat harbor during the term of the concession lease; and
 - (d) Hire an independent auditor to study the amount of outstanding state debt that is attributable to the maintenance and repair of the marina facility; and
- (17) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on 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. 4118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4118, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nekoba.

SCRep. 492-96 Health on H.B. No. 3786

The purpose of this bill is to assure that when residents of Waimano Training School and Hospital move to community-based services there is adequate funding for the services they need.

Specifically, this bill provides that the amount of annual general fund appropriations for community-based services for developmentally disabled residents of Waimano shall be no more than the annual net average cost incurred by the Department of Health for institutional care at Waimano.

Your Committee believes that the moneys used to serve a Waimano resident should follow that person when leaving Waimano to pay for community-based services. In addition, any remaining funds in HTH 501, after Waimano residents leaving Waimano are served, but excluding the cost of buildings and grounds maintenance, should be used to supplement medicaid community-based programs.

Accordingly, your Committee has amended this bill to clarify the language relating to former residents of Waimano and to have remaining funds in HTH 501, excluding the cost of buildings and grounds maintenance, used to supplement medicaid community-based programs. However, it is the desire of your Committee that the money currently being used for building and grounds maintenance be reduced and that more of the funds in HTH 501 be used to benefit developmentally disabled individuals in the community.

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. 3786, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3786, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 493-96 Health on H.B. No. 4042

The purpose of this bill, as received by your Committee, is to:

- (1) Provide detailed standards as to the kinds of information a health care provider should provide a patient or the patient's guardian prior to obtaining consent for a proposed medical or surgical treatment, or for a diagnostic procedure, to insure that the patient's or patient's guardian's consent to the treatment or procedure is an informed consent;
- (2) Permit a health care provider to withhold necessary information from a patient if in the judgment of the health care provider the information would be detrimental to the patient's mental or physical health, or not in the best interest of the patient; and
- (3) Establish the necessary elements of proof that injury resulted from health care in a civil case or arbitration involving the issue of the alleged breach of duty to secure an informed consent by a patient or the patient's representatives against a health care provider.

Your Committee received testimony in favor of the bill from the Hawaii Medical Association and a member of the legal community. Your Committee also received testimony in opposition to the bill from the Consumer Lawyers of Hawaii.

Your Committee has amended this bill by:

- (1) Retaining much of the original language of section 671-3, Hawaii Revised Statutes, so that the Board of Medical Examiners continues to establish the standards for health care providers to follow in giving information to a patient or to a patient's guardian;

- (2) Eliminating the required elements of proof for an alleged breach of duty to secure an informed consent by a patient or the patient's representatives; and
- (3) 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4042, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4042, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 494-96 Human Services and Education on H.B. No. 4136

The purpose of this bill is to make the Preschool Open Doors Program a permanent program within the Department of Human Services.

The Department of Human Services, Office of Children and Youth, Department of Education, Democratic Party of Hawaii, and the University of Hawaii at Manoa's Family Resource Program submitted testimony in support of this bill. Also submitting testimony in support of this bill were the Hawaii Association for the Education of Young Children, the Wailuku Hongwanji Preschool, Aloha Montessori Preschool, Montessori Country School, and the Waianae Coast Day Care Centers, Inc. Supporting testimony was also received by KCAA Pre-Schools of Hawaii, Waipahu United Church of Christ Preschool, and six concerned citizens.

Your Committees find that the Preschool Open Doors Program has created a greater public awareness and understanding of the importance and impact of early childhood education and care experiences on a child's learning and overall development throughout life. Over 5,000 children have benefitted from this program, not to mention the parents and preschools that have received training and technical assistance to improve the overall quality of childcare.

Your Committees further find that the Preschool Open Doors Program has demonstrated a successful public-private partnership whose cost efficiency has become a model to early childhood system planning in the state, and has also received national attention for its project design and achievements.

Your Committee has amended this bill by:

- (1) Deleting "Department of Health" on line 22 of page 5, and inserting "Department of Human Services";
- (2) Deleting the effective date of approval, on line 1 of page 6, and inserting July 1, 1997 in its place.

As affirmed by the records of votes of the members of your Committees on Human Services and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4136, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4136, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 495-96 Judiciary on H.B. No. 3919

The purpose of the bill is to make the Hawaiian Homes Commission an elected body.

Testimony in support of the measure was received by your Committee from representatives of the State Council of Hawaiian Homestead Associations and the Aged Hawaiians and the Waimea Pastoral Waiting List.

A representative of the Department of Hawaiian Home Lands testified expressing concerns with the measure, as did a private citizen.

Your Committee finds that making the Hawaiian Homes Commission an elected body is in accord with the legislative policy of moving towards greater self-determination by those of Hawaiian ancestry.

Your Committee was concerned, however, that the current proposal restricts the qualifications for commissioner with respect to blood quantum and residence on Hawaiian home lands to a greater degree than those who are eligible to vote for the commissioner.

Therefore, your Committee has amended the measure by:

- (1) Deleting requirements that the candidate for the commission be a participant in the Hawaiian Homes Land Program and providing that the candidate need not have a specific quantum of Hawaiian blood, although the candidate must still be of Hawaiian blood; and
- (2) Correcting the references to certain statutory sections in Section 9 of the bill.

In addition, technical, nonsubstantive amendments were made for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3919, 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. 3919, H.D. 2.

Signed by all members of the Committee except Representatives Menor.

SCRep. 496-96 Agriculture on H.B. No. 3915

The purpose of this bill is to release the remaining independent sugar growers of the United Cane Planters Cooperative (UCPC) from all remaining obligations owed on the 1972 loan received from the Agricultural Loan Revolving Fund under Act 183, Session Laws of Hawaii (SLH) 1972, by:

- (1) Repealing Act 183, SLH 1972; and
- (2) Requiring the Director of Agriculture to forgive the remainder of the loan made under Act 183, SLH 1972.

Your Committee recognizes that sugar has been an invaluable source of economic opportunity, stability, and prosperity in Hawaii's history. This has been the result of the hard work of generations of sugar workers who harvested Hawaii's sugar crops. The State is richer because of the significant contributions of Hawaii's sugar workers to the state economy and to the social fabric of our island community.

However, your Committee is cognizant of the personal hardship experienced by Hawaii's sugar workers in recent times due to the declining profitability of sugar and the resulting closures of many sugar companies. Despite the gradual downsizing of sugar, it has been in the best interests of the State to continue the operations of sugar in localities where sugar could remain economically viable and profitable.

Act 183, Session Laws of Hawaii 1972, was one instance where government, in the best interests of the State, provided the necessary resources to enable sugar harvesting and production to continue on the island of Hawaii. Act 183 provided loans totaling \$1,200,000 to 419 independent sugar growers through the UCPC. Your Committee notes that since the inception of the loan, \$1,244,923.29 has been repaid to the Loan Division of the Department of Agriculture (DOA).

In 1992, only six of the 419 independent sugar growers planted their remaining harvest of sugar on 157 acres of land. Hilo Coast Processing Company, which was formed as a co-op between UCPC and C. Brewer Co. to grow, harvest, and process sugar on the Hilo coast, made its final harvest in September, 1994. Today, only 194 of the 419 UCPC members are alive, many of them elderly and on fixed incomes. In addition, sugar operations on the Hilo coast have halted due to the closure of the sugar companies in the area.

Your Committee further finds that many of the sugar growers who took out individual loans through the guarantor UCPC under Act 183 have diligently repaid their individual loans to the DOA. However, some remaining growers have not settled their loan accounts due to personal circumstances, such as the shutdown of sugar and the ensuing loss of their jobs. According to DOA testimony, the DOA does not have an accurate and up-to-date record of the individual growers who acquired loans through Act 183, nor does the DOA have an accounting of how much is owed by each grower. Furthermore, your Committee notes that UCPC is no longer the guarantor of the loan, as the guarantee to repay the loan expired last year. Therefore, based upon the testimony of the DOA, any moneys owed to the DOA under the loan might be considered uncollectible due to insufficient records by the DOA to keep up-to-date and accurate records of the names of growers who took out loans and the amounts owed by each grower to the DOA.

It is your Committee's belief that to assure the survival of sugar along the Hilo coast, the State issued the \$1,200,000 loan to guarantee the survival of sugar. In large part, it was in the self-interest of the State to encourage the ongoing harvesting of sugar on the Hilo coast and therefore, the ensuing closure of the sugar operations merits that the Attorney General forgive the loans made under Act 183. Your Committee also believes that the Attorney General should act promptly to resolve the loan debts of each individual sugar grower.

Your Committee received testimony in support of the bill from several private sugar growers and citizens. The Department of Agriculture submitted testimony indicating that it is not in support of this bill, and stated that this issue will be presented to the Board of Agriculture and subsequently will be referred to the Office of the Attorney General for determination on a final settlement or appropriate legal action.

Upon consideration, 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 Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3915, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3915, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Halford.

SCRep. 497-96 Hawaiian Affairs and Housing and Health on H.B. No. 4103

The purpose of this bill is to require the primary health incentive program of the Department of Health (DOH) to develop a strategy to provide access to primary health care for Hawaiians and native Hawaiians.

Testifying in support of the bill, DOH explained that the strategy would be developed in collaboration with Papa Ola Lokahi.

Papa Ola Lokahi and the Office of Hawaiian Affairs supported the intent of the bill. However, both agencies recommended an amendment to the bill requiring the access strategy to be developed in collaboration with the Native Hawaiian Health Care systems and the community health centers. Your Committees agree that this kind of amendment would ensure coordination with appropriate existing resources.

Your Committees would also like to amend the bill to incorporate the substance of H.B. No. 3877, H.D. 1, earlier heard and reported out by your Committee on Health. H.B. No. 3877, H.D. 1, mandates all health plans and managed care organizations participating in QUEST to contract with each Hawaii Qualified Health Center and with each Native Hawaiian Health Care System in its service area to provide health care services to its enrollees.

However, it was discovered later that the title of the bill was too narrow for the amendments. As such, your Committees would like to use H.B. No. 4103 as a vehicle to incorporate the substance of H.B. No. 3877, H.D. 1.

Your Committees have amended H.B. No. 4103 by:

- (1) Requiring the access strategy to be developed in collaboration with the Native Hawaiian Health Care Systems and the Federally Qualified Health Centers;
- (2) Mandating all health plans and managed care organizations participating in QUEST to contract with each Hawaii Qualified Health Center and with each native Hawaiian Health Care System in its service area to provide health care services to its enrollees. The mandate sunsets on June 30, 1999.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 4103, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 4103, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Saiki, Stegmaier and Kawanakoa.

SCRep. 498-96 Hawaiian Affairs and Housing on H.B. No. 3364

The purpose of this bill is to transfer \$8,000,000 from the Housing Finance and Development Corporation's Rental Assistance Revolving Fund to the State General Fund.

Testimony in support of this bill was received from the Department of Budget and Finance. It also recommended that the Hawaii Agriculture Loan Revolving Fund and the Hawaii Aquaculture Loan Revolving Fund lapse and their funds be transferred to the State General Fund.

Testimony was received which supported the intent of tapping the Rental Assistance Revolving Fund by the Hawaii Catholic Conference, American Association of Retired Persons, Affordable Housing and Homeless Alliance, and a private citizen. Their individual testimonies, however, all supported the idea that the funds be transferred to the Rental Housing Trust Fund.

Testimony in support of the intent of this bill was received from the Legal Aid Society of Hawaii but suggested an amendment which earmarked the funding for the State General Assistance program of the Department of Human Services.

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

- (1) Transferring \$5 million dollars from the Rental Assistance Revolving Fund to the State General Assistance program of the Department of Human Services;
- (2) Transferring \$3 million dollars from the Rental Assistance Revolving Fund to the Rental Housing Trust Fund;
- (3) Transferring \$3,719,112 from the Hawaii Agriculture Loan Revolving Fund to the State General Fund;
- (4) Transferring \$400,000 from the Hawaii Aquaculture Loan Revolving Fund to the State General Fund; and
- (5) Repealing the statutory sections establishing the Hawaii Agriculture Loan Revolving Fund and the Hawaii Aquaculture Revolving Fund.

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. 3364, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3364, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 499-96 Human Services on H.B. No. 3911

The purpose of this bill is to restore the General Assistance Program to entitlement status.

This bill:

- (1) Amends section 346-53, Hawaii Revised Statutes, to delete the directive to the Director of Human Services to determine general assistance allowance based on a lump-sum appropriated amount, among other relevant factors; and
- (2) Amends section 346-71, Hawaii Revised Statutes, to:
 - (A) Replace "persons who are disabled, or whose primary diagnosis is substance abuse" -- with "persons with disabilities";

- (B) Delete the provision to exclude the entire assistance unit from receiving aid if any adult member of the unit fails to comply with requirements or conditions of general assistance;
- (C) Delete the age limitation of between eighteen and sixty-five for persons with disabilities who are eligible for general assistance;
- (D) Clarify mental and physical "impairment" as "disability";
- (E) Allow persons to pursue appropriate medical treatment from a provider of the person's choice;
- (F) Delete the power of the Department of Human Services to extend the one-year eligibility for general assistance pending determination of eligibility for the federal Supplemental Security Income Program; and
- (G) Delete the requirement for the Department of Human Services to adopt rules to determine general assistance allowance based on a lump-sum appropriation; method for determining assistance amounts; and other necessary provisions. Requires, instead, adoption of rules to establish criteria and standards for the conditions and requirements of general assistance.

The Department of Human Services testified in support of the intent of the bill but withheld support for any bill which requires funding in excess of the executive budget. The Legal Aid Society of Hawaii testified in support of the bill if durational limits on benefits are eliminated. The Affordable Housing and Homeless Alliance and the Protection and Advocacy Agency of Hawaii, and other individuals, also testified in support of the bill.

Your Committee believes that the General Assistance Program should have its entitlement status restored but that payments to eligible persons should be limited to one year, except that the one year eligibility may be extended by the Department of Human Services pending determination of eligibility for the federal Supplemental Security Income Program. Your Committee also believes that general assistance amounts should be made to all persons with disabilities, regardless of whether a person has a primary diagnosis of substance abuse. Accordingly, your Committee has made the following amendments:

- (1) Amended section 346-53, Hawaii Revised Statutes, to clarify that payments to eligible persons should be limited to one year, except that the one year eligibility may be extended by the Department of Human Services pending determination of eligibility for the federal Supplemental Security Income Program;
- (2) Allowed referral for vocational rehabilitation to any agency rather than only to a state agency and to include medical treatment, or other rehabilitation services for persons with disabilities;
- (3) Added a one-year limitation on eligibility for general assistance for persons with dependent children, for purposes of equal treatment and consistency;
- (4) Added a one-year limitation on eligibility for general assistance for persons whose primary diagnosis is substance abuse, for purposes of equal treatment and consistency;
- (5) Restored the power of the Department to extend the one-year eligibility pending determination of eligibility for the federal Supplemental Security Income Program;
- (6) Allowed referral for vocational rehabilitation to any agency rather than only to a state agency and to include medical treatment, or other rehabilitation services for substance abusers; and
- (7) Appropriated \$23,000,000 for fiscal year 1996-1997 to fund general assistance payments; provided that all appropriated moneys be expended only for general assistance and for no other purpose.

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. 3911, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3911, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 500-96 Energy and Environmental Protection on H.B. No. 2887

The purpose of this bill is to provide standards for the control and abatement of noise pollution within areas of the State that are designated for urban use.

Your Committee received testimony opposing the measure from the Hawaii Convention Center Authority. The Department of Health also submitted testimony in opposition to this measure. They testified that the intent of the bill could be accomplished administratively, and agreed to work toward a solution to this end.

Testimony in support of the measure was received from a councilmember from the City and County of Honolulu and a number of concerned individuals. Several people who reside in the vicinity of the Convention Center testified they are suffering from a variety of mental and physical health disorders including stress, short term memory loss, and chronic flu symptoms, all resulting from the excessive noise levels in that area. The Department of Health testified that they have measured noise levels of 95 decibels inside the peoples' homes. The pile driving started in September and will continue until March.

Testimony indicated that lives have been disrupted and homes abandoned during the hours of pile driving. The problem of excessive noise is compounded by the planned construction of several more high rise structures during the next few years. The representative of the Hawaii Convention Center Authority said that residents have been supplied with ear plugs and passes for the Honolulu Trolley in an attempt to address their concerns.

Any proposed legislation that passes this Regular Session of the Legislature will most likely not affect the ongoing pile-driving operation at the Convention Center site, which is scheduled in March, 1996. However, after hearing the testimony presented by the residents whose lives are being impacted by the overwhelming noise generated from that site, your Committee must stress the importance of initiating and maintaining an ongoing dialogue and communication with the building contractor, government agencies responsible for the oversight of such large projects, and the residents of the impacted community, so that situations such as this can be avoided in the future.

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

- (1) Deleting the definitions for "accumulative noise", "fixed noise", and "impact noise";
- (2) Deleting the provision authorizing the Director of Health to establish rules with respect to the control of accumulative and excessive noises caused by any type of construction activity within areas designated for urban use;
- (3) Authorizing the Department of Health to utilize certain criteria in determining whether a proposed project will be of significant impact to a community;
- (4) Requiring the submission of a noise abatement plan for those projects determined by the Department of Health to have significant impact;
- (5) Requiring that a public hearing on the noise abatement plan be held in the impacted community; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2887, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2887, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 501-96 Energy and Environmental Protection on H.B. No. 2895

The purpose of this bill is to increase penalties and strengthen liability for violations of the State's nonpoint source pollution control laws.

The Department of Health (DOH) testified that it did not support this bill. The Department of Public Works of the City and County of Honolulu expressed reservations about this measure. The Hawaiian Sugar Planters Association and The Hawaiian Electric Company testified in opposition to this bill.

This bill was heard by your Committee as part of a general package of seven bills increasing the penalties and liability for pollution control laws. Although the other bills in this package of bills were held by your Committee, it was decided, after a general discussion of the nature of environmental enforcement and the role played by the DOH in that capacity, to use H.B. No. 2895 as a vehicle to authorize the DOH to promulgate rules establishing a field citation program for all aspects of state pollution control laws. The DOH was in full agreement with this concept, having felt that the authority to establish such a program should be in the statutes, and eventually agreed to support the measure, as amended.

Upon careful consideration of the testimony presented, your Committee has amended this bill accordingly to give the DOH the authority to establish a field citation program for all state pollution control laws. The amended bill also adds the definition for "field citation" to each affected chapter.

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. 2895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2895, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 502-96 Energy and Environmental Protection on H.B. No. 3170

The purpose of this bill is to allow alternative energy producers to transmit and sell electric energy to facilities other than public utilities.

Testimony in support of this measure was received by Ka Makani O Kohala Ohana. Hawaiian Electric Company, Inc., and Kauai Electric opposed passage of this measure. The Public Utilities Commission commented on this bill.

Your Committee finds that there is a distinct need in Hawaii to encourage the development of renewable energy sources and to provide consumers with stable and reasonable electricity prices. Your Committee believes that this can be accomplished by allowing alternative energy producers to apply with the Public Utilities Commission to sell electricity directly to consumers or to other transmission facilities.

Your Committee also finds that small alternative energy producers, those with annual gross energy sales of \$200,000 or less, will have a minor impact on the energy production market and thus should not be overly burdened by the often onerous requirements of chapter 269 and the rules of the Public Utilities Commission. By relieving small alternative energy producers from the requirements of chapter 269, the Legislature will be promoting and encouraging small businesses to enter the alternative energy industry, ensuring healthy competition and reduced rates.

Accordingly, your Committee has amended the bill by:

- (1) Defining small alternative energy producers as persons or entities, including governmental entities who own, control, operate, or manage a small power production facility with \$200,000 or less in annual gross energy sales;
- (2) Exempting small alternative energy producers from Public Utilities Commission rules; 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 Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3170, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 503-96 Energy and Environmental Protection on H.B. No. 3892

The purpose of this act is to completely eliminate the use of herbicide for roadside maintenance by the end of the century.

Your Committee heard testimony from DOT to the effect that they are working to reduce herbicide use and have reduced herbicide use by nearly 50% over the past year. Savings from reduced herbicide purchases have more than offset any added labor costs. The testified that while they expect to further refine their herbicide use they cannot eliminate the use of pesticides without either reducing maintenance standards or greatly increasing the maintenance cost.

UPW Local 646 testified that the current use of herbicides for the maintenance of roadsides by state agencies subjects employees to unnecessary health hazards and that use of non-chemical methods can actually reduce costs by decreasing the amount of protective equipment required and by reducing workers' compensation claims.

Life of the Land and the Hawaii's Coalition for Alternatives to Pesticides supported elimination of herbicides and presented testimony documenting health risks and environmental damage resulting from use of Roundup, Rodeo and other glyphosate based herbicides. Testimony included a report from the Winter 1995 issue of the Journal of Pesticide Reform which stated that glyphosate is far from benign in lakes or streams. While glyphosate is approved for use in vegetation control in and around water, it is known to kill aquatic insects and to disrupt stream ecosystems.

After careful review of testimony, your Committee on Energy and the Environmental Protection has found that herbicides use has proliferated with little thought to alternatives simply because spraying herbicides is considered to be a safe, easy, economical way to control roadside vegetation.

Two factors need to be evaluated in developing an integrated vegetation management strategy:

- (1) DOT testified that the cost of maintenance has been significantly reduced through more conservative use of herbicide without sacrificing the quality of maintenance. Your Committee believes this effort to reduce cost and reduce chemical use should be continued as far as practical.
- (2) During questioning it was confirmed that road side drainage can carry herbicide into stream courses. Adverse impacts to stream ecosystems are known to occur. Therefore, herbicide use, where run off can contaminate streams, should be eliminated to the extent possible.

Your Committee has amended this bill by:

- (1) Defining integrated vegetation management;
- (2) Mandating state agencies involved in roadside vegetative management implement an integrated vegetation management strategy which is effective, economical and which minimizes the use of herbicide in roadside vegetation management; and by
- (3) Establishing goals for herbicide use reduction.

Your Committee believes an effective integrated approach to roadside vegetation management can minimize both costs and the use of herbicide.

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. 3892, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3892, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 504-96 Energy and Environmental Protection on H.B. No. 3976

The purpose of this bill is to authorize the issuance of a special purpose revenue bond to finance the provision of grid-connected or off-grid connected solar electric photovoltaic systems at any appropriate location in the state.

Testimony in support of this measure was received from PowerLight Corporation, the Hawaii County Economic Opportunity Council, Ka Makani O Kohala Ohana, Friends of the Red Road, and individual citizens.

Your Committee recognizes Hawaii's high dependence on petroleum-based energy sources and the need to establish alternative sources of power. Providing financial assistance to help establish photovoltaic power systems may help diversify electrical power generation.

Your Committee has amended this bill by:

- (1) Specifying PowerLight Corporation as the entity to be assisted by the issuance of the special purpose revenue bond;
- (2) Designating that the bond shall be for the establishment of photovoltaic systems in Hawaii County, Maui County, and Kauai County; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3976, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3976, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 505-96 Energy and Environmental Protection on H.B. No. 4062

The purpose of this bill is to encourage the use of alternative fuels by allowing alternative fuels to be taxed at a lower rate than conventional fuels.

Additionally, this bill:

- (1) Defines "alternative fuel" as all liquid substances, not distillations of and condensates from petroleum, natural gas, coal, or coal tar that are used in internal combustion engines for the generation of power;
- (2) Adds alternative fuel to the definitions of distributor and retail dealer;
- (3) Includes alternative fuels in the requirements for permits for retail dealers who sell alternative fuels;
- (4) Provides for a refund of alternative fuel taxes if the alternative fuel is used for agricultural equipment that does not operate on public highways; and
- (5) Allows licensed fuel distributors, when computing the tax to be paid on each gallon of alternative fuel sold in a month, to deduct one gallon for each forty-three gallons of like alternative fuel sold by retail dealers.

Testimony in support of the intent of this bill was received from the Department of Business, Economic Development, and Tourism (DBEDT) and the Department of Transportation. The Department of Taxation and the Tax Foundation of Hawaii also submitted testimony on this measure.

Your Committee supports efforts to increase the use of alternative fuels and has taken suggestions from DBEDT to base alternative fuel tax rates on the energy content of alternative fuels.

Your Committee has amended this bill by deleting the substance and inserting the language reflected in H.B. No. 3359. As amended, the purpose of this bill is to remove unnecessary disincentives to the use of alternative fuels by adjusting transportation fuel tax rates to reflect the energy content of alternative fuels.

Specifically, this bill also:

- (1) Defines "alternative fuel" to mean methanol, denatured ethanol, and other alcohol-based fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels derived from biological materials; and any other fuel that is not a petroleum product as determined by the Governor;
- (2) Taxes ethanol, methanol, and liquefied petroleum at varying rates based on tax rates for diesel fuel; and other alternative fuels at various rates based on energy content as compared to diesel fuel;
- (3) Exempts alternative fuels from taxation if the alternative fuel is used in a motor vehicle in areas other than upon the public highways of the state or for home heating; and
- (4) Allows each county to tax alternative fuels proportional to the energy content of the specific fuel as determined by their lower heating values.

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. 4062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4062, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 506-96 Judiciary on H.B. No. 3055

The purpose of this bill is to propose an amendment to the State Constitution for the creation and funding of an Emergency Relief and Opportunity Fund.

Testimony in support of this measure was received by the Hawaii Government Employees Association. The Tax Foundation of Hawaii commented on this bill.

Your Committee finds that further discussion is needed to consider whether a definition is necessary to clarify the term "unexpected fiscal emergencies".

As affirmed by the record of votes of 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. 3055 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Menor.
(Representative Kawanakoa voted no.)

SCRep. 507-96 Judiciary on H.B. No. 3986

The purpose of this bill is to establish a state fatality review team and county review teams to investigate child deaths.

Your Committee received testimony from representatives of the Department of Health, Department of Human Services, Keiki Injury Prevention Coalition, and a private citizen.

Your Committee has amended the bill by deleting reference to "local death review teams" and substituting "local teams".

Your Committee finds that prevention of needless child fatalities is a major concern to the people of Hawaii and determining the cause of these deaths is necessary to achieve this end.

As affirmed by the record of votes of 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. 3986, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3986, H.D. 1.

Signed by all members of the Committee except Representatives Chun Oakland, McMurdo, Menor and Saiki.

SCRep. 508-96 Judiciary on H.B. No. 4131

The purpose of this bill is to create incentives for welfare recipients who are able to work to find jobs in the private sector. The bill also provides for a work education and training fund and for child care and other caregiving support. In addition, the bill affords inducements for employers to hire these welfare recipients.

Your Committee received testimony in support of the intent of this bill from a representative of the Hawaii Medical Association. Representatives from the Department of the Attorney General, Department of Human Services, Salvation Army, Hawaii Substance Abuse Coalition, Commission on Persons with Disabilities, and the National Association of Social Workers submitted testimony on this bill supporting it in part and opposing it in part.

Testimony in opposition to this measure was received from representatives of the American Friends Service Committee, Legal Aid Society and a private citizen. The Department of Accounting and General Services submitted testimony opposing part of the bill.

Your Committee supports the intent and purposes of this bill but finds that the title of the bill is not sufficiently broad to encompass parts III and IV of the bill relating to Child Support and Preferences and Set Aside. In order to avoid a challenge to the constitutionality of this bill, parts III and IV have been deleted.

In addition, your Committee has amended this bill by deleting subsection 346-39(c) in section 3 of the bill which limits the amount of the benefits received by new residents based on what they previously received in the state from which they traveled. This provision is unconstitutional under Shapiro v. Thompson, 394 U.S. 631, 634 (1969) and Green v. Anderson, 811 F. Supp. 516 (1993) affirmed 26 F.3d 95 (1994) as a violation of the right to travel and the equal protection clause of the Constitution.

Technical, nonsubstantive changes were 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. 4131, 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. 4131, H.D. 2.

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

SCRep. 509-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3064

The purpose of this bill is to empower the county liquor commissions with the authority to regulate retail tobacco and cigarette sales.

Testimony in support of the measure was received from the American Lung Association.

Testimony in support of the measure, with suggestions concerning the utilization of another bill (HB3971), was received from the County of Kaua'i Department of Liquor Control.

Testimony in support of the intent of the measure was received from: The Department of Health, with recommended revisions; from the County of Maui Department of Liquor Control, with substantial recommended revisions; and the City and County of Honolulu, with recommended revisions.

Testimony in support of the concept, but expressing concerns, was received from the Hawaii Food Industry Association.

Testimony received from the County of Hawaii Department of Liquor Control was supportive of the measure, with comments and concerns.

In recognition of the detrimental health effects of using tobacco products, this measure would implement a responsive and effective statewide program to reduce the use of tobacco and cigarettes by persons under the age of eighteen.

Furthermore, your Committees are cognizant of the necessity for the state to comply with the federal Synar Amendment. This amendment requires all states to enforce laws restricting the sales and availability of tobacco to persons under eighteen. The Synar Amendment entails a federally mandated compliance strategy with a minimum failure rate and mandatory reporting schedules. Failure to comply with the Synar Amendment could result in the loss of federal funds with a resulting significant economic impact to the State.

Currently, HRS §709-908 (sales to minors), and HRS §328K-7 (cigarette vending machines), provide partial compliance with the provisions of the Synar Amendment. However, to ensure continued and full compliance with the Synar Amendment, it is important that the State be empowered with a mechanism to implement and enforce the necessary measures. This mechanism is established by the provisions contained in this bill, which are to be included in HRS Chapter 281.

Most, if not all, of the liquor businesses in the State also sell tobacco products. Due to the nexus of products sold, and the established experience of county liquor commissions in the enforcement of liquor laws, your Committees find that county liquor commissions are in a favorable position to wield the necessary authority and enforcement practices to regulate retail tobacco sales.

After carefully considering the merits of the measure and the testimonies received, your Committees have amended the bill, relying significantly upon the recommendations of the Department of Liquor Control of the County of Maui and the Department of Health.

One amendment was to restructure the format. In lieu of drafting the entire act as a new section of Chapter 281 (exclusively pertaining to tobacco and cigarettes), the amendment has instead incorporated tobacco and cigarettes within the existing sections of Chapter 281--whenever it is appropriate. However, new sections have been added when incorporation within the prior existing sections is not possible.

Furthermore, your Committees have amended this bill by:

- (1) Changing Title 16 and Chapter 281 to be entitled "Intoxicating Liquor and Tobacco";
- (2) Establishing requirements for importation of tobacco or cigarettes;
- (3) Stipulating the general wholesale and retail licensing procedures for tobacco or cigarettes;
- (4) Substantially elaborating on retail sales restrictions and controls to enforce the age requirements for the purchase of tobacco or cigarettes;
- (5) Prohibiting a minor, under the age of eighteen, to possess or consume tobacco or cigarettes in a public area. Any person under age eighteen who violates the prohibition on possession or consumption shall be subject to the jurisdiction of the family court;
- (6) Prohibiting a person over the age of eighteen to purchase or distribute tobacco or cigarettes to a person under the age of eighteen;
- (7) Specifying additional measures concerning investigations, enforcement, penalties, and disciplinary procedures;
- (8) Prohibiting the sales of cigarettes from a vehicle;
- (9) Establishing requirements for retailers to educate employees on procedures to identify underage persons attempting to purchase tobacco or cigarettes;

- (10) Making it unlawful to sell tobacco or cigarettes from vending machines, except from vending machines in an on-premises liquor license establishment pursuant to commission rule;
- (11) Prohibiting a minor to sell tobacco or cigarettes;
- (12) Requiring the commission or board to establish minimum standards under which the commission must act to suspend or revoke a license.

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. 3064, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 3064, H.D. 1.

Signed by all members of the Committees except Representative Yoshinaga.

SCRep. 510-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3427

The purpose of this bill is to amend the state insurance code to extend the requirements of the Risk-Based Capital For Life And Health Insurers Act to property and casualty insurers.

The Insurance Division of the Department of Commerce and Consumer Affairs testified in support of the bill.

In 1994, Hawaii adopted the Risk-Based Capital For Life And Health Insurers Model Act, codified in Chapter 431, article 3, part IV, of the Hawaii Revised Statutes. The Act mandates that capital requirements for life and health insurers be determined using a risk-based formula, as opposed to a fixed minimum standard. In calculating the amount of a company's risk-based capital, the formula considers the risks with respect to the company's assets, liabilities, operations and other factors. The law also requires the filing of risk-based capital reports which assist the insurance division in monitoring a company's financial condition and alert the division to the need for regulatory action.

This bill amends the insurance code to extend application of the risk-based capital standard to property and casualty insurers. Your Committees find that the state's interest in regulating the financial solvency of these companies warrant their inclusion in part IV. Additionally, enacting this amendment is required under the accreditation standards of the National Association of Insurance Commissioners.

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

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3427, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3427, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 511-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2988

The purpose of this bill is to establish the Hawaii Long-Term Care Trust Fund System for the development, implementation, and administration of funding for the provision of comprehensive long-term care benefits for Hawaii's citizens.

Testimony in support of the measure was received from the Executive Office on Aging, Hawaii State AFL-CIO, Retirees Unit of HGEA/AFSCME Local 152, and the Coalition For Affordable Long-Term Care representing the following organizations: American Association of Retired Persons, Alzheimer's Association, National Association of Retired Federal Employees, Hawaii State Teachers Association (HSTA), HSTA Retirees, International Longshoremen's and Warehousemen's Union (ILWU), ILWU Retirees, Electrical Workers Retirees, Hawaii Long-Term Care Association, Kokua Council, Project Dana, National Multiple Sclerosis Society, Waikiki Health Center, and Social Workers Association. Testimony in opposition to the measure was received from the Healthcare Association of Hawaii, Chamber of Commerce of Hawaii, and Hawaii State Association of Life Underwriters.

The elderly are a rapidly growing segment of Hawaii's population. As noted in the introduction to this measure, over one fourth of the state's adult population will be sixty five years or older by the year 2020, and over one third of this group is expected to be disabled. These elderly face the prospect of paying \$200,000 annually for nursing home care, according to testimony presented by the AFL-CIO. With the growth of the elderly disabled population, rise in costs of medical and care services, and decline in the availability of public funds for these services, the need for the development of a system to address these problems is crucial.

The establishment of the system proposed in this bill is a move towards securing a sound, stable source of funding for long term care that would reduce dependency on the Medicaid program and reduce users' out-of-pocket costs for services. Specifically, this legislation:

- (1) Establishes the Hawaii long-term care trust fund, with revenues to be used for the purposes of this act, including payment for comprehensive long term care services not provided by a participant's existing coverage;
- (2) Establishes a board of trustees to administer the fund, and requires the board to develop a financing plan with the Executive Office on Aging, which shall be submitted to the Legislature by June 30, 1997; and

- (3) Makes appropriations for fiscal year 1996-1997 for the purposes of securing appropriate federal commitments, agreements, and waivers, and developing a modified financing plan.

Your Committees have amended the provisions in this bill pertaining to the deadlines for nominating and appointing persons to the system's board of trustees. Presently, the bill establishes deadlines of June 1, 1998 for trustee nominations, and August 1, 1998 for trustee appointments. However, the bill also requires that the board submit a financing plan by June 30, 1997, and board decision-making requires a three member quorum. In order to enable the board to meet its mandate, the bill has been amended to require that the trustee selection committee make its nominations within sixty days of the effective date of the Act. The bill, as amended, also requires that the Governor fill at least three trustee positions within ninety days of the effective date of the Act, and appoint the remaining trustees by January 1, 1997.

Technical, nonsubstantive amendments have been made to the bill 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. 2988, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2988, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Hiraki, McMurdo, Saiki, Tom, Meyer and Thielen.
(Representative Case voted no.)

SCRep. 512-96 Consumer Protection and Commerce on H.B. No. 3179

The purpose of this bill is to include state recognized advanced practice registered nurses and state licensed social workers as service providers who are able to receive insurance reimbursement for certain mental health and substance abuse services.

Testimony in support of the measure was received from the Hawaii Chapter of the National Association of Social Workers, the Kokua Council, the Department of Health, and numerous nurse specialists and licensed social workers. The Hawaii Nurses' Association testified in support of the bill but requested that an amendment to the bill be included. The Hawaii Association of Marriage and Family Therapists, the Hawaii Psychiatric Medical Association, the Chamber of Commerce of Hawaii, and numerous marriage and family therapists testified in opposition to the bill. The Hawaii Medical Association recommended that the bill be held.

Currently, licensed social workers and advanced practice registered nurses are not eligible to receive insurance reimbursement for the mental health and substance abuse services they provide. However, these professions are recognized to be just as qualified as physicians and psychologists in providing certain types of mental health and substance abuse treatments.

In fact, clinical social workers are recognized as independent providers of mental health services eligible for insurance reimbursement in the Federal Employee Health Benefits Program and the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). Medicaid and Medicare also recognize clinical social work services as reimbursable.

Additionally, CHAMPUS and Medicare also recognize certain services provided by advanced practice registered nurses as reimbursable.

Allowing certain mental health and substance abuse services provided by advanced practice registered nurses and clinical social workers to be reimbursed by insurance would benefit the public by making accessible a number of providers who currently are not being utilized. This would also broaden the choices available to consumers and facilitate the continuing delivery of services to the public in a responsive and cost effective manner.

After carefully considering the merits of the measure and the testimonies received, your Committee has amended the bill by:

- (1) Deleting the amendment to require that certain covered benefits be limited to those medically or psychologically necessary at the least restrictive level of care;
- (2) Clarifying that in hospitals, only licensed physicians or licensed psychologists may prescribe and supervise treatment of mental illness and alcohol and drug abuse; and
- (3) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3179, 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. 3179, H.D. 2.

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

SCRep. 513-96 Consumer Protection and Commerce on H.B. No. 3399

The purpose of this bill is to improve the ability of the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs to service the business community and the investing public by, among other things, increasing the fees for the Division's services.

Testimony in support of the measure was received from the Corporations and Securities Section of the Hawaii State Bar Association. The Division and the Investment Company Institute submitted comments on the bill.

In general, the fees assessed by the Division enable it to service the business community and the investing public. In the last ten years, no increases have been made to the Division's fees for the services rendered. Currently, with the Division being a self-sufficient agency, the services necessary for the public and the fees related to those services must be closely examined and be changed, when necessary, to ensure they are reasonably related. As a self-sufficient agency, there is a need to increase the level of revenues to the Division to meet the ongoing needs of the business community and the investing public. Surveys have shown that the Division's fees are substantially less than the average fees that are charged in other jurisdictions.

This increase in fees will enable the Division to:

- (1) Update its computer programming and system;
- (2) Replace its deteriorating telephone system;
- (3) Increase staffing for the securities compliance and enforcement functions; and
- (4) Enhance its capability to service the neighbor island communities.

After carefully considering the merits of the measure and the testimony received, your Committee has amended the bill by:

- (1) Providing a blanket exemption for all securities issued by investment companies that are registered under the Investment Company Act of 1940, such as mutual funds, from registering with the Commissioner of Securities (Commissioner), if the Commissioner receives:
 - (A) A notice of intention to sell that contains the name and address of the issuer and the securities to be offered in Hawaii; and
 - (B) A filing fee of \$50 per fund; and
- (2) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3399, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3399, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tom.

SCRep. 514-96 Consumer Protection and Commerce on H.B. No. 4087

The purpose of this bill is to require time share developers that are corporations to give notice if the value of their stock drops ten percent or more. Additionally, this bill provides that time sharing plans are subject to the transient accommodations tax.

Concerning the notification of a decline in stock valuation, purchasers of time shares are in a unique ownership situation where, after the purchase, the value of their purchase may remain highly dependant upon the financial viability of the developer. Enactment of this bill will provide, in part, an early warning to a time share purchaser of the project's potentially deteriorating financial condition.

Testimony in support of this bill was received from the International Longshoremen's & Warehousemen's Union, Local 142.

Testimony in opposition of this bill was received from: The Department of Taxation, in which they elaborated their opposition concerning the transient accommodations tax; The American Resort Development Association; Hilton Grand Vacations Company; and Mitchell A. Imanaka, interested individual.

Based on concerns raised by those parties who testified in opposition, your Committee has amended this bill by deleting the section providing that time sharing plans are subject to the transient accommodations tax.

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. 4087, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4087, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 515-96 Education and Health and Human Services on H.B. No. 465

The purpose of this bill is to establish the Intergovernmental Task Force on Education, Health, and Human Services for Youth (Task Force) to develop a comprehensive model for the integrated delivery of educational, health, and human services to youths, especially youths at risk.

Testimony in support of this measure was received from the University of Hawaii. The Department of Education, the Office of Youth Services, the Hawaii State Teachers Association, and the Mental Health Association in Hawaii submitted testimony in support of the intent of this measure. The Office of Children and Youth submitted comments on this measure.

In recognition that the development of a comprehensive model for the integrated delivery of services to youths requires further consideration, it is the intent of your Committees to continue to monitor the development and progress of this model.

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

- (1) Limiting the members of the Task Force to the Family Courts, the Department of Education, the Office of Children and Youth, and various chairpersons of the Legislature;
- (2) Clarifying the Legislature's findings that to help ensure that youths grow to become productive and balanced adults, the delivery of education, health, and human services should include competence-building strategies so that youths are treated in a holistic manner; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Education, Health, and Human Services that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 465, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 465, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kawakami, Lee, Shon, Takamine, Yonamine and Halford.

SCRep. 516-96 Agriculture on H.B. No. 3881

The purpose of this bill is to support agricultural research and development by:

- (1) Appropriating funds for the research and development of the following agricultural projects and programs: orchid research, cut-flower research, taro research, protea research, macadamia research, coffee research, swine research, management of the sweet potato whitefly, development of the virus resistant tomato, low input sustainable agriculture, banana research, papaya research, cattle research, anthurium research, the Plant Alien Pest Program, pesticide programs, the Exotic Pest Insect Committee, and pineapple research;
- (2) Requiring the Governor's Agriculture Coordinating Committee (GACC) to submit to the Legislature prior to the 1997 Regular Session:
 - (a) An itemized report on the progress being made with each specific commodity that is funded for research;
 - (b) The projected funding of the commodity; and
 - (c) The justification for recommended funding in future years; and
- (3) Authorizing the GACC to transfer funds between appropriations as listed in section 2 of the bill.

Agricultural research and development are critical to maintain and improve crop yields and facilitate the start of new agricultural ventures.

Your Committee notes that in prior years, the GACC had between \$2,000,000 to \$3,000,000 for agricultural research, of which the Legislature appropriated up to \$1,000,000. The remainder of over \$1,000,000 was used to assist the broader interests and needs of the agricultural community.

In this time of fiscal austerity, your Committee believes that it is important to address the broader commodity needs of agriculture. Last year, as in the past, much of the State Budget contained provisions for expending funds relating to agriculture. These provisions were limited to certain commodities, which left very little funds for the myriad of agricultural commodities that needed assistance.

It is imperative for the well-being of Hawaii's agricultural community at-large that the Legislature take a broad view of the industry's needs and give expending agencies flexibility to expend funds among various agricultural commodity needs, with direction from the Legislature.

Your Committee received testimony in support of the bill from the Hawaii Farm Bureau, the Hawaii Macadamia Nut Association, and the Exotic Pest Insect Committee. The GACC and the University of Hawaii at Manoa College of Tropical Agriculture and Human Resources submitted testimony in support of the bill, with the condition that the bill does not replace or adversely affect the priorities as indicated in the 1995-1997 Executive Biennium Budget.

Upon consideration, your Committee has amended this bill by:

- (1) Changing the composition of the commodities that are to receive agricultural research and development funds and the amounts of the appropriations by amending section 86 of the General Appropriations Act of 1995, to reflect the revised priorities of your Committee with regard to GOV 102 for fiscal year 1996-1997;

- (2) Requiring the DOA to support efforts to seek and obtain grants and other funds for agricultural research and development;
- (3) Authorizing the DOA to require that any funds made available under the bill be matched by private funds;
- (4) Requiring the Chairperson of the Board of Agriculture to:
 - (a) Expedite all projects of the former GACC, especially emergency actions; and
 - (b) Submit a status report to the Legislature before the 1997 Regular Session on the efforts taken pursuant to this bill; and
- (5) 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. 3881, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3881, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 517-96 Labor and Public Employment, Consumer Protection and Commerce, and Judiciary on H.B. No. 3935

The purpose of this bill is to allow employers to establish individual medical trust accounts to cover the health care expenses of an employee arising from work-related injuries.

The National Federation of Independent Business, Small Business Hawaii, and Hawaii State Chiropractic Association supported the measure. The Maui Hotel Association supported the intent of the measure.

The Department of Labor and Industrial Relations, Department of Commerce and Consumer Affairs, Hawaii State AFL-CIO, Hawaii Insurers Council, Hawaii Restaurant Association, ILWU Local 142, Chamber of Commerce of Hawaii, Hawaii Federation of Physicians and Dentists, and the Massage Therapists Association of Hawaii submitted comments.

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. 3935 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Takumi and Yoshinaga.

SCRep. 518-96 Labor and Public Employment and Consumer Protection and Commerce and Judiciary on H.B. No. 3979

The purpose of this bill is to prohibit dual health coverage for a person who is covered under more than one health policy plan by amending chapters 431 (Accident and Sickness Contracts), 432 (Benefit Societies), and 432D (Health Maintenance Organizations), Hawaii Revised Statutes.

Testimony in support of the measure was received from the Maui Hotel Association, the National Federation of Independent Business, and the Hawaii Hotel Association. Testimony indicated that the high cost of health care is a big concern to Hawaii business owners.

The Department of Labor and Industrial Relations submitted testimony in opposition to the bill.

Kaiser Foundation Health Plan, Inc. and the Chamber of Commerce presented their comments on the bill.

Your Committee is in agreement with the intent of the bill to eliminate the requirement that an employer provide health care coverage for employees who are already covered by another health plan.

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. 3979 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 519-96 Labor and Public Employment, Consumer Protection and Commerce, and Judiciary on H.B. No. 3512

The purpose of this bill is to improve the administration of the workers' compensation law, reduce costs, and facilitate compliance with Act 234, Session Laws of Hawaii 1995.

Specifically, this bill would:

- (1) Establish a Workers' Compensation Benefits Facilitator Unit (Unit) in the Department of Labor and Industrial Relations (DLIR) to assist injured workers in filing claims and to facilitate the workers' compensation claims process;

- (2) Define "nonphysician" as a physical therapist, occupational therapist, speech and language pathologist, acupuncturist, massage therapist, or any other person rendering medical care and supplies directed by the attending physician based on a written prescription and treatment plan;
- (3) Clarify that a person may qualify for benefits if injured while in the act of stopping or preventing an unprovoked nonwork-related altercation;
- (4) Adopt the Medicare fee schedule adjustments on a calendar year basis rather than a fiscal year basis to coincide with the publication dates of the Medicare fee schedule, effective January 1, 1997;
- (5) Give the Director of Labor and Industrial Relations (Director) greater flexibility in setting medical fee schedules by requiring updated schedules every three years or annually, as required;
- (6) Delete the requirement that after the initial five treatments, the Director's authorization is needed for up to ten additional treatments;
- (7) Allow the Director to sanction nonphysicians in the same manner as health care providers;
- (8) Remove the minimum weekly benefit amount when calculating the temporary total disability benefit to reflect the actual hours worked before the injury;
- (9) Clarify the responsibility of the employer and the Special Compensation Fund in cases involving pre-existing conditions;
- (10) Enable the employer to calculate concurrent temporary total disability benefits payable consistent with section 386-51, Hawaii Revised Statutes (HRS);
- (11) Clarify the amount of employer requested examinations allowed per case; and
- (12) Clarify that fraudulent acts must be intentionally performed, clarify criminal and administrative penalties for fraud, and deletes provisions that subject hearings officers to prosecution for fraud while performing their official duties.

The DLIR and Hawaii Occupational Medical Association submitted testimony in support of this measure. The Department of Personnel of the City and County of Honolulu and the Hawaii State Chiropractic Association supported the intent of this measure.

The Hawaii Independent Insurance Agents Association, ILWU Local 142, Legislative Information Services of Hawaii, Inc., Haku Alliance, and Chamber of Commerce of Hawaii submitted comments.

Upon further consideration, this bill was amended to:

- (1) Provide that facilitators in the Unit also assist insurers, employers, and providers to address concerns that facilitators in the Unit should help all parties, and not just injured workers;
- (2) Delete the appropriation for the Unit and provide that all expenses incurred by the Director in establishing the Unit be paid from the Special Compensation Fund. The DLIR estimated that it would need \$150,000 for three professionals and one clerical staff to set up the Unit;
- (3) Delete the provision limiting the cost of conducting independent medical examinations (IMEs) to the complex consultation charges governed by the medical fee schedule. This amendment addresses concerns that by limiting the physician's fee to the maximum complex consultation charge, the employer is effectively prevented from obtaining an IME since very few physicians will conduct an evaluation for that fee;
- (4) Disallow compensation for injuries by an employee while engaging in or performing any recreational or social activity engaged in off the work premises and solely for the employee's personal pleasure, or where attendance at the activity is voluntary and not a condition of employment;
- (5) Provide that the Department of Commerce and Consumer Affairs, with the assistance of DLIR, to conduct a comprehensive feasibility study on establishing individual medical trust accounts for employees to provide coverage of health care expenses arising from workers' compensation claims;
- (6) Require the Director of Commerce and Consumer Affairs to adopt rules for the establishment of individual medical trust accounts no later than July 1, 1997. Also requires the Director of Commerce and Consumer Affairs to submit rules to the Legislature no later than December 31, 1996. The rules shall not be adopted if the Legislature disapproves the rules by concurrent resolution during the regular session of 1997; and
- (7) Make other technical, nonsubstantive amendments for purposes of style and clarity.

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. 3512, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3512, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, Hiraki, Ito, McMurdo, Menor, Takumi, Meyer and Ward.

SCRep. 520-96 Labor and Public Employment and Consumer Protection and Commerce on H.B. No. 3968

The purpose of this bill, as received by your Committees, is to improve the administration of the workers' compensation system by:

- (1) Renaming the "Hawaii State Workers' Compensation Mutual Insurance Fund" as the "Hawaii Workers' Compensation Mutual Insurance Fund" (Fund);
- (2) Expanding the powers and duties of the Fund; and
- (3) Making it operational without a special appropriation by the Legislature.

The Coalition to Reform Obsolete Workers' Compensation Design, Outrigger Hotels Hawaii, and Hawaii State Chiropractic Association supported this measure. The Lieutenant Governor, the Department of Commerce and Consumer Affairs and the Hawaii State AFL-CIO supported the intent of this measure.

The Hawaii Insurers Council, Chamber of Commerce of Hawaii, and Hawaii Independent Insurance Agents Association submitted comments.

Your Committees find that fewer than 10 years ago, fewer than 10 percent of Hawaii's businesses were in the workers' compensation insurance assigned risk pool. However, today about 35 percent of Hawaii's businesses are in the assigned risk pool through no fault of their own. It is the intent of your Committees to address this problem, which not only affects small businesses, but also has an economic impact on insurers, government, employees, labor, and virtually everyone in the State.

Your Committees find that H.B. No. 3535, earlier heard by your Committees, shares the same intent as this bill. H.B. No. 3535 proposes to replace the existing workers' compensation insurance assigned risk pool with a statutorily created nonprofit entity to be known as the Hawaii Employers' Mutual Insurance Company to provide workers' compensation coverage for Hawaii employers.

In recognition of the merits of H.B. No. 3535, your Committees have amended this bill by inserting provisions creating the Hawaii Employers' Mutual Insurance Company (HEMIC), a nonprofit, independent, public corporation to provide workers' compensation insurance and related services to Hawaii's employers. Where applicable, portions of the original bill have been merged with H.B. No. 3535; all other provisions have been deleted.

The purpose of HEMIC would be to provide:

- (1) Workers' compensation coverage to employers of the State at the highest level of service with the lowest possible cost, consistent with reasonable applicable actuarial standards and the sound financial integrity of the company; and
- (2) The highest standard of workplace safety and loss prevention to encourage employer involvement and to be responsive to each policyholder's experience, practice, and operating effectiveness.

HEMIC would be allowed to issue revenue bonds or debentures once, payable solely from premiums received from insurance policies and other revenues received by the company for the initial operating expenses of the company.

Your Committees have also added a severability clause and amended the effective date to take effect on January 1, 1997.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment 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. 3968, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3968, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Case, Hamakawa and Tom.

SCRep. 521-96 Labor and Public Employment on H.B. No. 3482

The purpose of this bill is to revise the state's "A Commitment to Excellence" program to:

- (1) Provide significantly higher monetary awards for suggestions that result in tangible benefits;
- (2) Provide that the decision to accept or reject an employee's suggestion is final; and
- (3) Designate who will be the arbiter if there is any dispute over the amounts to be awarded.

The Department of Human Resources and Development testified in strong support of the bill. The United Public Workers testified in opposition to the bill.

Presently, the award amounts range from \$100 to \$250. The Governor has directed the awards scale be raised so that employees will be able to receive ten per cent of the net savings realized by the State in the first year of implementation of a suggestion, up to a maximum of \$100,000.

Your Committee is in agreement with the purposes of the bill.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3482 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 522-96 Labor and Public Employment on H.B. No. 2452

The purpose of this bill is to:

- (1) Authorize public employees to opt out of the Hawaii Public Employees Health Fund (Health Fund); and
- (2) Allow these employees to administer a benefit plan program known as the "Union Health Trust".

The United Public Workers, AFSCME, Local 646, AFL-CIO submitted testimony in support of this measure. The Department of Budget and Finance, the Hawaii State Teachers Association, and Mutual Benefit Association of Hawaii submitted testimony in support of the concept or intent of this measure. The Administrator of the Hawaii Public Employees Health Fund submitted comments on this measure.

Upon careful consideration, your Committee has amended this measure by deleting the substance and inserting new language, which repeals chapter 87, Hawaii Revised Statutes, relating to the Public Employees Health Fund, effective June 30, 1999.

As amended, this bill would better meet the health care needs of public employees by:

- (1) Establishing a timetable to proceed with conversion to an employer-union trust concept for administering public employees and retiree health benefits;
- (2) Requiring the Director of Finance to establish a committee comprised of representatives from the public employers and public employee organizations to develop and recommend a proposal to implement an employer-union trust concept; and
- (3) Requiring the Director of Finance to submit a report on the proposal to implement an employer-union trust to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session.

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. 2452, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2452, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 523-96 Labor and Public Employment on H.B. No. 3518

The purpose of this bill is to exempt the Department of Labor and Industrial Relations' contracts for employment, education and training services from public and private agencies and nonprofit corporations from the requirements of the Public Procurement Code.

The Department of Labor and Industrial Relations (Department) testified in support of the intent of the bill but suggested an amendment to clarify that Department grants are exempt from the procurement provisions of chapter 42D, Hawaii Revised Statutes.

Upon further consideration, your Committee has amended the bill to reflect the suggested language submitted by the Department.

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. 3518, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3518, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 524-96 Water and Land Use Planning and Energy and Environmental Protection on H.B. No. 3941

The purpose of this bill is to strengthen the overall management of Hawaii's forest reserve system.

This bill requires that certain income derived from the forest reserves be deposited into the Special Land and Development Fund (Fund) to be used exclusively for:

- (1) Establishing demonstration forest areas;
- (2) Developing environmental education materials pertaining to sustainable forestry; and

- (3) Enhancing the management of public forest reserves.

Income to be deposited into the Fund would be derived from any forest reserve, its products, as well as the sale of tree seedlings from state nurseries.

This bill also requires that the harvesting of trees on public lands shall be done in accordance with an approved management plan. It also prevents the conversion of native forests on public lands to introduced forest plantations.

Supporting testimony was submitted by the Department of Land and Natural Resources, the Department of Business, Economic Development, and Tourism, the Hawaii Forest Industry Association, and a concerned individual.

Your Committees find that the state forest reserve system is in desperate need of funding for management purposes. For example, only five state foresters currently oversee over 430,000 acres on the Big Island, an average of 86,000 acres per forester. During these difficult economic times, however, it is unrealistic to expect any budget increases to improve the forest reserve. For this reason, this bill represents a first step in attempting to improve the State's forest reserves.

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. 3941 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kanoho, Shon and Yoshinaga.

SCRep. 525-96 Water and Land Use Planning on H.B. No. 2902

The purpose of this bill is to address the legal effect of waivers of liability, signed by or on behalf of a motorsports participant, as against a motorsports facility.

It is the intent of this bill to clarify that waivers signed by or on behalf of motorsports participants are to be effective in waiving or releasing negligence claims against motorsports facilities.

Your Committee finds that this bill will help motorsports facilities obtain insurance coverage at affordable rates because insurance companies are currently hesitant to insure motorsports facilities due to uncertainty over the effect of liability waivers.

Testimony in support of this bill was submitted by Team Hawaii, the American Motorcyclist Association, the American Power Boat Association, the American Historic Racing Motorcycle Association, the International Hot Rod Association, the National Hot Rod Association, the National Truck Pullers Association, the Sports Car Club of America, the United States Auto Club, the World of Outlaws, the Hawaii International Racing School, a member of the Honolulu City Council, and two individuals.

The Consumer Lawyers of Hawaii did not support the bill because the bill provides that a waiver is a complete defense against any claim for personal injury, even though the waiver is made without understanding its impact.

Your Committee has amended this bill by:

- (1) Clarifying that liability waivers are not effective against intentional, wilful or wanton conduct, or the gross negligence of motorsports facilities, their employees, or their agents; 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 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. 2902, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2902, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 526-96 Water and Land Use Planning on H.B. No. 2531

The purpose of this bill is to allow residential property to be used for the operation of family child care facilities and voids all restrictions or prohibitions against such usage.

Your Committee received a considerable amount of testimony in support of and in opposition to this bill. Testifying in support of the measure were The Office of Children and Youth, People Attentive to Children (PATCH), parents, and health care providers. The Director of the Department of Human Services testified in support of the intent of this bill.

The Real Estate Commission testified in opposition to this measure and expressed concern about the bill's impact on condominiums. Kamehameha Schools Bishop Estate opposed this measure. Opposing testimony was also received from associations of apartment owners, cooperatives, condominium residents, property management companies, and residential real property owners.

Your Committee is sensitive to the rights of all individuals who expressed concern over the effects of this bill but is also cognizant of the high cost of living in Hawaii and its impact upon the community. In particular, child care has become essential and this measure serves an important goal and objective in supporting our working families.

Upon careful consideration of the testimony presented, this bill has been amended to specifically exempt residential property intended or primarily occupied by elder citizens.

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. 2531, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.B. No. 2531, H.D. 1.

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

SCRep. 527-96 Water and Land Use Planning on H.B. No. 3311

The purpose of this bill is to authorize the Attorney General to defend county lifeguards providing lifeguard services at state beaches under the State's tort liability act.

Testimony on this measure was received from the Department of Land and Natural Resources and the City and County of Honolulu Department of Parks and Recreation.

Although testimony was not supportive of this amended measure, your Committee believes this issue merits continued discussion.

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. 3311, H.D. 1, and recommends that it be referred to the Committee on Judiciary.

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

SCRep. 528-96 Water and Land Use Planning on H.B. No. 3081

The purpose of this bill is to require any person seeking a permit or approval from a state agency for any development activity to submit a native Hawaiian cultural statement to the state agency.

This bill also requires a native Hawaiian cultural statement to be included in each environmental assessment and environmental impact statement (EIS).

The Hawaii Area Program Office of the American Friends Service Committee, the Protect Kohanaiki Ohana, Kukuiohiwai Kaupulehu, Life of the Land, Ka Lahui Hawaii, the Hawaii Council of the Association of Hawaiian Civic Clubs, the Ahupuaa Action Alliance, and a concerned individual testified in support of the bill and agreed that Hawaiian cultural resources must be protected. The Chamber of Commerce of Hawaii agreed with the intent of the bill.

The Department of Land and Natural Resources, the Land Use Research Foundation of Hawaii, and the Environmental Center of the University of Hawaii supported the concept of broadening the EIS law to encompass the intent of the bill. However, none of these agencies supported the creation of a separate native Hawaiian cultural impact process.

Your Committee has amended this bill by:

- (1) Deleting provisions that would have created an entire new assessment process under Chapter 226. Your Committee believes that the remaining provision which amends Chapter 343 will accomplish the purposes of this bill and avoid unnecessary duplication of existing processes;
- (2) Transferring the definition of "effect on native Hawaiian culture" from Chapter 226 to Chapter 343;
- (3) Expanding the term, historic and cultural resources, in this definition to include resources relating to, among other things, genealogy, written and oral history and traditions, notable places, the shoreline, and the ocean; and
- (4) Making technical, nonsubstantive amendments for the purpose of clarity.

As amended, this bill requires an assessment of the effect on native Hawaiian culture to be included in any environmental assessment or EIS required under Chapter 343. Moreover, it is your Committee's intent that by placing these provisions within Chapter 343, an EIS must propose measures that would minimize adverse effects on the native Hawaiian culture. Your Committee finds that these mitigating measures should help to alleviate concerns expressed by some testifiers.

Finally, your Committee finds that some of the descriptions contained in the provisions that would have amended Chapter 226 are useful, especially those relating to the form and content of a cultural statement. However, the most appropriate place to insert these provisions would be in the rules rather than the statutes.

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. 3081, 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. 3081, H.D. 2.

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

SCRep. 529-96 Water and Land Use Planning on H.B. No. 3280

The purpose of this bill is to authorize the transfer of land parcels from the Housing Finance and Development Corporation (HFDC) to the Department of Hawaiian Home Lands (DHHL) in order to satisfy requirements in Act 14, Special Session Laws of Hawaii 1995. This bill requires the conveyance of land covering the proposed development of housing projects at Kealahou, Lahaina, and Kapolei.

The Department of Budget and Finance supported the concept of this bill but expressed concerns about:

- (1) Whether or not there will be sufficient time in which to complete the transfer;
- (2) Whether or not the valuation of the land would include the substantial improvements made by the HFDC; and
- (3) The appearance that the ceded land entitlement due OHA shall be paid by HFDC and reduce resources which HFDC has designated for financing other housing projects even though the land will be conveyed to DHHL.

The Governor's Special Assistant for Housing testified in support of the intent of this bill and proposed amendments to address concerns that:

- (1) This bill implies that the lands in the Villages of Kapolei are public trust lands, however, they were acquired by the State from the Estate of James Campbell;
- (2) Completion of the transfer cannot be accomplished within 30 days of the Act's effective date as set forth in Section 2 of the Act;
- (3) The committee report does not address the concerns raised by the Villages of Kapolei Association which wanted to ensure that the integrity of the community be maintained; and
- (4) This bill should clearly state that this land transfer is to satisfy the requirement of section 6(1), Act 14, Special Session Laws of Hawaii 1995.

DHHL and OHA testified in support of the intent of this bill.

Your Committee has amended this bill to address the concerns expressed in the testimony presented. Your Committee recognizes that this bill, as amended, will expedite housing development in uncompleted state housing projects at Kealahou and Lahaina and will provide DHHL with land that is ready for the development of housing for many of its beneficiaries. Further, this measure will give the State greater flexibility in the development of future non-DHHL projects and enables the State to make required payments to the HHL Trust Fund.

Upon careful consideration of the testimony presented, your Committee has amended the bill as follows:

- (1) Deleted references to the Village of Kapolei on Oahu;
- (2) Changed references from "three projects" to "two projects";
- (3) Deleted the provision referring to the trust entitlement due the Office of Hawaiian Affairs;
- (4) Clarified that the land transfer is allowed under Section 6(1) of Act 14, Special Session Laws of Hawaii, 1995;
- (5) Deleted the reference that the transfer be completed within 30 days of the Act's effective date;
- (6) Added "relevant state departments or agencies" to the parties who may agree on the portion of land to be conveyed;
- (7) Added that the valuation of the land shall include the cost of the infrastructure developed on the land;
- (8) Added that DHHL shall conform as much as possible to the current master plans of the Villages of Laie and the Villages of Leialii;
- (9) Added that certain lands in the Villages of Kapolei may be conveyed to the DHHL and that these lands were purchased by the State from a private landowner;
- (10) Added that DHHL shall conform as much as possible to the current master plan of the Villages of Kapolei; and
- (11) Added that the land transfer described in the Act be completed by February 28, 1997.

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. 3280, 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. 3280, H.D. 2.

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

SCRep. 530-96 Finance on H.B. No. 3550

The purpose of this bill is conform the Hawaii Income Tax Law to the federal Internal Revenue Code.

H.B. No. 3550 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the action to report out H.B. No. 3550, 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. 3550, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 531-96 Consumer Protection and Commerce on H.B. No. 2598

The purpose of this bill is to revise the eligibility requirements for the medical licensing examination.

Testifying in support of the bill were the Board of Medical Examiners, Hawaii Medical Association, and Hawaii Residency Programs.

Section 453-4, Hawaii Revised Statutes (HRS), provides that no person shall be licensed to practice medicine or surgery unless that person has passed an examination and possesses other necessary qualifications. A graduate of an accredited American medical school who completes a one year residency, and a foreign medical school graduate who completes two years of residency, are entitled to take the United States Medical Licensing Examination (USMLE).

Until recently, the USMLE has been administered nationally during the months of June and December. This has enabled medical students, who typically complete their residency programs during the month of June, to qualify for the first examination date of the year. However, beginning this year, the first administration of the examination will be in May, rather than June. As a result, medical students who would ordinarily be eligible to take the USMLE shortly after completion of their residency in June, will be one month shy of completing their residency programs and qualifying for the examination. Applicants for licensure will be forced to wait for half a year to take the December examination, and will be unnecessarily delayed in obtaining their licenses to practice medicine.

The bill ameliorates this situation by amending section 453-4, HRS, to provide that applicants for licensure shall be eligible for examination no sooner than the first year of residency, and no sooner than the second year of residency if graduated from a foreign medical school. This revision renders the examination eligibility requirement more flexible without modifying the licensing requirements set forth in chapter 453, HRS.

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. 2598 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Tom.

SCRep. 532-96 Judiciary and Consumer Protection and Commerce on H.B. No. 2857

The purpose of this bill is to establish a service fee for dishonored checks.

Your Committees heard testimony in support of this bill from representatives of the Retail Merchants' Association, the Hawaii Collectors Association, VeriCheck and others. Your Committees are also in receipt of written testimony from Liberty House, MEDCAH INC., Credit Associates of Maui, Ltd., in support of this bill.

Your Committees find that merchants are being charged service fees for depositing checks which are returned for insufficient funds. Some merchants are charging fees to defray those costs at a much higher rate. This bill will set a ceiling for fees charged by merchants while at the same time specifically allowing them to charge such fees. Your Committees were concerned that the proposed bill allowed the fee to consist of 5% of the face value of the instrument because some of those instruments involve thousands of dollars.

Your Committees have amended this bill by requiring the posting of a notice indicating that a service fee will be charged for dishonored checks. Also, that a payee will be specifically allowed to assess such fees since it was not clear that a payee was a holder in due course.

Your Committees have also amended this bill by changing the word "triple" to "treble" when referring to damages since the word "treble" is more commonly used and understood. Also, the treble damages will be based on the amount of the dishonored check rather than on the sum of the check and the service charge combined. Technical, nonsubstantive amendments were made for purposes of clarity, consistency, and style.

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. 2857, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2857, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Case, Chun Oakland, Hamakawa, Hiraki, Saiki and Swain.

SCRep. 533-96 Health on H.B. No. 2576

The purpose of this bill is to allow patients at Hansen's disease facilities to have their non-patient spouses live with them at the facility.

Testimony in support of this bill was received from the Department of Health. No opposing testimony was received.

The Department of Health supported the intent of this bill, but suggested some amendments to clarify the use of medical benefits by the non-patient-spouse.

After careful consideration, your Committee has amended the bill by adding language which states that non-patient-spouses shall not receive services or benefits accorded specifically to Hansen's disease patients.

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. 2576, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2576, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 534-96 Labor and Public Employment on H.B. No. 3515

The purpose of this bill is to eliminate the requirement that the Department of Labor and Industrial Relations (DLIR) conduct an inspection in response to every complaint under the State's Occupational Safety and Health law.

This bill would require that an investigation, rather than an inspection, be conducted.

The DLIR provided testimony in support of this bill. In certain cases, a telephone call with a facsimile follow-up, would result in faster correction of hazards for workers. Allowing the DLIR to utilize other investigative methods would save the DLIR the expense of its inspectors' time and costs of mileage. With only twenty-one inspectors for over 31,000 business establishments, the DLIR must be able to focus its resources on high severity hazards and on high hazard industries and workplaces.

Your Committee finds that the handling and resolution of less serious complaints will be expedited by not requiring an inspection in response to every complaint. Other methods, such as a telephone call and facsimile followup, would expedite the handling of workers' complaints and save time and money for the DLIR. This will allow the DLIR to concentrate its resources on performing inspections for high severity hazards and in high hazard industries and workplaces.

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. 3515 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 535-96 Judiciary on H.B. No. 2862

The purpose of this bill is to require a simultaneous recordation in the land court of all child support orders filed with the Bureau of Conveyances.

Your Committee received testimony from representatives of the Attorney General, the Corporation Counsel of the County of Hawaii and the Corporation Counsel of the County of Kauai.

Your Committee finds that child support orders, whose enforcement benefits Hawaii's children, should be treated, for purposes of recordation, similarly to the way the law treats recorded tax liens.

As affirmed by the record of votes of 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. 2862 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, McMurdo and Thielen.
(Representative Kawanakoa voted no.)

SCRep. 536-96 Judiciary on H.B. No. 2863

The purpose of this bill is to exempt child support liens from the requirement of filing in the land court registration system.

Your Committee received testimony from representatives of the Attorney General, the Corporation Counsel of the County of Hawaii, and the Corporation Counsel of the County of Kauai.

Your Committee finds that child support orders, whose enforcement benefits Hawaii's children, should be accorded similar treatment, for purposes of recordation, to that of recorded tax liens.

As affirmed by the record of votes of 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. 2863 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, McMurdo and Thielen.

(Representative Kawanakoa voted no.)

SCRep. 537-96 Judiciary on H.B. No. 3043

The purpose of this bill, as received, was to provide that a person commits the offense of "unauthorized control of a propelled vehicle" if he or she cannot prove ownership of the propelled vehicle by vehicle registration or title. The bill also made subsequent convictions for the offense class B felonies rather than class C felonies.

The Prosecuting Attorney for the City and County of Honolulu, State of Hawaii, the Insurance Commissioner and a representative from the Honolulu Police Department testified in support of this measure. A representative from the Office of the Public Defender presented testimony in opposition to this measure.

Your Committee finds that the offense of unauthorized control of a propelled vehicle is a large and growing problem and that serious measures must be taken to enhance the successful prosecution of persons committing the crime and to deter the commission of this offense.

Your Committee has amended this bill by:

- (1) Adding a purpose clause to reflect the seriousness of this crime and the Legislature's resolve to prevent such crimes from taking place;
- (2) Deleting the provision that a person commits the offense of unauthorized control of a propelled vehicle if the person cannot prove ownership of the propelled vehicle by vehicle registration or title;
- (3) Eliminating the affirmative defense provided in section 708-836(3);
- (4) Providing a definition of "owner" to mean "the registered owner of the propelled vehicle or the unrecorded registered owner of the vehicle pending transfer of ownership" for the purposes of this section; and
- (5) Deleting the enhanced sentencing provision for repeat offenders.

As affirmed by the record of votes of 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. 3043, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3043, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 538-96 Judiciary on H.B. No. 3349

The purpose of this bill is to authorize the dissemination of disposition information, as public record, for cases adjudicated under chapter 704, Hawaii Revised Statutes, concerning penal responsibility and fitness to proceed under the Hawaii Penal Code.

The Attorney General testified in support of this measure.

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. 3349, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3349, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Chun Oakland, Hamakawa, Menor, Saiki, Swain and Yoshinaga.

SCRep. 539-96 Finance on H.B. No. 3567

The purpose of this bill is to ease the administration of the tax laws by authorizing the Director of Taxation to round tax return items to the nearest dollar amount.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii also submitted testimony.

Your Committee has amended the bill to conform to 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. 3567, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3567, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 540-96 Consumer Protection and Commerce on H.B. No. 3227

The purpose of this bill is to authorize the insurance commissioner to issue a limited credit insurance license to persons who sell policies of individual or group credit life, credit accident and health, credit involuntary unemployment, or credit property insurance, subject to satisfactory passage of a preclicensing examination.

This bill would permit financial services loan companies to sell credit related insurance policies. A similar bill passed by the 1995 Legislature was vetoed by the Governor due to concerns raised by the Insurance Division regarding the regulation of limited licenses. This bill addresses that concern by requiring the satisfactory passage of an examination prior to the issuance of a limited license.

The Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Financial Services Association testified in support of the bill. The Hawaii Independent Insurance Agents Association testified in opposition 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. 3227 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, Hiraki, Tom and White.

SCRep. 541-96 Consumer Protection and Commerce on H.B. No. 3394

The purpose of this bill is to eliminate the supervision and examination of business development corporations by the Commissioner of Financial Institutions (Commissioner).

In addition, this bill deletes an obsolete sunset provision that provides that if no business development corporation is organized by June 30, 1968, the Business Development Corporations law will be voided.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs.

Testimony indicated that the supervision and examination of business development corporations by the Commissioner serves no useful purpose as there are no safety and soundness issues regarding business development corporations. The Commissioner's responsibility to ensure the safety and soundness of Hawaii financial institutions that elect to participate as members of business development corporations will be fulfilled by the supervision and examination of the individual participating Hawaii financial institutions.

With respect to the obsolete sunset provision, because a business development corporation was organized on or before June 30, 1968, this sunset provision has been rendered ineffective and obsolete.

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. 3394 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, Tom, Meyer and Thielen.

SCRep. 542-96 Consumer Protection and Commerce on H.B. No. 3396

The purpose of this bill is to consolidate the licensing and supervision of escrow depositories with the Division of Financial Institutions in the Department of Commerce and Consumer Affairs.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs.

Currently, insurance companies, including title insurance companies, authorized to transact business in Hawaii may operate as escrow depositories that are exempt from the requirements of the Escrow Depositories law. Instead of the regulation of escrow depositories by both the Insurance Division and the Division of Financial Institutions, this bill would prevent duplication of efforts and allow for the efficient regulation of escrow depositories by one agency.

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. 3396 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, Hiraki, Tom, White and Yamane.

SCRep. 543-96 Consumer Protection and Commerce on H.B. No. 3398

The purpose of this bill is to substantially reduce costs for both charitable organizations and the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs by among other things, eliminating the requirement for charitable organizations to file registrations or exemptions with the Division.

Testimony in support of the measure was received from the Aloha Society of Association Executives and the Hawaii Food Industry Association. The Department of Commerce and Consumer Affairs submitted comments on the bill.

Currently, the 2,200 registrations on file with the Division represents a very small percentage of the estimated number of nonprofit organizations that are engaging in activities that require registration under state law. As a result, the Division must utilize substantial staff resources in relation to the registration and exemption requests and the handling of numerous inquiries regarding the law. The approximately \$22,000 raised by these filings do not cover the Division's costs related to these activities.

Additionally, these charitable organizations file tax forms with the Internal Revenue Service. Since much of this information may be obtained from these records, the filings currently required under state law are not necessary.

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. 3398 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, Hiraki, Tom, White and Yamane.

SCRep. 544-96 Consumer Protection and Commerce on H.B. No. 3430

The purpose of this bill is to repeal unnecessary as well as unused statutes that regulate solicitors.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs (Department) and the Department of Finance of the City and County of Honolulu.

An informal survey of the several counties taken by the Department has shown that no county licenses are currently issued for solicitors. Additionally, the Department does not issue licenses for professional solicitors.

To the extent that there is a need to regulate solicitors, a new Federal Trade Commission (Commission) rule protects consumers from deceptive and abusive telemarketing practices. This rule delineates specific prohibitions for telemarketing activities, and is enforceable by the states as well as the Commission.

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. 3430 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, Hiraki, Tom, White and Yamane.

SCRep. 545-96 Consumer Protection and Commerce on H.B. No. 3400

The purpose of this bill is to amend the Hawaii Business Corporation Act, Chapter 415, Hawaii Revised Statutes (HRS), to provide for simplified, streamlined procedures for filing certain documents with the business registration division, and to make certain technical, housekeeping amendments to the chapter, the Hawaii Nonprofit Corporation Act, Chapter 415B, HRS, and Chapter 425, HRS, relating to partnerships.

Testimony in support of the bill was received from the Business Registration Division of the Department of Commerce and Consumer Affairs.

This bill adds a new section to Chapter 415, HRS, which sets forth the requirements for amended and restated articles of incorporation by a domestic corporation. Under these provisions, the amended and restated articles of incorporation may be combined and filed together, rather than separately as articles of amendment and restated articles of incorporation. The bill also amends section 415-48.5, HRS, to allow for the inclusion of indemnification provisions in the articles of incorporation filed with the division. Current law requires that indemnification provisions be filed as an amendment to the initial filing. Other amendments contained in the bill make housekeeping changes to existing statutes.

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. 3400 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, Tom, Meyer and Thielen.

SCRep. 546-96 Consumer Protection and Commerce on H.B. No. 3413

The purpose of this bill is to correct the reference made to the "Director of the Office of Consumer Protection" with the "Director of Commerce and Consumer Affairs" in section 603-23, Hawaii Revised Statutes.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs.

Testimony indicated that this bill is needed to correct an inconsistency in the law because the Director of Commerce and Consumer Affairs is also the Director of the Office of Consumer Protection.

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. 3413 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, Tom, Meyer and Thielen.

SCRep. 547-96 Consumer Protection and Commerce on H.B. No. 3414

The purpose of this bill is to allow the use of certain terms in motor vehicle advertising which is not currently permitted by law.

The Department of Commerce and Consumer Affairs submitted testimony supporting the measure and recommending amendments.

Currently, the law regarding motor vehicle advertising prohibits certain terms from being used, even in truthful statements by motor vehicle dealers. This is inconsistent with the fact that the use of some of these terms are regulated, but not prohibited, by administrative rules. This measure corrects this inconsistency.

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. 3414 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, Tom, Meyer and Thielen.

SCRep. 548-96 Consumer Protection and Commerce on H.B. No. 3417

The purpose of this bill is to eliminate the licensing of motor vehicle auctioneers, manufacturers, factory branches, factory representatives, distributors, distributor branches, and distributor representatives in Hawaii, and allow preliminary approval of dealer applications by the executive officer of the Motor Vehicle Industry Licensing Board (Board), subject to ratification by the Board.

Testimony in support of the measure was received from the Motor Vehicle Industry Licensing Board.

The elimination of licensing of certain motor vehicle industry categories is in line with most of the recommendations of the State Auditor, which were made in its 1995 sunset review of the Board.

Additionally, federal regulation of the aforementioned manufacturers, distributors, and their related branches and representatives is more than adequate to offset elimination of state regulation and to protect 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. 3417 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, Tom, Meyer and Thielen.

SCRep. 549-96 Consumer Protection and Commerce on H.B. No. 1088

The purpose of this bill is to provide associations of apartment owners of which twenty-five percent or more of the apartment owners are sixty-five years or older with more time to comply with the replacement reserves requirement by exempting them from this requirement until July 1, 2003.

Testimony in support of the measure was received from the American Association of Retired Persons and a few individuals. The Real Estate Commission and the Hawaii Chapter of the Community Associations Institute submitted comments on the bill.

Currently, the law requires associations of apartment owners to fund a minimum of fifty percent of the estimated replacement reserves by January 1, 2000. To fund the replacement reserve, apartment owners are assessed a special assessment in addition to the maintenance fees. This has placed a large financial burden on apartment owners and some are considering selling their apartments because they are not able to pay their maintenance fees and the special assessment. This bill would provide some relief to those associations of apartment owners that decide to extend the deadline.

After carefully considering the merits of the bill and the testimonies received, your Committee has amended the measure by providing this extension to associations of apartment owners of which seventy-five percent of its apartment owners vote to extend the deadline.

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. 1088, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1088, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 550-96 Consumer Protection and Commerce on H.B. No. 2567

The purpose of this bill is to remove the prohibition against nondepository financial services loan companies (FSLCs) issuing standby letters of credit.

Testimony was received from the Hawaii Financial Services Association (HFIA), one of its members, and the Commissioner of the Financial Institutions Division of the Department of Commerce and Consumer Affairs (Commissioner).

Currently, depository FSLCs are allowed to issue standby letters of credit with the written approval of the Commissioner of financial institutions. Nondepository FSLCs are not similarly authorized, and this differential treatment has its basis in the differences between the operations of the two types of FSLCs and in the extent to which these operations are restricted or regulated.

Traditionally, a letter of credit is a depository product, issued by a depository financial institution, and collateralized by funds in a deposit account. Its liquidity is dependent upon the financial condition of the issuer. If a loan or line of credit is used to collateralize a letter of credit, risk to the depository financial institution is generally controlled through lending limits and periodic regulatory examination. Nondepository FSLCs, however, do not receive deposits, are not subject to lending limits, and are scrutinized by the Commissioner primarily for consumer lending law compliance rather than for financial solvency. Therefore, the risk controls inherent in the restrictions placed upon depository FSLCs do not exist with respect to nondepository FSLCs that are not subject to the same restrictions.

Amendments to the bill that would provide these risk controls were agreed to by HFIA and the Commissioner, and require as follows:

- (1) Nondepository FSLCs shall report the aggregate amount of their outstanding standby letters of credit on financial statements submitted to the Commissioner pursuant to H.R.S. §412:3-112;
- (2) The aggregate amount of the outstanding standby letters of credit shall not exceed twenty per cent of the nondepository FSLC's capital and surplus amounts;
- (3) Standby letters of credit issued by nondepository FSLCs shall not be used for consumer loan transactions; and
- (4) The issuing nondepository FSLC shall identify itself as a nondepository FSLC in its standby letter of credit.

The bill was also amended to require that depository FSLCs include standby letters of credit with all other loans and extensions of credit for the purpose of determining the limitation on loans to one borrower under section H.R.S. §412:9-404. Finally, technical, nonsubstantive amendments were made to the bill 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. 2567, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2567, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 551-96 Consumer Protection and Commerce on H.B. No. 3401

The purpose of this bill is to make technical corrections to certain provisions of the insurance code for reasons of accuracy and conformity.

The Insurance Division of the Department of Commerce and Consumer Affairs testified in favor of the bill.

The first section of the bill amends section 431:3-203.5, H.R.S., by replacing the term "accreditation" with the term "certification". As an insurance company seeking licensure in this state applies for a certificate of authority and undergoes certification procedures, the latter term more accurately reflects the nature of the process.

The second section of the bill amends section 431:3-301, H.R.S., by replacing the term "penalty" with the term "fine". This amendment is necessary to conform this provision to other penalty provisions throughout the insurance code.

Technical, nonsubstantive amendments were made to the bill 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. 3401, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3401, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 552-96 Consumer Protection and Commerce on H.B. No. 3408

The purpose of this bill is to clarify the law regarding gift certificates by:

- (1) Requiring issuers of gift certificates to honor the gift certificate for at least two years; and
- (2) Specifying that the definition of gift certificates includes any writing that the issuer has received payment for future purchases or delivery of goods or services.

The Department of Commerce and Consumer Affairs and the Retail Merchants of Hawaii submitted testimony supporting the measure and recommending amendments.

Currently, the gift certificate law requires gift certificate issuers to honor certificates for a period of at least one year, but if the gift certificate recipient is unable to redeem the certificate within the one-year period, the certificate issuer must extend the life of the certificate for an additional year. In essence, this means that the gift certificate is actually redeemable for a period of at least two years. Your Committee finds that changing the law to provide for two-year gift certificates would simplify the process considerably.

Based on recommendations made, your Committee has amended this bill to clarify that gift certificates, that are given away for promotional purposes and not paid for in full, are exempt from the gift certificate law.

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. 3408, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3408, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 553-96 Consumer Protection and Commerce on H.B. No. 3411

The purpose of this bill is to strengthen the prohibition against retaliatory eviction in the landlord-tenant code, and to provide the Department of Commerce and Consumer Affairs with greater flexibility in handling disputes arising under the code.

The Office of Consumer Protection of the Department of Commerce and Consumer Affairs testified in support of the bill.

Section 521-74(a) currently prohibits retaliatory evictions where a tenant has complained in good faith to the landlord, Office of Consumer Protection (OCP), Department of Health, building department, or any other government agency concerned with landlord-tenant disputes arising out of alleged health law violations in the dwelling unit. However, there are numerous other divisions within the Department of Commerce and Consumer Affairs (DCCA) that receive landlord-tenant related complaints, including the director's office, communications office, Regulated Industries Complaints office, and Real Estate Commission.

Your Committee finds that persons who unwittingly report their complaints to DCCA offices other than OCP are no less deserving of protection from retaliatory eviction than tenants who file their complaints with the appropriate office. Therefore, your Committee supports amending section 521-74(a) to delete the reference to OCP and replace it with a reference to DCCA.

The bill also amends section 521-74(a) to prohibit retaliatory evictions against a tenant who makes a good faith complaint to a government agency concerned with violations of chapter 467 ("Real Estate Brokers And Salespersons"). Your Committee finds that this amendment extends the protection against retaliatory evictions to tenants who make a complaint against a real estate broker or salesperson in the context of a landlord-tenant dispute.

Finally, the bill amends section 521-77 which authorizes OCP to receive, investigate, and resolve disputes arising under the landlord-tenant code. By replacing the reference to OCP in the statute with a reference to DCCA, other divisions within the department have the authority to act in a landlord-tenant dispute. However, primary jurisdiction over these matters continues to reside within OCP.

Technical, nonsubstantive amendments were made to the bill 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. 3411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3411, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 554-96 Consumer Protection and Commerce on H.B. No. 2730

The purpose of this bill is to clarify the law sunseting professional and vocational regulatory programs.

Testimony in support of the bill was received from the Office of the Auditor (Auditor), the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA), and the National Association of Social Workers (NASW).

Section 26H-4, Hawaii Revised Statutes (HRS), pertains to repeal dates for newly enacted professional and vocational regulatory programs. This law requires that any professional or vocational regulatory program enacted after July 1, 1994, be repealed at the end of the third full calendar year following the program's enactment. It also requires the Auditor to conduct a sunset review of a program prior to its repeal.

Testimony submitted by the Auditor indicates that the current law requires clarification, specifically with respect to identifying "professional or vocational regulatory programs" that were "enacted after July 1, 1994", and which are, therefore, subject to repeal. The Auditor also expressed concern that the automatic three year review requirement does not provide the Legislature with sufficient flexibility to establish an appropriate review date for a particular program.

To resolve these issues and clarify the intent of the law, the bill amends section 26H-4, HRS, to provide that:

- (1) A "newly enacted" professional or vocational regulatory program is a program enacted after January 1, 1994;
- (2) Professional or vocational regulatory programs subject to repeal are those specifically identified and listed within the statute; and
- (3) Regulatory programs identified in the statute will sunset on a specific date, rather than three years after enactment.

Your Committee has amended the bill to address a concern raised by the NASW. Currently, the State will not issue licenses to social workers who received their master's degree from a foreign institution, or social workers who passed another state's licensing examination prior to the establishment of the American Association of State Social Worker Boards (AASSWB). Your Committee finds that social workers who possess the equivalency of the licensing prerequisites set forth in section 467E-7, HRS, should be permitted to obtain licensure from the State. Therefore, chapter 467E, HRS, is amended to provide that the equivalency of a master's degree from a college program accredited by the Council on Social Work Education, or passage of an examination equivalent to the AASSWB national examination shall satisfy the minimum qualifications for licensure. This amendment is supported by the DCCA.

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. 2730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2730, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tom.

SCRep. 555-96 Consumer Protection and Commerce on H.B. No. 3404

The purpose of this bill is to amend various sections of article 10A, chapter 431 of the Hawaii Revised Statutes, to conform to the Social Security Act amendments of 1994 and the National Association Of Insurance Commissioners (NAIC) Model Act.

The Insurance Division of the Department of Commerce and Consumer Affairs testified in favor of this bill.

This bill amends article 10A as follows:

- (1) Deletes the exemption for "section 1833" policies from the definition of "medicare supplement policy" in section 431:10A-301;
- (2) Qualifies the applicability and scope provisions of section 431:10A-302(d) by adding a proviso referencing section 431:10A-307(d);
- (3) Replaces "[T]his part shall not" with "this part is not intended to prohibit or" in section 431:10A-302(d) to conform with the NAIC Model Act;
- (4) Adds language in section 431:10A-305(b) to expand the scope of the Insurance Commissioner's rulemaking ability by authorizing the Commissioner to establish standards for select policies and certificates;
- (5) Clarifies section 431:10A-306 relating to loss ratio standards by inserting the term "group" before the phrase "medicare supplement policies" in the section's last sentence; and
- (6) Deletes certain types of insurance policies from the exemptions listed in section 431:10A-307, pertaining to disclosure standards, to conform state law to the NAIC Model Act.

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. 3404 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, Tom, Meyer and Thielen.

SCRep. 556-96 Judiciary on H.B. No. 3653

The purpose of this bill is to clarify the definition of harassment.

Your Committee received testimony from a representative of the Judiciary, State of Hawaii.

Your Committee finds that the definition of harassment, which provides the basis for petitioning for relief in district court, should include conduct causing physical harm, bodily injury, assault and threats of imminent physical harm, bodily injury and assault.

As affirmed by the record of votes of 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. 3653 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, McMurdo, Yoshinaga and Thielen.

SCRep. 557-96 Consumer Protection and Commerce on H.B. No. 2447

The purpose of this bill is to permit financial services loan companies (FSLCs) to charge a \$75 administrative fee, as a loan charge, on certain types of consumer loans.

Testimony in support of the measure was received from the Hawaii Financial Services Association. Testimony in opposition to the bill was received from the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs.

Currently, FSLCs are not permitted to charge an administrative fee to recover their expenses in preparing and processing the initial loan documentation for two types of consumer loans. These loans are consumer loans that are not secured by real property and do not exceed \$25,000, and open-end consumer loans which generally entail repeated transactions with a finance charge.

Furthermore, if FSLCs were to be permitted to recover these expenses through a slight rise in the interest rate, it would result in an inequitable payment. The party paying the longer term would be paying more than the shorter term borrower, although the costs to process the loans may be similar.

Therefore, this bill provides for FSLCs to charge up to \$75 as an administrative fee on certain consumer loans or open-end consumer loans.

After carefully considering the merits of the measure and the testimonies received, with subsequent input received from the Commissioner of Financial Institutions, your Committee has amended this bill. The amendment requires the FSLCs to disclose whenever a loan charge, other than the interest charge, will be imposed. This disclosure must include a good faith estimate of the amount of or range of charges the borrower is likely to incur in connection with a loan. Furthermore, this amendment requires an expedient disclosure period of no more than three business days after a loan application is received or prepared.

With consideration for the cap on the maximum charge for the administrative fee and mandatory disclosure requirements for loan charges, this bill provides reasonable safeguards for the consumer.

Your Committee has also made additional 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. 2447, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2447, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 558-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3410

The purpose of this bill is to make Hawaii's law regarding sales more consistent with its federal counterpart, and therefore easier for sellers to comply with.

Specifically, this bill would among other things:

- (1) Change the title of Hawaii's Door-To-Door Sales Law in a manner consistent with the comparable federal rule, to reflect that the law applies to sales that are off of the seller's premises, not just door-to-door;
- (2) Amend certain definitions to more closely track the federal definitions;
- (3) Amend the penalties to make it more consistent with Hawaii's unfair competition and unfair and deceptive acts or practices provision; and
- (4) Repeal the unlicensed contracting section because it is inconsistent with other provisions of the law.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

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. 3410 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 Chun, Oakland, McMurdo, and Thielen.

SCRep. 559-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3412

The purpose of this bill is to repeal section 437B-25, Hawaii Revised Statutes, which provides that nothing in the chapter of law regulating motor vehicle repairs shall prevent the Director of the Office of Consumer Protection (Director) from filing an action against any motor vehicle repair dealer, mechanic, or apprentice for unfair methods of competition or unfair or deceptive trade acts or practices.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

Currently, there is nothing in the Regulation of Motor Vehicle Repairs law that prevents the Director from filing an action against a motor vehicle repair dealer, mechanic, or apprentice for violation of the unfair competition or deceptive acts or practices provision. Therefore, the provision being repealed by this bill is unnecessary. Because this provision is not included in other chapters of Hawaii's law, it may be argued as evidencing an intent to preclude the Office of Consumer Protection from bringing an unfair competition or deceptive acts action for violation of chapters that do not contain similar affirmative authorizations.

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. 3412 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 Chun Oakland, McMurdo and Thielen.

SCRep. 560-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3416

The purpose of this bill is to allow the Regulated Industries Complaints Office (RICO) to continue to more effectively react to ongoing unlicensed activities by allowing RICO to continue to issue administrative citations where there is unlicensed activity in professions regulated by the Department of Commerce and Consumer Affairs by repealing the June 30, 1996, repeal date.

The Department of Commerce and Consumer Affairs submitted testimony in strong support of this measure.

If this provision is allowed to sunset, cases involving unlicensed activity will necessarily be processed through RICO's regular case handling which is a lengthier, more cumbersome process. This process is less effective in dealing with those that actively and blatantly violate the licensing law's most basic requirement, that is obtaining a license.

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. 3416 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 Chun Oakland, McMurdo and Thielen.

SCRep. 561-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3407

The purpose of this bill is to provide a uniform penalty against the perpetrators of certain unfair or deceptive trade practices in commerce.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs.

This bill is a housekeeping measure which deletes certain statutory provisions and eliminates flaws in the penalty provisions of six consumer protection statutes. These penalty provisions, when compared to other applicable penalty provisions, are duplicative, unnecessarily compounding, and contain unnecessary criminal sanctions. This bill also makes any attempt to violate any provision of the chapter relating to fair credit extension subject to civil penalty.

Upon the implementation of this bill, the penalty provisions for these statutes will clearly and uniformly be applied under section 480-2, Hawaii Revised Statutes, which makes unfair or deceptive trade practices in commerce an unlawful act. A violation of section 480-2 is subject to a civil penalty under section 480-3.1, and results in a fine of not less than \$500 nor more than \$10,000 for each violation. The resulting actions against the violators will be brought by the Attorney General, or the director of the Office of Consumer Protection, on behalf of the State. Passage of this bill will assist the State in bringing actions in a uniform, predictable, and fair manner.

Your Committees have amended this bill by making technical, nonsubstantive changes 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. 3407, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3407, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, McMurdo and Thielen.

SCRep. 562-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3409

The purpose of this bill is to implement changes to Chapter 487, Hawaii Revised Statutes, relating to the powers, authority, and procedures of the Office of Consumer Protection (OCP).

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs.

The four salient provisions of this bill are described below.

First, presently, the OCP may contract with specific types of non-profit organizations for the performance of its functions. This bill will permit the OCP to contract with any non-profit organization. An example of the benefits of this expansion of contracting ability is that the OCP may then contract out certain duties in implementing the Landlord-Tenant program.

Second, the OCP is currently hindered in its ability to implement undercover investigations. Its attorneys risk violations of the Hawaii Rules of Professional Conduct if the attorneys' investigators solicit or receive information that would not otherwise be forthcoming if undercover techniques were not used. The basis of this opinion is that an attorney cannot have someone else, acting on the attorney's behalf, take an action which would be a violation of the Rules of Professional Conduct, under which an attorney must abide.

This bill will provide the statutory authority for the OCP attorneys to initiate undercover operations, and hence, further enable them to protect the citizens of the State.

Third, there exists an inconsistency among various financial institutions for the amount charged to the OCP for labor and photocopy expenses pursuant to OCP investigations. This bill will require all financial institutions to charge the OCP for labor and photocopy expenses at the identical uniform rate charged to the Attorney General (AG)'s office. There is no valid reason for the OCP, as a state enforcement agency, to pay more than the AG's office.

Fourth, this bill will repeal the Consumer Advisory Council. The council has been inactive for a number of years, and considering that OCP accepts suggestions from any persons, it appears that the council is no longer needed.

Your Committees have amended this bill by making technical, nonsubstantive changes 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. 3409, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3409, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Cachola, Chun Oakland, McMurdo and Thielen.

SCRep. 563-96 Finance on H.B. No. 3095

The purpose of this bill is to appropriate funds for various correctional facilities including:

- (1) The planning, design, and construction of a medium and high security correctional facility;
- (2) Providing a tent-like prison facility for minimum security inmates;
- (3) Refurbishing of the former Women's Community Correctional Facility;
- (4) Expansion of the Hawaii Youth Correctional Facility;
- (5) The planning and construction of a "boot-camp" facility for minimum security inmates; and
- (6) Construction of a 1,000-bed prison facility in the County of Hawaii.

Supporting testimony was presented by: the Department of Public Safety; the Department of the Prosecuting Attorney and Building Department of the City and County of Honolulu; the Maui County Council; the International Brotherhood of Electrical Workers, Local Union 1186; the Electrical Contractors Association of Hawaii; the Waikiki Improvement Association; the Hawaii Nurses' Association; the Community Coalition for Neighborhood Safety; Government Efficiency Teams, Inc.; the Downtown Neighborhood Board No. 13; the Kaneohe Neighborhood Board No. 30; the Hawaii Kai Neighborhood Board No. 1; and several individuals.

Your Committee has amended this bill by 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. 3095, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3095, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 564-96 Finance on H.B. No. 3508

The purpose of this bill is to provide emergency funding for child and adolescent mental health programs.

Your Committee has received a message from the Governor, dated February 6, 1996:

- (1) Stating that additional funding is needed for the Child and Adolescent Mental Health Division; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure continuation of provision of child adolescent mental health programs.

The Department of Health, the Hawaii Medical Association, and the Mental Health Association in Hawai'i testified in support of this measure.

Your Committee has amended this bill by:

- (1) Dividing the appropriation into eight areas reflecting the specific needs of the Department of Health; and
- (2) Requiring the Department of Health to report back to the Legislature on the specific uses of the moneys appropriated.

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. 3508, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3508, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 565-96 Finance on H.B. No. 3561

The purpose of this bill is to expedite the collection of tax revenues by authorizing the Director of Taxation (Director) to release tax liens on property in exchange for adequate consideration or security given by a person other than the debtor.

The Department of Taxation testified in favor of this measure. The Tax Foundation of Hawaii offered comments.

Your Committee has amended this bill by:

- (1) Authorizing the Director to assign rather than release a lien;
- (2) Deleting language that:
 - (a) Gives the person who pays for the release of the lien the right to acquire a lien against the debtor; and
 - (b) Specifies the contents of the certified notice recorded in the Bureau of Conveyances; and
- (3) Making technical, nonsubstantive amendments for the purpose of 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. 3561, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3561, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 566-96 Finance on H.B. No. 3574

The purpose of this bill is to allow the Department of Taxation to enforce payments of taxes by establishing:

- (1) A penalty of \$15 for those electronic fund transfer payments that are dishonored; and
- (2) A five percent penalty for those who have elected or were required to pay their taxes by electronic funds transfer and who refuse to pay their taxes using an approved method.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii also submitted testimony.

Your Committee has amended the bill by:

- (1) Changing the amount of the penalty from five to two percent for refusing to pay taxes using an approved method; and
- (2) Requiring the Department of Taxation to submit an annual report to the Legislature regarding the:
 - (a) Number of taxpayers who have been assessed the two percent penalty;
 - (b) Amounts of each assessment; and
 - (c) Total amount of assessments collected.

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. 3574, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3574, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 567-96 Higher Education and the Arts on H.B. No. 1741

The purpose of this bill is to protect the integrity and historical value of aerospace artifacts in Hawaii by giving the Pacific Aerospace Museum stewardship over State-owned aviation artifacts located on State land and in State water.

The Pacific Aerospace Museum, the Hawaiian Historical Aviation Foundation, Inc., and several concerned individuals submitted testimony in support of this measure. The Department of Land and Natural Resources submitted testimony in support of this measure, with some amendments.

Hawaii has the third highest number of abandoned aviation crash sites in the United States, and in recent years a number of valuable artifacts owned by the State have not been recognized by State agencies. Many of these artifacts possessed potential historical and cultural value for the citizens of Hawaii. Your Committee heard testimony of the destruction of historic aviation artifacts, such as the oldest privately-owned seaplane in the islands, a Republic Seabee. Preserving these and other irreplaceable aviation items for future generations will constitute a valuable part of Hawaii's history.

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

- (1) Changing all references from "aerospace" to "aviation" to avoid problems with the bill title;
- (2) Clarifying that it will be unlawful for any person to remove aviation artifacts deriving from State lands or agencies from the jurisdiction of the State without obtaining a permit; 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 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. 1741, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1741, H.D. 2.

Signed by all members of the Committee except Representatives Morihara, Santiago, Stegmaier, Tarnas and Yonamine.

SCRep. 568-96 Finance on H.B. No. 2594

The purpose of this bill is to establish a temporary Hurricane Building Standards Commission to propose statewide building standards to mitigate building and structure damage caused by hurricanes and windstorms.

Testimony in support of this measure was received from the Insurance Division of the Department of Commerce and Consumer Affairs, the Hawaii Hurricane Relief Fund, and State Farm Insurance Companies.

Your Committee has made 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. 2594, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2594, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 569-96 Finance on H.B. No. 3138

The purpose of this bill is to provide public school students with the opportunity to engage in school-run business ventures by:

- (1) Establishing the School Entrepreneurship Special Fund (Fund);
- (2) Requiring the Director of Finance to establish separate accounts within the Fund to facilitate the management of each school's moneys; and
- (3) Requiring the Department of Education to establish a school-run business venture in the Central school district to grow shiitake mushrooms.

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

Your Committee made 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. 3138, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3138, H.D. 1.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 570-96 Finance on H.B. No. 3154

The purpose of this bill is to place the maintenance of the Public Access Room within the Legislative Reference Bureau.

The League of Women Voters, Common Cause Hawaii, and the Kokua Council testified in favor of this measure.

Your Committee has amended this bill by changing the appropriation amount to \$1 for the purpose of continued discussion.

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. 3154, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3154, H.D. 2.

Signed by all members of the Committee except Representatives Isbell and Suzuki.

SCRep. 571-96 Finance on H.B. No. 3208

The purpose of this bill is to establish a one-year Blue Ribbon Task Force on Small Business (Task Force) to review:

- (1) All existing administrative rules relating to small businesses;
- (2) All proposed rules and amendments that affect small businesses prior to their adoption; and

- (3) All state and county laws that act as barriers to the formation, operation, and expansion of small businesses in the State.

The National Federation of Independent Business, and the Small Business Council testified in favor of this measure. The Department of Business, Economic Development, and Tourism submitted comments in support of the intent of this bill.

Your Committee has amended this bill by:

- (1) Clarifying that the Task Force is to review all state-originated proposed rules and amendments that affect small businesses prior to their adoption; and
- (2) Specifying that the Task Force include members appointed by the Governor from a list to be submitted by the Hawaii Congress on Small Business.

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. 3208, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3208, H.D. 2.

Signed by all members of the Committee.

SCRep. 572-96 Finance on H.B. No. 3344

The purpose of this bill is to appropriate funds to satisfy certain claims against the State for overpayment of taxes, refunds, reimbursements, payments of judgments or settlements, or other liabilities.

The State Attorney General testified in favor of this measure.

Your Committee has amended this bill by adding three additional claims that were recently settled.

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. 3344, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3344, H.D. 2.

Signed by all members of the Committee.

SCRep. 573-96 Finance on H.B. No. 3361

The purpose of this bill is to provide emergency funding for the Hawaii Film Facility.

Your Committee has received a message from the Governor dated January 25, 1996:

- (1) Stating that additional funding is needed for the increase in expenditure level in fiscal year 1996 for the Hawaii Film Facility; and
- (2) Requesting the immediate passage of this bill to assure the continued operation of the Hawaii Film Facility.

The Department of Business, Economic Development, and Tourism testified in favor of this measure.

Your Committee has made 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. 3361, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3361, H.D. 2.

Signed by all members of the Committee.

SCRep. 574-96 Finance on H.B. No. 3425

The purpose of this bill is to provide emergency funding to ensure that the Insurance Commissioner can properly and adequately administer the workers' compensation insurance program.

Your Committee has received a message from the Governor, dated February 7, 1996:

- (1) Stating that additional funding is needed to ensure that the workers' compensation insurance program has the administrative support it needs; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure that the State will be able to meet its fiscal obligations for the workers' compensation program for the remainder of fiscal year 1995-1996.

The Insurance Commissioner testified in support of this measure.

Your Committee has made technical, nonsubstantive changes 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. 3425, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3425, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 575-96 Finance on No. 3442

The purpose of this bill is to recognize a public and private partnership to cooperate and implement the Hawaii Early Childhood Education and Care Master Plan.

The Department of Health, the Office of Children and Youth, the Office of the Mayor of the County of Kauai, the Hawaii Medical Association, the Hawaii Business Roundtable, the Hawaii Community Foundation, the Hawaii Association for the Education of Young Children, People Attentive to Children, and a concerned individual submitted testimony in support of this measure. The Department of Human Services and the Department of Education submitted testimony in support of the intent of this measure.

Technical, nonsubstantive amendments were made to this bill 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. 3442, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3442, H.D. 1.

Signed by all members of the Committee except Representative Chang.

SCRep. 576-96 Finance to H.B. No. 3715

The purpose of this bill is to fund the Office of the Legislative Analyst created by Act 347, Session Laws of Hawaii 1990.

Common Cause Hawaii testified in favor of this measure.

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. 3715, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3715, H.D. 1.

Signed by all members of the Committee except Representatives Isbell and Suzuki.

SOCOM 577-96 Judiciary on H.B. No. 854

The purpose of this bill is to protect employers from civil liability for good faith disclosures of information relating to former employees' job performance. The presumption of good faith is rebutted when the information disclosed was knowingly false or deliberately misleading or made with malicious purpose.

Your Committee received testimony in support of this bill from representatives of the Department of Human Resources Development, the Department of Public Safety, the Hawaii State Personnel Council, the Retail Merchants of Hawaii, the Hawaii Hotel Association, the National Federation of Independent Business, Liberty House, the Hawaii Bankers Association, the Small Business Council, Pacific Guardian Life Insurance, the Chamber of Commerce of Hawaii, and Territorial Savings. A representative of the Consumer Lawyers of Hawaii submitted testimony in opposition to this bill.

Your Committee finds that employers are cautious about giving job references, favorable or not, for fear of civil liability. Employees are hurt by not being able to obtain references that employers can rely on since the employers believe that no other employer will reveal any negative information for fear of civil suit. Employees have difficulty getting references at all.

Your Committee has amended this bill to limit the employer's immunity to information relating to an employee's essential job functions rather than to job performance. The term "essential job functions" is narrower in scope and has a basis in federal and state law. Essential job functions are those which are critical to the job position as opposed to those which are marginal.

Your Committee has also amended the bill by allowing the presumption to be rebutted by a showing that the information was 1) knowingly false, 2) deliberately misleading, or 3) false and rendered with malicious purpose. Also, technical, nonsubstantive amendments were made for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 854, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 854, H.D. 1.

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

SCRep. 578-96 Judiciary on H.B. No. 3460

The purpose of this bill is to allow the release of identifying information relating to foster parents and relative caregivers to a foster parent association, agency, or government entity without the consent of the foster parents or relative caregivers.

Your Committee received testimony in support of this bill from representatives of the Department of Human Services (DHS), North Kohala Foster Parents Association, Hawaii State Foster Parents Association, and several private citizens.

While your Committee feels that this bill will help foster parents and relative caregivers increase the flow of information and gather support more readily, your Committee would also like to provide a mechanism for those who wish this information to remain confidential to prevent the release of identifying information.

Therefore, your Committee has amended this bill by providing that a foster parent or relative caregiver who does not want this information released may submit a signed statement declaring their wishes. DHS would then not disclose this information to anyone unless specific consent is obtained in any given situation. For those who are foster parents or relative caregivers prior to the passage of this bill, December 31, 1996 is the deadline to submit the statement. For those becoming foster parents or relative caregivers after the passage of this bill, the statement is to accompany the application to become a foster parent or relative caregiver.

As affirmed by the record of votes of 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. 3460, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3460, H.D. 1.

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

SCRep. 579-96 Consumer Protection and Commerce on H.B. No. 2564

The purpose of this bill is to afford the counties greater latitude in issuing general liquor licenses to tour or cruise vessel owners by enabling county liquor commissions, by the adoption of rules, to issue liquor licenses that allow the serving, sale, and consumption of liquor in state boat harbors or boat launching facilities.

Testimony in support of the intent of the measure was received from the Department of Business, Economic Development, and Tourism. The Department of Land and Natural Resources and Paradise Cruise, Ltd., submitted comments on the bill.

According to the Department of Business, Economic Development, and Tourism, the tour and cruise vessels' business generates total direct revenues of \$235,000,000 in Hawaii's economy, and employs approximately 3,200 persons annually. This industry diversifies the State's tourism base and strengthens the appeal of Hawaii as a visitor destination. This bill could help increase Hawaii's competitive position in this market.

After carefully considering the merits of the measure and the testimonies received, your Committee has amended the bill by:

- (1) Clarifying that liquor licenses may allow the serving, sale, and consumption of liquor in state boat harbors while on board the tour or cruise vessel;
- (2) Deleting boat launching facilities as areas where the serving, sale, and consumption of liquor may occur; and
- (3) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2564, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2564, H.D. 2.

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

SCRep. 580-96 Finance on H.B. No. 2355

The purpose of this bill is to require the Hawaii Hurricane Relief Fund to establish:

- (1) A waiting period for new applications and applications for increased coverage; and
- (2) Procedures for the withdrawal by the applicant of new applications and applications for increased coverage during the waiting period.

A concerned individual 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. 2355, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 581-96 Finance on H.B. No. 2599

The purpose of this bill is to coordinate the purchases of prevention, treatment, counseling, and other services and programs for youth at risk by requiring the Office of Youth Services to work cooperatively with the Department of Health and the Judiciary.

The Office of Youth Services and a concerned individual testified in support of this measure. The Department of Health and the Judiciary also commented 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. 2599 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 582-96 Finance on H.B. No. 3348

The purpose of this bill is to provide emergency funds for the operating expenses of the Medicaid Investigations Division of the Department of the Attorney General (Department).

Your Committee has received a message from the Governor dated February 7, 1996:

- (1) Stating that additional funding is needed to avoid a \$77,926 deficit in the current fiscal year; and
- (2) Requesting the immediate passage of this bill for the Department to meet its fiscal obligations for the remainder of the 1995-1996 fiscal year.

The Department 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. 3348 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 583-96 Finance on H.B. No. 3454

The purpose of this bill is to provide emergency funding for child foster care payments under the Family and Adult Services Division of the Department of Human Services.

Your Committee has received a message from the Governor, dated January 26, 1996:

- (1) Stating that additional funding is needed for child foster care; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure continuation of funding for child foster care payments.

The Department of Human Services 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. 3454 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 584-96 Finance on H.B. No. 3461

The purpose of this bill is to provide emergency funding for health care programs of the Department of Human Services (DHS).

Your Committee has received a message from the Governor dated January 26, 1996:

- (1) Stating that additional funding is needed for DHS to provide financial and medical assistance to needy individuals and families; and
- (2) Requesting the immediate passage of this bill to ensure that DHS can continue to meet its fiscal obligations of providing health services for the Medicaid and Hawaii QUEST Programs.

The DHS testified in favor 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. 3461 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 585-96 Judiciary on H.B. No. 1531

The purpose of this bill is to require the counties and the Hawaii Housing Authority to notify the Chief of Police of a derelict vehicle prior to its removal only if the vehicle is reported stolen or is needed for police investigation.

Your Committee received testimony in support of this bill from representatives of the Honolulu Police Department and the City and County of Honolulu Department of Finance.

Upon careful consideration, your Committee has passed the bill unamended.

As affirmed by the record of votes of 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. 1531 and recommends that it pass Third Reading.

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

SCRep. 586-96 Judiciary on H.B. No. 2384

The purpose of this bill is to facilitate the issuance of temporary instruction permits by:

- (1) Repealing the requirement that applicants for driver's instruction permits be tested within ten days of the filing of the application;
- (2) Extending temporary instruction permits from ninety to one hundred eighty days;
- (3) Prohibiting the renewal of temporary instruction permits by permittees for the operation of motorcycles or motor scooters unless the permittee has taken the examination for a motorcycle or motor scooter license at least once prior to the expiration of the temporary instruction permit; and
- (4) Prohibiting the holder of a temporary instruction permit for the operation of motorcycles or motor scooters from applying for another temporary instruction permit for a period of two weeks after each failure to meet the requirements of section 286-110, Hawaii Revised Statutes.

Testimony in support of the measure was received by the Department of Transportation.

As affirmed by the record of votes of 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. 2384, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 587-96 Judiciary on H.B. No. 2957

The purpose of this bill is to add phlebotomists to the list of those persons qualified to withdraw blood for the purpose of determining the alcoholic content therein.

Your Committee received testimony in support of this bill from Mothers Against Drunk Driving, the Healthcare Association of Hawaii, and the Honolulu Police Department.

Your Committee finds that phlebotomists are often the most experienced and capable persons at medical facilities to withdraw blood. Phlebotomists are also more readily available to both withdraw blood and to appear as a witness in court than doctors, registered nurses, and clinical laboratory personnel, thereby causing the least amount of disruption to the operation of a medical facility.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2957 and recommends that it pass Third Reading.

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

SCRep. 588-96 Judiciary on H.B. No. 3432

The purpose of this bill is to:

- (1) Allow the Department of Education (DOE) to revoke any teaching certificate after its issuance if the certificate holder no longer possesses the requisite qualifications and disclose pertinent information about the former certificate holder to national or state teacher certification agencies;
- (2) Allow the DOE to establish standards and certify educational officers; and
- (3) Clarify the continued civil service exempt status of certain certified school personnel of the DOE.

The Department of Education testified in support of this measure. The Hawaii Government Employees Association supported the purpose of the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3432, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 589-96 Consumer Protection and Commerce on H.B. No. 2850

The purpose of this bill is to exempt state and county firefighters who drive state or county fire trucks from commercial driver licensing requirements, provided that they are trained by the state or county government.

Testimony in support of the measure was received from the Department of Transportation, the Hawaii State Fire Fighters Association, and the Honolulu Fire Department. An individual also submitted comments on the bill.

Currently, federal firefighters who drive federal fire trucks and are trained by the federal government are exempt from state commercial driver licensing requirements.

Additionally:

- (1) Fire departments are not in "commerce or trade" and therefore, do not come within the definition of "commercial" as defined by federal motor carrier regulations; and
- (2) Exempting state and county firefighters from commercial driver licensing requirements will not result in the termination of alcohol and drug testing, driver improvement training, or driver physical standards. To the contrary, these public safety programs will remain intact.

Your Committee finds that this bill will not diminish public safety, but merely transfers to the State and the respective counties the responsibility of ensuring that firefighters continue to operate fire trucks safely.

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. 2850, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 590-96 Consumer Protection and Commerce on H.B. No. 3274

The purpose of this bill is to allow the respective county directors of finance to enter into contracts with motor vehicle rental companies for the registration of new motor vehicles.

Testimony in support of the measure was received from the Department of Finance of the City and County of Honolulu and CATRALA-Hawaii.

Currently, the county directors of finance are allowed to enter into contracts with new car dealerships for the registration of new motor vehicles. With the large number of motor vehicles that new car dealers register, new car dealers are able to register their motor vehicles in an efficient manner.

However, the law does not provide the same flexibility for motor vehicle rental companies. Under the current system, car rental company employees are limited in the number of motor vehicles that they may register at a given time. This is a time consuming and inefficient way to register large number of cars.

With adequate governmental safeguards and controls, this bill will benefit both car rental companies, who require faster issuance of motor vehicle registrations so that their vehicles will be available for rental purposes, and consumers seeking vehicles to rent.

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. 3274 and recommends that it pass Third Reading.

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

SCRep. 591-96 Consumer Protection and Commerce on H.B. No. 3415

The purpose of this bill is to repeal the requirement that a homeless facility or provider agency file a copy of its current House rules and regulations governing tenancy or participation with the Director of Commerce and Consumer Affairs before issuing a warning or request to leave for violating House rules or regulations.

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs (DCCA). The Hawaii Housing Authority submitted comments on the bill.

Testimony from DCCA stated that the current requirement that a homeless facility or provider agency file a copy of its current House rules and regulations governing tenancy or participation as a precondition to the issuance of a warning or request to leave is an unnecessary formality. DCCA has no power to approve or reject these rules and regulations. Further, there are no standards for this type of review and DCCA has no expertise that would make it appropriate to assign this matter to a substantive review function. Under these circumstances, this filing requirement is a technicality that hinders the efficient management of the facility.

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. 3415 and recommends that it pass Third Reading.

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

SCRep. 592-96 Consumer Protection and Commerce on H.B. No. 3419

The purpose of this bill is to enable individuals licensed to practice medicine and surgery in other states to qualify for licensure in Hawaii.

Testimony in support of the measure was received from the Board of Medical Examiners (Board) and the Hawaii Medical Association.

In the past, individuals wishing to be licensed to practice medicine and surgery in the State were required to pass the National Board of Medical Examiners (NBME) examination or the Federation Licensing Examination (FLEX). However, these examinations have been discontinued and replaced with the United States Medical Licensing Examination (USMLE).

In 1993, in anticipation of the discontinuation of NBME and FLEX, statutory amendments were made to provide for the:

- (1) Continuing licensure of those physicians who had previously taken NBME and FLEX; and
- (2) Licensure of those physicians who have taken the USMLE or acceptable combinations of the three national examinations.

Before the 1993 revisions, the law did not, and still does not, provide for the licensure of physicians who have not taken any of the national examinations. Physicians wishing to be licensed in Hawaii took the FLEX and eventually became eligible for licensure through this route. However, with the demise of FLEX, this is no longer an available option. Therefore, this group of physicians has no way to become licensed in Hawaii as the USMLE is not open to them.

In exploring options for this group of physicians, the Board has determined that the Special Purpose Examination (SPEX) is a practical alternative to the FLEX.

The SPEX was developed by the Federation of State Medical Boards, the same organization that developed the FLEX and USMLE, and may be offered for the examination of physicians who are some years beyond initial examination.

The Board testified that it is satisfied that the SPEX is an objective and standardized cognitive measure that assists licensing jurisdictions in their assessment of competence of physicians who are licensed in another jurisdiction and have never taken a national examination.

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. 3419, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 593-96 Consumer Protection and Commerce on H.B. No. 4035

The purpose of this bill is to replace the current packaging standard with language that conforms to the National Institute of Standards and Technology Handbook, 130 (1993 edition) to:

- (1) Better maximize the use of container space, thereby reducing shipping costs per unit; and
- (2) Allow the marketing of soil media products that are packaged in sizes that currently do not conform to administrative standards.

Testimony in support of this measure was received from the Department of Agriculture, the Hawaii Farm Bureau, and Brewer Environmental Industries, Inc.

Currently, administrative rules require soil media products to be sold in very specific units. These rules are now in the process of being reviewed because of a trend to eliminate specific sizes for certain consumer commodities.

By broadening the required unit measure, soil media products currently not available in the State will become available to Hawaii's 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. 4035, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 594-96 Finance on H.B. No. 2526

The purpose of this bill is to require the Department of Health (DOH) to establish and administer programs, and adopt rules for the prevention of domestic and sexual violence, and the protection and treatment of victims of domestic and sexual violence.

Testimony in support of this measure was received from the DOH, the Criminal Injuries Compensation Commission, the Hawaii State Commission on the Status of Women, and the Sex Abuse Treatment Center. The Judiciary and the Domestic Violence Clearinghouse and Legal Hotline 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. 2526 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 595-96 Finance on H.B. No. 2687

The purpose of this bill is to authorize the counties to issue special number plates to any organization or institution that meets the minimum standards and qualifications as established by rules.

The City and County of Honolulu submitted testimony in support 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. 2687 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 596-96 Finance on H.B. No. 3429

The purpose of this bill is to create more consistency between the gift certificate law and the abandoned property law by:

- (1) Establishing that a gift certificate or credit memo that is unused or unredeemed five years after the date of issuance is presumed to be abandoned;
- (2) Establishing that a gift certificate or credit memo that contains an expiration date of less than five years is deemed to be abandoned on its expiration date;
- (3) Requiring the issuer of a gift certificate or credit memo presumed to be abandoned to remit the amount presumed to be abandoned to the Department of Budget and Finance for disposition as unclaimed property;
- (4) Defining "gift certificate" and "certificate" to include any writing for which the certificate issuer has received payment for the face value of the certificate for future purchases or delivery of goods or services; and
- (5) Defining "certificate issuer" and "issuer" to mean a restaurant or a person engaged in the business of offering services or goods for sale at retail who sells gift certificates to customers.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs and the Retail Merchants of Hawaii. A representative from Liberty House submitted comments on 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. 3429, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 597-96 Finance on H.B. No. 3433

The purpose of this bill is to compensate substitute teachers on a uniform basis by reducing the number of substitute teacher pay classifications in the public school system from three to one.

The Department of Education 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. 3433 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 598-96 Finance on H.B. No. 3459

The purpose of this bill is to dissolve the Board of Human Services.

The Department of Human Services 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. 3459 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 599-96 Finance on H.B. No. 3476

The purpose of this bill is to authorize the establishment of a new mandatory deferred compensation retirement plan for state and county part-time, temporary, and seasonal or casual employees.

The Department of Budget and Finance and the Department of Human Resources Development testified in support of this measure.

Your Committee finds that this bill presents an opportunity for the State to save approximately \$3,000,000 each year because eligible employees would no longer be required to contribute to social security, and the State, as an employer, would no longer be required to match social security contributions. At the same time, this bill would provide a new employee benefit for these categories of employees at no additional cost to the State.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3476 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

SCRep. 600-96 Finance on H.B. No. 3498

The purpose of this bill is to ensure the recruitment of highly skilled and experienced individuals at the Hawaii State Hospital by allowing the Director of Health to appoint an administrator, three associate hospital administrators, a risk manager, a patients' rights advisor, and a facilities plant engineer, without regard to the standard civil service procedures.

The Department of Health and the Mental Health Association in Hawaii 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. 3498 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 601-96 Finance on H.B. No. 3516

The purpose of this bill is to allow voluntary withholding of federal and state income taxes from unemployment insurance benefit payments.

The Department of Labor and Industrial Relations testified in support of this measure. The Tax Foundation of Hawaii offered 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. 3516 and recommends that it pass Third Reading.

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

SCRep. 602-96 Finance on H.B. No. 3539

The purpose of this bill is to provide a mechanism for the Criminal Injuries Compensation Commission (Commission) to:

- (1) Recover overpayments made to crime victims; or
- (2) Waive the overpayments if the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience.

Additionally, if the Commission determines that repayment is in order, the Commission is authorized to either deduct the amount of the overpayment from any future compensation payable to the recipient or to institute a civil action for the recovery of the overpaid amount.

The Criminal Injuries Compensation Commission 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. 3539 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 603-96 Finance on H.B. No. 3833

The purpose of this bill is to authorize the University of Hawaii Board of Regents to:

- (1) Establish tuition fees at an open public meeting, without complying with the requirements of chapter 91, Hawaii Revised Statutes; provided that a public information meeting is held during or prior to the semester to which the fees apply; and
- (2) Approve changes in University of Hawaii fees and other nontax revenue charges.

The University of Hawaii testified in favor of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3833, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 604-96 Finance on H.B. No. 3852

The purpose of this bill is to facilitate the issuance of special purpose revenue bonds for ETV Hawaii/Elephant Television, Inc., in compliance with federal tax laws, by:

- (1) Increasing the authorized bond issuance amounts from \$6,000,000 to \$10,000,000; and
- (2) Extending the lapsing date for issuance of special purpose revenue bonds from June 30, 1998, to June 30, 2001.

Testimony in support of this measure was received from ETV Hawaii/Elephant Television, Inc.

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. 3852 and recommends that it pass Third Reading.

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

SCRep. 605-96 Finance on H.B. No. 3976

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist PowerLight Corporation to establish grid-connected or off-grid solar electric photovoltaic systems.

The Sierra Club, the PowerLight Corporation, and Ka Makani O Kohala Ohana 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. 3976, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 606-96 Finance on H.B. No. 4142

The purpose of this bill is to propose an amendment to the State Constitution to allow the use of revenue bonds to finance a state property insurance program providing hurricane insurance coverage.

Testimony in support of this bill was received from the Department of Commerce and Consumer Affairs and the Hawaii Hurricane Relief Fund.

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. 4142 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 607-96 Finance on H.B. No. 2514

The purpose of this bill is to assist students in making the transition from adolescence to adulthood by helping them plan for their future careers and lives by transferring the administration of the School-to-Work Transition Program from the Department of Labor and Industrial Relations (DLIR) to the Department of Education (DOE).

The DLIR, Hale Na'au Pono, the Filipino Community Council, Hawaiian Electric Company, Inc., the West Oahu Employment Corporation, and numerous teachers, counselors, and students testified in support of this measure. The DOE supported the intent of this measure.

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. 2514, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2514, H.D. 3.

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

SCRep. 608-96 Finance on H.B. No. 2549

The purpose of this bill is to ensure that the State Planning Council on Developmental Disabilities (Council) is an independent agency that is not subject to interference by any other agency.

Additionally, this bill requires the Council to:

- (1) Monitor, evaluate, and comment on plans for the deinstitutionalization of the Waimano Training School and Hospital; and
- (2) Submit to the Legislature and the Governor an annual analysis of any budget request that may affect individuals with developmental disabilities.

The Council testified in support of this measure. The Department of Health (DOH) and the Hawaii Government Employees Association submitted comments on this measure.

Your Committee has amended this bill by:

- (1) Deleting the requirements stating that:
 - (a) The DOH and other state offices shall not interfere with the activities of the Council; and
 - (b) The DOH shall receive, account for, and disburse funds in compliance with the Council's state plan and any other pertinent state and federal laws and provide other services of a designated state agency;
- (2) Deleting language stating that this bill is not intended to jeopardize the receipt of any federal aid or impair the obligation of the State to the holders of any bond issued by the State; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2549, H.D. 2.

Signed by all members of the Committee except Representative Chang.

SCRep. 609-96 Finance on H.B. No. 2644

The purpose of this bill is to retroactively revise the actuarial valuations made for the years ending June 30, 1994, to June 30, 2000, to be based on annual assumed salary increases of five percent.

The Department of Budget and Finance and the United Public Workers submitted testimony in support of this measure. The Employees Retirement System submitted comments on this measure.

Your Committee has amended this measure by reducing the salary increase assumption to four percent rather than five percent.

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. 2644, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2644, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 610-96 Finance on H.B. No. 2745

The purpose of this bill is to establish a volunteer enforcement unit to enforce violations of parking in stalls designated for the use of persons with disabilities.

Supporting testimony was received from a councilmember of the City and County of Honolulu, the Easter Seal Society of Hawaii, and a concerned citizen. The Honolulu Police Department submitted comments.

Your Committee has amended this bill by 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. 2745, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2745, H.D. 2.

Signed by all members of the Committee except Representative Chang.

SCRep. 611-96 Finance on H.B. No. 3167

The purpose of this bill is to extend workers' compensation benefits to volunteer police chaplains.

Testimony in support of this measure was received from the Department of Labor and Industrial Relations, the Honolulu Police Department, the Maui County Police Department, and a police chaplain from the Maui County Police Department.

Technical, nonsubstantive amendments were made to this bill 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. 3167, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3167, H.D. 1.

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

SCRep. 612-96 Finance on H.B. No. 3343

The purpose of this bill is to require that performance-based contracts be approved by the Chief Procurement Officer.

The State Procurement Office submitted testimony in support of this measure. The Chamber of Commerce of Hawaii submitted testimony in support of the intent of this measure.

Your Committee has amended this measure by:

- (1) Clarifying that performance-based contracts will be computed according to specific standards established in the contract subject to appropriation or legislative approvals; 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. 3343, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3343, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 613-96 Finance on H.B. No. 3345

The purpose of this bill is to transfer the Hawaii Education Council from the Department of the Attorney General to the Department of Education.

Testimony in support of this measure was received from the State Attorney General and the Department of Education.

Your Committee has amended this bill by making a technical, nonsubstantive amendment 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. 3345, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3345, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 614-96 Finance on H.B. No. 3421

The purpose of this bill is to ensure that the Cable Television Division (Division) of the Department of Commerce and Consumer Affairs (DCCA) has adequate staff to maintain the State's cable regulatory program.

Because cable communications technology continues to develop at a rapid pace, new services will require personnel with skills that may not be available within the civil service system. This bill addresses this need by authorizing the Director of Commerce and Consumer Affairs to appoint, without regard to chapters 76 and 77, Hawaii Revised Statutes, an administrator, engineers, financial analysts, technical staff, and one or more attorneys within the Division.

The DCCA and Oceanic Cablevision submitted testimony in favor of this measure.

Your Committee has amended this bill by deleting the section relating to the employment of attorneys.

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. 3421, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3421, H.D. 2.

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

SCRep. 615-96 Finance on H.B. No. 3423

The purpose of this bill is to allow the Director of Commerce and Consumer Affairs to establish a special or trust fund for administering fees and costs associated with the State Certified Arbitration Program.

The Department of Commerce and Consumer Affairs submitted testimony in support of this measure.

Your Committee has amended the bill to allow the Director of Commerce and Consumer Affairs to establish a trust fund only.

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. 3423, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3423, H.D. 1.

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

SCRep. 616-96 Finance on H.B. No. 3434

The purpose of this bill is to allow schools to charge fees for intersession programs by setting forth the distinction between "summer school" and year-round education "intersession" programs.

The Department of Education and the Hawaii State Teachers Association submitted testimony in support of this measure.

Your Committee has made 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. 3434, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3434, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 617-96 Finance on H.B. No. 3439

The purpose of this bill is to provide emergency funding for school electricity payments of the Department of Education (DOE).

Your Committee has received a message from the Governor dated February 5, 1996:

- (1) Stating that additional funding is needed to meet the fiscal obligations of the DOE for electrical services; and
- (2) Requesting the immediate passage of this bill to prevent the reduction or discontinuance of education services to students.

The DOE submitted testimony in support of this bill.

Your Committee has amended this bill by:

- (1) Reducing the appropriation from \$1,506,823 to \$1,284,156 for fiscal year 1995-1996 for school electricity payments; 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. 3439, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3439, H.D. 1.

Signed by all members of the Committee.

SCRep. 618-96 Finance on H.B. No. 3464

The purpose of this bill, as received by your Committee, is to improve the civil service system by allowing the Director of Human Resources Development to revise the classification plan.

The Department of Human Resources Development and the Department of Civil Service of the County of Hawaii supported this bill. The Hawaii Government Employees Association and the United Public Workers submitted comments.

Your Committee has amended this bill to:

- (1) Authorize the Director of Human Resources Development to revise the classification plan, beginning with those positions in the Departments of Health, Human Services, and Education; and
- (2) Require the Director of Human Resources Development to report to the Legislature before the 1997 regular session on the status of any revisions made.

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. 3464, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3464, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 619-96 Finance on H.B. No. 3466

The purpose of this bill is to improve the civil service system by allowing the Director of Human Resources Development to authorize a range of rates consisting of the first step and additional steps at which initial appointments may be made when classes have been combined to establish broader bands.

The Department of Human Resources Development and the Department of Civil Service of the County of Hawaii supported this measure. The Hawaii Government Employees Association and the United Public Workers commented on this bill.

Because of the far-reaching effects of such an undertaking, your Committee finds that it would be more prudent to begin any reform of the civil service system gradually. Accordingly, this bill has been amended to:

- (1) Allow the Director of Human Resources Development to authorize a range of rates consisting of the first step and additional steps at which initial appointments may be made for positions in the Departments of Health, Human Services, and Education, when classes have been combined to establish broader bands; and
- (2) Require the Director of Human Resources Development to report to the Legislature before the 1997 regular session on the status of any revisions made to rate ranges.

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. 3466, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3466, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 620-96 Finance on H.B. No. 3482

The purpose of this bill is to revise the State's "A Commitment to Excellence" program to:

- (1) Provide significantly higher monetary awards for suggestions that result in tangible benefits;
- (2) Provide that the decision to accept or reject an employee's suggestion is final; and
- (3) Designate who will be the arbiter if there is any dispute over the amounts to be awarded.

Testimony in support of this measure was received from the Department of Human Resources Development and the Department of Civil Service of the County of Hawaii. The United Public Workers offered comments on this measure.

Your Committee has amended the 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3482, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3482, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 621-96 Finance on H.B. No. 3503

The purpose of this bill is to establish an interdepartmental decategorization program for the development of pilot projects to demonstrate more effective ways of delivering mental health, educational, and protective services to multi-problem and multi-service children and adolescents.

Testimony in support of this bill was received from the Department of Health, the Department of Human Services, the Office of Youth Services, the Office of Children and Youth, the Mental Health Association in Hawaii, and a private citizen. The Department of Education and the Department of Human Resources of the City and County of Honolulu submitted testimony in support of the intent of the bill.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3503, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3503, H.D. 3.

Signed by all members of the Committee except Representatives Chang, Nekoba and M. Oshiro.

SCRep. 622-96 Finance on H.B. No. 3537

The purpose of this bill is to appropriate funds to compensate victims of crime, or their service providers, who were awarded compensation as authorized by the Criminal Injuries Compensation Commission.

The Criminal Injuries Compensation Commission, the Department of the Prosecuting Attorney for the City and County of Honolulu, and the Sex Abuse Treatment Center supported this measure.

Your Committee has amended this bill by:

- (1) Changing the appropriation from \$1 to \$1,244,780; 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. 3537, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3537, H.D. 2.

Signed by all members of the Committee.

SCRep. 623-96 Finance on H.B. No. 3549

The purpose of this bill is to provide emergency funding for the expansion of the therapeutic community drug treatment programs in the correctional facilities of the Department of Public Safety.

Your Committee has received a message from the Governor, dated February 1, 1996:

- (1) Stating that additional funding is needed for the expansion of drug treatment programs, such as the KASHBOX therapeutic community program at the Waiawa Correctional Facility; and
- (2) Requesting the immediate passage of this bill to ensure continued and effective substance abuse treatment for inmates.

The Department of Public Safety, the Corrections Population Management Commission, and a concerned individual testified in favor of this bill.

Your Committee has amended this bill by 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. 3549, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3549, H.D. 1.

Signed by all members of the Committee.

SCRep. 624-96 Finance on H.B. No. 3583

The purpose of this bill is to allow the University of Hawaii (UH) Board of Regents (Board) more flexibility in the assessment and waiver of tuition and other fees of the UH system, by:

- (1) Repealing the requirement that the UH waive the nonresident tuition and fee differential for East-West Center student grantees, U.S. military personnel, Hawaiians, students from any Pacific island or Asian district, and UH employees, their spouses, and dependents;
- (2) Authorizing the Board to waive entirely or reduce the tuition or any of the other fees for students, residents, and nonresidents, based on a percentage of the full-time enrollment of the previous fall semester; and
- (3) Requiring the Board to determine the percentage of allowable tuition and fee waivers for financial need and other UH priorities, in accordance with Board guidelines.

The UH submitted testimony in support of this measure.

Your Committee has amended this bill by deleting the provision that the waiver or reduction of tuition or any of the other fees for students, residents, and nonresidents be based upon a percentage of the full-time enrollment of the previous fall semester.

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. 3583, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3583, H.D. 2.

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

SCRep. 625-96 Finance on H.B. No. 3834

The purpose of this bill is to clarify that the State's responsibility for providing workers' compensation coverage to a student participating in a vocational student internship program only applies if the student is paid wages directly by the private employer.

The Department of Education (DOE), the Department of Labor and Industrial Relations, and the Hawaii School-to-Work Opportunities Executive Council testified in support of this measure. The University of Hawaii (UH) and Community College System offered comments.

Your Committee has amended this bill by:

- (1) Clarifying that the workers' compensation coverage applies only to students participating in a DOE- or UH-sponsored vocational student internship program; 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. 3834, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3834, H.D. 1.

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

SCRep. 626-96 Finance on H.B. No. 3962

The purpose of this bill is to exempt from unemployment insurance payroll taxes the service performed by student interns by excluding it from the definition of employment under the Hawaii Employment Security Law.

Testifying in support of the bill were the Department of Labor and Industrial Relations, Hawaii School-To-Work Opportunities System, and West Oahu Employment Corporation.

The Department of Education supported the intent of the bill.

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. 3962, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3962, H.D. 2.

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

SCRep. 627-96 Finance on H.B. No. 4032

The purpose of this bill is to provide increased security at the State Capitol by appropriating funds to:

- (1) Increase by eight, the number of deputy sheriff positions in the Department of Public Safety, thereby enabling six deputy sheriffs to be on duty exclusively at the State Capitol; and
- (2) Provide for equipment and other operating costs related to the eight positions, and for security devices and equipment for the State Capitol.

The Department of Public Safety, the Department of Accounting and General Services, and the Department of Taxation submitted testimony in support of this bill. Testimony in support of the intent of this bill was received from the Department of Labor and Industrial Relations.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4032, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4032, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 628-96 Finance on H.B. No. 2809

The purpose of this bill is to establish the Pearl City Cultural Center Revolving Fund (Fund) for the operation, repair, maintenance, and improvement of the Pearl City Cultural Center.

The Department of Accounting and General Services (DAGS) submitted testimony in support of the intent of the bill. Comments were submitted by the Department of Education (DOE).

Your Committee has amended this bill by:

- (1) Changing the expending agency of the Fund from DAGS to the DOE;
- (2) Requiring the Superintendent rather than the Comptroller to submit an annual report at the end of each fiscal year to the Governor and to the Legislature on the Fund; 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. 2809, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2809, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 629-96 Finance on H.B. No. 3101

The purpose of this bill is to make several modifications to the regulation of condominium property regimes.

Among other things, the bill specifically:

- (1) Requires biennial rather than annual registration for managing agents and associations of apartment owners; and
- (2) Clarifies various sections of the Condominium Property Regimes law.

The Real Estate Commission submitted testimony in strong support of 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. 3101, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3101, H.D. 2.

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

SCRep. 630-96 Finance on H.B. No. 3341

The purpose of this bill is to minimize salary overpayments by authorizing the Governor to convert the payroll payment basis for state employees from the current predicted payroll to after-the-fact payroll.

Testimony in support of this bill was received from the Department of Budget and Finance. The Department of Accounting and General Services, the Hawaii Government Employees Association, and the Hawaii State Teachers Association submitted comments on this bill.

Your Committee has amended this bill by:

- (1) Specifying that the change in the frequency of payments to state employees necessary to implement after-the-fact payroll system occur only once; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3341, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3341, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 631-96 Finance on H.B. No. 3362

The purpose of this bill is to restore the former boundaries of the State's twenty-eight districts for non-judicial purposes, by:

- (1) Reestablishing the pre-1989 boundaries of the districts;
- (2) Specifying altered boundaries for the Wahiawa, Waialua, and Koolauloa districts for judicial purposes; and
- (3) Specifying that the establishment of election districts is to be exclusively governed by Article IV of the Constitution of the State of Hawaii and chapter 25, Hawaii Revised Statutes, which both pertain to reapportionment.

Testimony in support of this bill was received from the Office of the Lieutenant Governor. The Department of Business, Economic Development, and Tourism submitted testimony in support of the intent of the bill.

Your Committee has amended this bill by:

- (1) Clarifying that the Waialua District includes the ahupuaas of Pupukea, Paumalu, and Kaunala, and that part of Waialea, southeast of Waialea Stream; 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. 3362, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3362, H.D. 2.

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

SCRep. 632-96 Finance on H.B. No. 3379

The purpose of this bill is to repeal the Minimum Pension Fund of the Employees' Retirement System and to consolidate the function of this fund with the Pension Accumulation Fund. The bill also repeals the Pension Bonus Fund.

The Employees' Retirement System submitted comments on the bill.

Your Committee has made technical, nonsubstantive amendments to the bill to correct a drafting error.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3379, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3379, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 633-96 Finance on H.B. No. 3469

The purpose of this bill is to authorize the Director of Human Resources Development to conduct demonstration projects to determine whether a specific change in human resource management procedures, methods, policies, or statutes would result in improved human resource management within the State.

The Department of Human Resources Development submitted testimony in support of this measure. Comments were submitted by the United Public Workers.

Your Committee has amended this bill by:

- (1) Specifying that the annual report on any approved demonstration project is to be submitted no later than twenty days prior to the convening of each regular session; 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. 3469, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3469, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 634-96 Finance on H.B. No. 3518

The purpose of this bill is to exempt grants for employment, education, and training services of the Department of Labor and Industrial Relations (DLIR) from the procurement provisions under the Grants, Subsidies, and Purchases of Service law.

The DLIR submitted comments on this measure.

Your Committee has amended this bill by:

- (1) Authorizing DLIR to provide grants for employment, education, and training services;
- (2) Exempting grants and subsidies from the Grants, Subsidies, and Purchases of Service law;
- (3) Requiring that all other disbursements are to be in accordance with the Hawaii Public Procurement Code; and
- (4) Extending to December 31, 2000, the employment and training funds assessment of employers under section 383-129, Hawaii Revised 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. 3518, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3518, H.D. 2.

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

SCRep. 635-96 Finance on H.B. No. 3538

The purpose of this bill is to ensure fair access to compensation for victims of crime under the Criminal Injuries Compensation Act by:

- (1) Limiting an applicant who is dissatisfied with a determination by the administrator of Criminal Injuries Compensation Commission (Commission) to sixty days to appeal to the Commission for a hearing;
- (2) Specifying that attorney's fees to be paid out of a victim compensation award which is more than \$1,000 shall not exceed \$150;
- (3) Specifying that in the absence of an appeal, the Commission may reconsider a decision;
- (4) Changing notification of Commission action from service to mailing to the applicant's last known address; and
- (5) Expanding the person eligible for compensation from family members to any person who has incurred hospital, medical, funeral, or burial expenses and limiting such eligibility to instances where the victim has died.

The Department of the Prosecuting Attorney of the City and County of Honolulu and the Criminal Injuries Compensation Commission testified in support of this bill.

Your Committee has amended this bill by:

- (1) Specifying that the Commission may deny a claim if it finds that an applicant knowingly made a false statement or failed to disclose a material fact to obtain or increase compensation; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3538, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3538, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 636-96 Finance on H.B. No. 3579

The purpose of this bill is to establish a Transportation Improvement Revolving Fund to:

- (1) Fund transportation projects that are identified in or are consistent with the statewide transportation plan and satisfy all federal and state eligibility requirements; and
- (2) Receive reimbursements from developers who have been advanced public funds to fulfill the conditions of land use development relating to transportation.

The Department of Transportation, the City and County of Honolulu Planning Department, and the Leeward Oahu Transportation Management Association submitted testimony in support of this bill.

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. 3579, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3579, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 637-96 Finance on H.B. No. 3611

The purpose of this bill is to increase from eight to ten years, the number of years of credited service that a member of the Employees' Retirement System (ERS) with honorable active military service in the U.S. armed forces must have to be eligible for two years of membership service credit.

Testimony in support of this bill was received from the Department of Budget and Finance and the Conference of Personnel Directors. Comments were submitted by the ERS and the University of Hawaii Professional Assembly.

Your Committee has amended this bill by:

- (1) Providing that the increase to ten years of credited service for ERS members with honorable active military service is to apply only to those members who are hired after June 30, 1996;
- (2) Changing the effective date to June 30, 1996; 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. 3611, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3611, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 638-96 Finance on H.B. No. 3648

The purpose of this bill is to increase the Drivers Education Fund underwriters fee from \$1.50 to \$2.00 per year.

Additionally, this bill:

- (1) Requires that the fee be payable in full on a quarterly basis; and
- (2) Allocates the fees collected each fiscal year as follows:
 - (a) \$1.25 for the operation of the Drivers Education Program as may be required for individuals directed to attend a drivers education program by the Judiciary; and
 - (b) 75 cents for drivers education programs administered by the Department of Education.

The Judiciary submitted testimony in support of this bill. The Hawaii Government Employees Association, and the Hawaii Association of Safety Traffic Educators submitted testimony in support of the intent of this bill. Comments were received from the Department of Education.

Your Committee has amended this bill by:

- (1) Retaining the current fee allocation so that:

- (a) Fifty percent is allocated for the operation of the Drivers Education Program as may be required for individuals directed to attend a drivers education program by the Judiciary; and
- (b) Fifty percent is allocated for drivers education programs administered by the Department of Education;
- (2) Clarifying that the fee is due and payable on a quarterly basis; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3648, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3648, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 639-96 Finance on H.B. No. 3656

The purpose of this bill is to enable the Judiciary History Center (Center) to become a more self-supporting program.

This bill establishes a private charitable trust fund known as the Judiciary History Center Trust Fund to be administered by the Friends of the Judiciary History Center (Friends). All types of private and public contributions, including proceeds received from any concession or other for-profit enterprise, would be deposited into this Fund to carry out the educational purposes of the Center.

The Judiciary, the Executive Board of the Center, the Friends, and the Hawaii Bar Association testified in support of this measure.

Your Committee has amended this bill by:

- (1) Ensuring that any blind vendor operating a vending facility shall not be displaced or dislocated; and
- (2) 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. 3656, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3656, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 640-96 Finance on H.B. No. 3835

The purpose of this bill is to encourage greater employer participation in school-to-work activities by providing workers' compensation coverage for students in work-based learning situations who are not paid wages directly by private employers.

The Department of Education, the University of Hawaii, the Department of Labor and Industrial Relations, and the Hawaii School-to-Work Opportunities Executive Council testified in support of this measure. The Community College System commented on this measure.

Your Committee has amended this bill by:

- (1) Deleting the requirement that student interns and unremunerated student interns be full-time students;
- (2) Expanding the definition of "unremunerated student interns" to include those in unpaid student internship programs of the University of Hawaii; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3835, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3835, H.D. 1.

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

SCRep. 641-96 Finance on H.B. No. 3890

The purpose of this bill is to:

- (1) Authorize the Adjutant General to award scholarships to qualified National Guard personnel to attend the University of Hawaii; and
- (2) Appropriate \$1,000,000 to finance these scholarships.

The Department of Defense, the University of Hawaii, the Hawaii National Guard Association, the Hawaii National Guard Enlisted Association, and several concerned individuals testified in support of this measure. Two other concerned individuals offered comments.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continued discussion;
- (2) Making the bill take effect on July 1, 1996; and
- (3) Making technical, nonsubstantive amendments for the purpose 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. 3890, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3890, H.D. 2.

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

SCRep. 642-96 Consumer Protection and Commerce on H.B. No. 2394

The purpose of this bill is to protect the health of epileptic patients by prohibiting dispensers of drug products from substituting an equivalent drug for an anti-epileptic drug except upon the consent of the prescriber and patient.

Testimony in support of the measure was received from the Department of Health, the Epilepsy Foundation of Hawaii, the Hawaii Medical Association, and concerned individuals. The Drug Product Selection Board and Longs Drug Stores submitted comments on the bill.

Testimony indicated that due to the narrow therapeutic range, low water solubility, and differences in metabolism and absorption of anti-epileptic drugs, generic anti-epileptic drugs should be dispensed only with the consent of the prescriber. These differences may be significant and could result in adverse effects, including loss of seizure control and the development of toxic side effects. However, when the prescriber (usually a physician) is aware that an anti-epileptic drug is being substituted, the physician could then take precautionary measures to ensure the patient's health is protected.

Your Committee has amended the bill by 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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2394, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2394, H.D. 1.

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

SCRep. 643-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3177

The purpose of this bill is to prohibit discrimination against and provide equal opportunity for doctors of osteopathic medicine.

Testimony in support of the bill was received from the Hawaii Medical Association (HMA), Hawaii Federation of Physicians and Dentists (HFPD), University of Hawaii School of Medicine, individual members of the profession, and a concerned consumer. The Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA) and Board of Osteopathic Examiners (BOE) submitted comments on the measure.

Osteopathic physicians (DOs) and allopathic physicians (MDs) are the only two groups of medical professionals fully qualified for the unlimited practice of medicine in the United States, its territories, and Canada. Their educational and training requirements are virtually the same, as are their requirements for post-graduate specialization and board certification. DOs practice in all fields of medicine, including psychiatry, internal medicine, dermatology, pathology, obstetrics, cardiology, general surgery, and radiology. They provide the full range of health care treatment to all branches of the military and federal public health services. Locally, they serve on the faculty of the medical school, and are active members of the HFPD and HMA.

The only difference between the two professions is in their philosophical approach to medicine. Osteopathic medicine is based on the philosophies of prevention and the body's inherent ability to heal itself. Its focus is on the unity of all body parts, with the musculoskeletal system playing an essential role in overall well being.

Despite the fact that DOs are the equivalent of MDs in all respects except for their philosophical foundation, confusion and ignorance about the profession have created a misperception among the public and those in the health care industry that DOs are less knowledgeable and qualified than MDs. This has resulted in discrimination against DOs by insurance companies, health maintenance organizations, hospitals, and government agencies.

Discrimination against DOs would be expressly prohibited under section two of this bill by amending chapter 460, which establishes the rights and responsibilities of licensed DOs, to add a new section establishing general and specific prohibited acts that constitute discrimination against DOs. Some of these provisions appear to be patterned after existing civil rights laws which prohibit discrimination in employment practices. More specifically, the proposed provisions:

- (1) Prohibit discrimination against osteopathic physicians on the basis of race, color, creed, religion, sex, or national origin;

- (2) Prohibit the denial to osteopathic physicians of employment, staff privileges, benefits, and professional opportunities accorded to physicians licensed under chapter 453;
- (3) For purposes of determining qualifications for hospital staff membership or departmental clinical privileges, require hospitals to consider training received in an American Osteopathic Association-approved residency program and certification by an association member board to be equivalent to training in an Accreditation Council for Graduate Medical Education-approved residency program and certification by a national medical board, respectively; and
- (4) For purposes of awarding contracts for the provision of managed care or risk-based care, require that training in an American Osteopathic Association-approved residency program and certification by an association member board be considered the equivalent of training in an Accreditation Council for Graduate Medical Education-approved residency program and certification by a national medical board, respectively.

Additionally, the bill amends existing laws to expressly establish the rights of osteopathic doctors to:

- (1) Participate in the University of Hawaii medical residency program;
- (2) Apply facial tattoos;
- (3) Form liability indemnification cooperatives;
- (4) Modify drug prescriptions; and
- (5) Sit on the State Radiologic Technology Board.

The DCCA, with the concurrence of the BOE, recommended that section two of the bill be deleted based on its concerns about placing laws guaranteeing equal opportunity for DOs within a licensing scheme designed to protect consumers. The proposed new laws would require DCCA to investigate complaints and enforce the equal opportunity rights of DOs, tasks not within the department's area of expertise or jurisdiction. Therefore, your Committees have amended the bill by deleting section two, and 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. 3177, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 3177, H.D. 2.

Signed by all members of the Committees except Representatives Hamakawa, Tom and Meyer.

SCRep. 644-96 Finance on H.B. No. 2636

The purpose of this bill is to improve the State's ability to stop the illegal diversion of prescription drugs by establishing:

- (1) An electronic prescription accountability system (system) within the Department of Public Safety (Department) to monitor the prescribing and dispensing of controlled substances; and
- (2) The Controlled Substance Registration Revolving Fund to offset the cost of the system and the registration and control of controlled substances in the State, and to fund two full-time positions and other related expenses.

The Department and Longs Drug Stores submitted testimony in support of this measure.

Your Committee has amended this bill by 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. 2636, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2636, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 645-96 Finance on H.B. No. 3182

The purpose of this bill is to exempt concessions at county parks from the bidding requirements applicable to concessions on public property if the concessions are operated by nonprofit corporations for the purpose of supporting county aims and goals with respect to county parks.

The Friends of Waipahu Cultural Garden Park/Hawaii's Plantation Village and many concerned individuals submitted testimony in support of this measure. The City and County of Honolulu Department of Parks and Recreation offered comments.

Your Committee has 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. 3182, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3182, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 646-96 Finance on H.B. No. 3211

The purpose of this bill is to require the counties to enact an impact fee ordinance and adopt rules regarding the imposition and collection of the fees before assessing an impact fee on developments.

The Chamber of Commerce of Hawaii and the Construction Industry Legislative Organization submitted testimony in support of this measure.

Technical, nonsubstantive amendments were made to this bill 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. 3211, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3211, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 647-96 Finance on H.B. No. 3438

The purpose of this bill is to provide emergency appropriations from the School Facilities Special Fund (Fund) by raising the Fund expenditure ceiling to meet costs based on the expanded use of school facilities for community functions.

Your Committee has received a message from the Governor dated February 13, 1996:

- (1) Stating that additional funding approval is needed to meet the commitment of increased program funding related to the receipt of additional revenues; and
- (2) Requesting the immediate passage of this bill to facilitate the implementation of planned program activities for fiscal year 1996.

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

Your Committee has made technical, nonsubstantive amendments for 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. 3438, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3438, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 648-96 Finance on H.B. No. 3540

The purpose of this bill is to accelerate the availability of construction funds to enable the Department of Public Safety to place women inmates in a renovated Olomana Cottage by the end of 1996.

Your Committee has received a message from the Governor, dated February 1, 1996:

- (1) Requesting immediate passage of this bill to allow this capital improvement project to start earlier than originally expected; and
- (2) Stating that acceleration of the availability of construction funds will enable the State to satisfy its obligation under the Spear v. Cayetano consent decree.

The Department of Public Safety, the State Attorney General, and the American Civil Liberties Union testified in favor of this measure.

Your Committee has amended this bill by deleting its substance and inserting an authorization for the issuance of general obligation bonds totalling \$5,068,000 for fiscal year 1995-1996 to renovate the Olomana Cottage.

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. 3540, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3540, H.D. 1.

Signed by all members of the Committee.

SCRep. 649-96 Finance on H.B. No. 3542

The purpose of this bill is to permit moneys received by windfall or earned by inmates to be subject to garnishment, levy, or any like process of attachment for:

- (1) Restitution to victims;

- (2) Child support payments by order of the court;
- (3) Requests made by any inmate that results in extraordinary expenses for legal supplies or associated costs that the Department of Public Safety is legally obligated to grant; and
- (4) Replacement costs for any facility damage caused by inmates.

The Department of Public Safety submitted testimony in support of this measure.

Technical, nonsubstantive amendments were made to this bill 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. 3542, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3542, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 650-96 Finance on H.B. No. 3548

The purpose of this bill is to provide emergency funding to prevent the shutdown of activities at several correctional facilities.

Your Committee has received a message from the Governor dated February 1, 1996:

- (1) Stating that additional funding is needed to provide for the health and safety of the public, staff, and clients of the correctional facilities; and
- (2) Requesting the immediate passage of this bill to prevent the shutdown of activities at several correctional facilities.

The Department of Public Safety and the Corrections Population Management Commission testified in favor of this measure.

Your Committee has made technical, nonsubstantive amendments for 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. 3548, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3548, H.D. 1.

Signed by all members of the Committee.

SCRep. 651-96 Finance on H.B. No. 3562

The purpose of this bill is to clarify the state tax law relating to the collection of delinquent taxes.

Specifically, this bill:

- (1) Authorizes the Director of Taxation to contract with private auditors or private audit firms to examine or investigate persons subject to tax;
- (2) Clarifies the use of contingent and other fee arrangements; and
- (3) Expands the type of delinquent taxpayer that may be pursued out-of-state.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii offered comments.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3562, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3562, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 652-96 Finance on H.B. No. 3584

The purpose of this bill is to permit the deposit of other charges paid by students, in addition to regular credit tuition and tuition related course and fee charges, into the University of Hawaii Tuition and Fees Special Fund.

The University of Hawaii submitted testimony in favor of this bill.

Technical, nonsubstantive amendments were made to this bill 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. 3584, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3584, H.D. 1.

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

SCRep. 653-96 Finance on H.B. No. 3616

The purpose of this bill is to make permanent the State's pilot leave sharing program.

Testifying in support of the bill were the Conference of Personnel Directors, the Hawaii County Department of Civil Service, the University of Hawaii Professional Assembly, and the Hawaii State Teachers Association.

Your Committee has amended this bill by making technical revisions to facilitate the reenactment of Act 157, Session Laws of Hawaii 1993.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3616, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3616, H.D. 1.

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

SCRep. 654-96 Finance on H.B. No. 4100

The purpose of this bill is to ensure that the University of Hawaii Press (Press) can publish its scholarly and educational books and journals in a timely and cost effective manner.

Specifically, this bill exempts the operations of the Press from the procedural requirements of the Hawaii Public Procurement Code.

The University of Hawaii and a concerned individual testified in support of this measure. The State Procurement Office and the Hawaii Publishers Association offered comments.

Your Committee has made 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. 4100, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4100, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 655-96 Judiciary on H.B. No. 2584

The purpose of this bill, as received by your Committee, is to permit the Governor or the Director of Health, notwithstanding any law to the contrary, to convene a meeting of the Hawaii State Emergency Response Commission (Commission) at any time it is determined that such a meeting is necessary for the Commission to fulfill its mission relating to emergencies.

The bill requires that should such a meeting be called:

- (1) The Governor or the Director of Health state in writing the finding of necessity for the meeting as soon as practicable;
- (2) An emergency agenda and the written finding of necessity for the meeting are filed with the Office of the Lieutenant Governor and in the Commission's office as soon as practicable; and
- (3) Persons requesting notification are contacted by mail or telephone as soon as practicable.

The Department of Health testified in support of this measure.

Your Committee has amended the bill by substituting the Governor's designee for the Director of Health as being a person authorized to call an emergency meeting of the Commission and being responsible for stating in writing the finding of the necessity for the meeting. Technical, nonsubstantive amendments have also been 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. 2584, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2584, H.D. 2.

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

SCRep. 656-96 Finance on H.B. No. 2702

The purpose of this bill is to prohibit employers from deducting and withholding income taxes of more than eight percent of wages.

The Department of Taxation and the Tax Foundation of Hawaii commented on this measure.

Your Committee has amended this bill to:

- (1) Provide that deductions and withholdings from income taxes shall not exceed nine percent from July 1, 1996, to June 30, 1997, and shall not exceed eight percent after June 30, 1997; and
- (2) Change the effective date from December 31, 1996, to July 1, 1996.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2702, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2702, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 657-96 Finance on H.B. No. 3238

The purpose of this bill is to:

- (1) Require hearing and vision testing of children in certain grade levels;
- (2) Establish a Hearing and Vision Testing Special Fund (Fund) to receive, disburse, and account for funds to provide hearing and vision testing services for school children; and
- (3) Require that all moneys received by the Department of Health's Systematic Hearing and Vision Program shall be deposited in the Fund.

Testimony in support of this bill was received from the Hawaii State Teachers Association, the Hawaii Optometric Association, the Ohana Hearing Center, the Hawaii State Coordinating Council on Deafness, the Commission on Persons with Disabilities, the Hawaii Assistive Technology Training Services Project, the Kalihi-Palama Health Center, the Hawaii Academy of Audiology, the Hard of Hearing Coalition, the staff of Ewa Elementary School, Oahu Keikis, Hauoli Na Keiki Preschool, and several individuals.

The State Planning Council on Developmental Disabilities, the Hawaii Early Intervention Coordinating Council, and the Hawaii Speech-Language-Hearing Association testified in support of the intent of the bill.

Comments on this measure were submitted by the Department of Health, the Department of Education, and an individual.

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. 3238, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3238, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 658-96 Finance on H.B. No. 3558

The purpose of this bill is to simplify collection of certain delinquent taxes by establishing a one-time expedited tax settlement procedure to encourage payment.

The Department of Taxation testified in favor of the bill. The Tax Foundation of Hawaii submitted testimony.

Your Committee has amended this bill as follows:

- (1) Defined "performance-based contract" as a contract under which compensation to a vendor shall be computed according to performance standards established by the Department of Taxation;
- (2) Deleted the appropriation for a public campaign to maximize public awareness of the expedited tax procedure;
- (3) Allowed the Department of Taxation to enter into performance-based contracts to administer the expedited tax settlement procedure; and
- (4) 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. 3558, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3558, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 659-96 Finance on H.B. No. 3570

The purpose of this bill is to authorize the Director of Taxation to:

- (1) Permit persons engaged in network marketing, multi-level marketing, or other similar businesses to obtain a single general excise tax license; and
- (2) Act as a tax collection agent on behalf of direct sellers.

The Department of Taxation testified in favor of the bill. The Department of Commerce and Consumer Affairs, the Tax Foundation of Hawaii, the Chamber of Commerce of Hawaii, and the Direct Selling Association provided comments on this measure.

Your Committee has amended the bill to:

- (1) Require, at the discretion of the Director of Taxation, a tax collection agent to furnish a list of all direct sellers covered under the arrangement for the taxable year who have been provided by the tax collection agent information returns required under 26 U.S.C. Section 6041A;
- (2) Define "network marketing" and "multi-level marketing" as a marketing scheme in which consumer products are distributed and sold to or through direct sellers; and
- (3) Make 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. 3570, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3570, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 660-96 Finance on H.B. No. 3853

The purpose of this bill is to allow the Director of Finance to issue special purpose revenue bonds that are subject to federal income taxes.

Comments were submitted by ETV Hawaii/Elephant Television, Inc.

Your Committee has amended this bill by making technical, nonsubstantive amendments 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. 3853, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3853, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 661-96 Consumer Protection and Commerce on H.B. No. 2697

The purpose of this bill is to clarify the requirements for continuing education waivers for real estate licensees.

The Real Estate Commission (Commission) and the Hawaii Association of Realtors testified in support of the bill.

Currently, the law requires that real estate brokers and salespersons complete ten hours of continuing education or its equivalent as a condition for license renewal. The Commission can waive this requirement for licensees falling within one of four categories. As currently written, however, the requirements for the waivers are so broadly drawn that they could be met by numerous licensees whom the law did not intend to exempt from the continuing education requirement. Further, without greater specificity in the statutes, the Commission is hampered in its efforts to enforce a law intended to protect consumers. Therefore, your Committee supports amending the license renewal law as follows:

- (1) The first waiver category exempts a licensee who has been on "active" status in the state for twenty or more years. The intent of this requirement was supposedly to exempt individuals for whom real estate brokerage is a primary occupation, and who are, therefore, motivated to maintain their skills and education. However, as the law does not specify that the requisite twenty years run consecutively, it is possible for persons who have not been recently active or for whom real estate brokerage is a secondary activity, to fall within the exemption. Accordingly, section 467-11.5(a)(1), Hawaii Revised Statutes (HRS), is amended to clarify that the licensee shall have been on continuous active status for the three licensing bienniums preceding the renewal application.
- (2) The second category exempts from the continuing education requirement trustees of a private or charitable trust in Hawaii, involved in real estate. The presumed justification for this exemption is that a full-time trustee is involved in numerous, complicated real estate transactions, and held to a higher standard of care under state law. However, under the overly broad language of the statute, a licensee who has established a living trust consisting of a personal residence and whose full-time occupation is outside the real estate field could qualify for the exemption. Therefore, section 467-11.5(a)(2), HRS, is amended to require that the licensee have full-time employment as a trustee of a Hawaii charitable trust for the licensing biennium preceding the renewal application.
- (3) The third waiver category exempts attorneys and accountants actively licensed in the state who are involved in the real estate field presumably because these individuals are subject to higher standards of care by virtue of their professions. Section 467-11.5(a)(3), HRS, has been amended to require that these licensees be engaged in the full-time practice of their occupations for the licensing biennium preceding the application renewal.

- (4) The fourth waiver category exempts licensees who have been involved in real estate or with real estate laws in the context of state public or community service for a requisite number of years. While this provision provides an exemption for government officials, it could be used to exempt other licensees whose full-time occupations are outside of real estate, but who have any involvement with real estate transactions, however minor, including as a volunteer for a non-profit organization negotiating a lease. To tighten this exception to the continuing education requirement, section 467-11.5(a)(4), HRS, is amended to specify that the exemption applies only to licensee participants in Hawaii public service who have been involved in real estate or real estate law for the eight year period preceding the renewal application, excluding Commission members.

Technical, nonsubstantive amendments have been made to the bill 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. 2697, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2697, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tom.

SCRep. 662-96 Consumer Protection and Commerce on H.B. No. 3760

The purpose of this bill is to increase Hawaii's attractiveness as a captive insurance domicile by:

- (1) Expanding the definition of "affiliated company" to allow captive insurance companies to insure the risks of entities with whom the parent company transacts business; and
- (2) Specifying that all examination reports conducted by the Insurance Commissioner (Commissioner) of pure captive insurance companies are to be confidential, unless the Commissioner determines that the company is in an adverse financial condition.

Testimony in support of the measure was received from Marsh & McLennan; Hawaii Captive Insurance Management; Johnson & Higgins Services, Inc.; the Hawaii Captive Insurance Council; Alexander Insurance Managers Hawaii; Becher & Carlson; Bank of Hawaii; and 50th State Risk Management Services, Inc. The Department of Commerce and Consumer Affairs submitted comments and recommended an amendment on the bill.

According to the Hawaii Captive Insurance Council, Hawaii is currently the second largest captive insurance domicile in the United States and is gaining recognition as a captive insurance domicile on a worldwide basis. Since passage of the captive enabling legislation in 1987, Hawaii has attracted approximately fifty captive insurance companies whose parent corporations and member organizations are located in various sectors of the United States, including Hawaii. Companies that have chosen to domicile their captive insurance companies in Hawaii include Nissan, Marriott, Transamerica, Nestle, and Occidental Petroleum.

Your Committee finds that while Hawaii has been successful as a captive insurance domicile, the world of alternative risk transfer mechanisms, which includes captive insurance companies, is ever changing. To maintain our competitive edge and attractiveness as a captive insurance domicile, the State must be able to respond to the needs of a changing marketplace.

This bill would among other things:

- (1) Further enhance Hawaii's attractiveness as a captive insurance domicile; and
- (2) Bolster the State's image as a business center in the Pacific Rim.

After carefully considering the merits of the measure and the testimonies received, your Committee has amended the bill by specifying that the expansion of the definition of "affiliated company" be limited to pure 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. 3760, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3760, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki, Swain, Tom, White and Thielen.
(Representative Yamane voted no.)

SCRep. 663-96 Consumer Protection and Commerce on H.B. No. 3809

The purpose of this bill is to reduce the illegal sale of tobacco products to minors by improving the signage requirements for the sale of tobacco products in retail establishments.

Specifically, this bill does the following:

- (1) Decreases the height and capitalization requirements of the letters in the signs that state, "The sale of tobacco products to persons under eighteen is prohibited"; and
- (2) Requires that the signs also be posted at or near the point of sale where tobacco products are sold.

Testimony in support of the measure was received from the Department of Health, the Department of Finance of the City and County of Honolulu, the Retail Merchants of Hawaii, the American Cancer Society Hawaii Pacific Division, the Hawaii Medical Association, and the Coalition for a Drug-Free Hawaii.

Currently, the signs displaying the statement required by law, must be in capital letters that are one inch in height. Testimony indicated that this translates into signs measuring approximately ten inches by fourteen inches. This is often times too large to be posted in locations close to the point of sale.

Your Committee finds however, that by:

- (1) Reducing the height requirement of the letters to one-half inch; and
- (2) No longer requiring that all letters be capitalized;

the signs can more easily be posted at the point of sale, thereby, providing a needed deterrent to illegal sales of tobacco products to minors.

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 Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3809, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3809, 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 Meyer.

SCRep. 664-96 Consumer Protection and Commerce on H.B. No. 2444

The purpose of this bill is to remove the prohibition against financial services loan companies (FSLCs) charging prepayment penalties on variable rate and open-end consumer loans.

Testimony was received from the Hawaii Financial Services Association and the financial institutions division of the Department of Commerce and Consumer Affairs (DCCA).

Section 412:9-304(2)(B), Hawaii Revised Statutes (HRS), prohibits FSLCs from charging prepayment penalties on variable rate and open-end consumer loans. Banks, savings banks, and savings and loans are not similarly restricted under chapter 412, HRS. The prepayment penalty restriction prevents FSLCs from selling these loans on the secondary market since most investors require a prepayment penalty as a condition of sale in order to ensure a minimum net return on their investment.

Your Committee finds that qualifying consumer loans for sale on the secondary market would benefit Hawaii's consumers as the proceeds realized from these sales would make more funds available for home mortgages. However, your Committee shares the DCCA's concerns about permitting the imposition of prepayment penalties on open-end loans. Generally, borrowers are encouraged to repay the amounts due on an open-end loan before the loan's maturity date, and to reborrow on the account, similar to the practice of repaying and reborrowing on revolving credit card accounts. It would be inappropriate and irregular to penalize consumers for making payment in the customary manner, and would discourage the use of open-end loans.

Based on these considerations, your Committee has amended the bill to allow FLSCs to impose a prepayment penalty only on closed-end variable rate consumer loans sold on the secondary market. The amended bill further provides that the prepayment penalty shall be void if the loan is held or repurchased by the financial loan service company.

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. 2444, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2444, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 665-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2789

The purpose of this bill is to prevent unfair and deceptive acts or practices with respect to "going out of business" sales by:

- (1) Repealing the sunset clause of the Going Out of Business Sales Act (Act);
- (2) Requiring the Department of Commerce and Consumer Affairs (DCCA) to enforce the Act; and
- (3) Clarifying that the threshold that triggers the requirement to post a notice of a regulated sale is when the seller:
 - (A) Has an inventory of one hundred or more items, each costing \$100 or more; or
 - (B) Has placed advertising having a list or fair market value of \$10,000 or more.

Testimony in support of the measure was received from Legislative Information Services of Hawaii, Inc., and the owner of the Indich Collection. The DCCA submitted testimony supporting the bill with amendments. A concerned individual submitted comments on the bill.

The DCCA testified that the Office of Consumer Protection has utilized the Act to prevent merchants from advertising fictitious or endless liquidation promotions, and has found the law to be a useful enforcement tool.

Your Committees have amended the bill by eliminating the requirement that DCCA enforce the Act and by making technical, nonsubstantive revisions 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. 2789, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2789, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, Garcia, Hiraki, Tom, Kawanakoa, Meyer and Thielen.

SCRep. 666-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2446

The purpose of this bill is to permit time share associations to levy assessments which shall be a lien on the owner's time share interest and to collect unpaid assessments from a delinquent time share owner through a foreclosure by sale. This mechanism will enable the associations to foreclose and obtain title insurance in a manner that is cost efficient for the association and fair to the owner.

Time share associations currently may collect unpaid assessments by utilizing foreclosure by action (judicial foreclosure) against the interests of delinquent time share owners. These proceedings may be expensive in comparison to the value of a foreclosed interest. A less expensive proceeding is a foreclosure by power of sale (non-judicial foreclosure).

Currently, a time share plan document may permit enforcement of an unpaid assessment lien through foreclosure by power of sale. However, after the sale, a title insurance underwriter may be unwilling to insure the title to the time share interval because the power of sale has no statutory authority. The association is then burdened with a time share interest that is difficult to sell.

This bill first establishes that the assessments by time share associations are liens on the time share interests of delinquent owners. The bill then provides the associations with the authority to collect on unpaid assessment liens by utilizing foreclosure under power of sale. The statutory provision of foreclosure by sale will preclude the current problem of title insurance underwriters unwilling to insure titles to time share intervals, and thus enable the associations to utilize a cost effective foreclosure by sale.

Testimony in support of the measure was received from: the Time Share Administrator for Time Share Programs of the Department of Commerce and Consumer Affairs; Thomas M. Rosenberg; Mitchell A. Imanaka; The Imperial of Waikiki; The Kona Coast Resort Limited Partnership; Imperial Development Resorts; Hawaii Timeshare Owners Association; The Kona Coast Resort Owners Association; The American Resort Development Association; Community Associations Institute; Owners' Resorts and Exchange, Inc.; Resort Condominiums International, Inc.; and The Bay Club.

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. 2446 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 Case, Hiraki and McMurdo.

SCRep. 667-96 Judiciary on H.B. No. 2520

The purpose of this bill is to make it a crime to remove a child from his or her lawful custodian during the time period when custody of the child has yet to be determined unless there is good cause to do so. The bill also broadens the application of the law to include persons other than relatives.

Testimony in support of the measure was received by your Committee from representatives of the Department of the Attorney General, the Honolulu Police Department, the Hawaii Women's Political Caucus, the Domestic Violence Clearinghouse, and from members of the public.

Your Committee finds that it is often difficult to prosecute persons who take or conceal children from their lawful custodians when a court has not yet determined custody. Accordingly, your Committee believes that the offense of "Custodial Interference in the First Degree" should be amended to include situations where such custodial interference occurs.

Your Committee has amended this bill by:

- (1) Defining "good cause" to mean a good faith and reasonable belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from immediate bodily injury;
- (2) Establishing a separate criminal offense for the failure to report the concealment of a child; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2520, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2520, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Menor, Swain and Yoshinaga.

SCRep. 668-96 Judiciary on H.B. No. 2528

The purpose of this bill is to require the payment of interest on child support payments that are in arrears after the effective date of this Act.

Testimony in support of the measure was received from representatives of the Department of the Attorney General and the Hawaii State Commission on the Status of Women, as well as several private citizens.

Your Committee was concerned that the measure clearly specify when interest will start to accrue on court-ordered payments and that the measure did not violate federal regulations.

Accordingly, your Committee has amended this bill by:

- (1) Requiring a court order or quasi-judicial tribunal order as a basis for calculation of arrears;
- (2) Specifying that the arrears to be identified are child support payments;
- (3) Conforming the order of payments with federal law, 45 C.F.R. Section 302.51(a)(1), so that payments are first made to the current support obligation, then to arrears, and finally to interest; and
- (4) Making technical, nonsubstantive 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. 2528, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2528, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Menor, Swain and Yoshinaga.

SCRep. 669-96 Judiciary on H.B. No. 2864

The purpose of this bill is to allow the personal representative or parent of a deceased natural mother, deceased presumed father, or deceased alleged natural father of a child to be made a party to parentage actions.

Your Committee received testimony in support of the measure from representatives of the Department of the Attorney General and the Corporation Counsel of the County of Hawaii.

Your Committee finds that this measure clarifies and simplifies the law with respect to personal representatives who can be parties to parentage actions.

After careful consideration of the testimonies presented, your Committee has amended this bill by amending section 584-6(a)(4), Hawaii Revised Statutes, to allow the procedure for the appointment of a personal representative to apply to the entire chapter.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2864, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2864, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 670-96 Judiciary on H.B. No. 2869

The purpose of this bill is to permit the service of process by registered or certified mail, with request for a return receipt and direction to deliver to the addressee only, in actions under the Uniform Parentage Act when the parties live in different circuits within this State.

Your Committee received testimony from representatives of the Department of the Attorney General and the Office of the Corporation Counsel, County of Hawaii.

Your Committee finds that service by mail, with return receipt requested and delivery to the addressee only, of a petition under the Uniform Parentage Act is fair and reasonable when the respondent is not found in the circuit in which the action is filed.

Your Committee has amended this bill to permit service by mail to be made without a court order and to clarify that service may also be made by any other method allowed by statute or court rule.

As affirmed by the record of votes of 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. 2869, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2869, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 671-96 Judiciary on H.B. No. 3346

The purpose of this bill is to provide a procedure for dealing with invalid documents recorded in the Bureau of Conveyances or Land Court.

Your Committee received testimony in support of the measure from representatives of the Attorney General's Office and the Board of Land and Natural Resources.

Your Committee finds that the recordation of invalid instruments is a growing problem and that present procedures to expunge such instruments are costly and time-consuming.

Your Committee has amended this bill by specifically requiring the filing of an order with respect to the invalidity of an instrument and specifically permitting the filing of an order directing the registrar not to record documents submitted by a particular person.

As affirmed by the record of votes of 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. 3346, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3346, 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. 672-96 Judiciary on H.B. No. 3347

The purpose of this bill is to repeal the statutory interpretation provision that makes "and" and "or" completely interchangeable.

Your Committee received testimony in support of the repeal of this section of the statutes from a representative of the Attorney General's Office.

As affirmed by the record of votes of 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. 3347 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. 673-96 Judiciary on H.B. No. 3491

The purpose of this bill is to establish a uniform statewide parking system for persons with disabilities who are limited in their ability to walk.

Your Committee received testimony from representatives of the Commission on Persons with Disabilities, the Handicapped Advocacy Works of Kona, and members of the public.

Your Committee finds it appropriate that a person who parks a vehicle displaying a properly issued international symbol of access should not pay at metered spaces but that the person should pay the parking fees, if any, at all other parking spaces.

As affirmed by the record of votes of 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. 3491 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. 674-96 Judiciary on H.B. No. 3592

The purpose of this bill is to permit candidates for the Board of Education to skip the primary election if there are only two candidates running for a single seat.

Your Committee received testimony from representatives of the Lieutenant Governor's Office and the Department of Education.

It is the intent of your Committee to simplify election procedures and decrease election expenses by eliminating a redundant exercise.

As affirmed by the record of votes of 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. 3592 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.
(Representative Thielen voted no.)

SCRep. 675-96 Transportation on H.B. No. 2358

The purpose of this bill is to prohibit drivers, who transport pupils, from being exempt from the Department of Transportation's driver qualification rules, adopted pursuant to Section 286-181, Hawaii Revised Statutes.

Presently, the Department of Transportation (DOT) may grant exemptions for the use of other vehicles when it is impossible or impractical to provide a school vehicle.

Your Committee finds that operators of motor vehicles that are transporting pupils, regardless of whether it is a school vehicle or not, should not be exempt from obtaining the required driver qualifications.

The DOT provided testimony in support of the bill. The Department of Education provided testimony in support of the intent of the bill, but had concerns regarding excursions in the mainland states and foreign countries.

The bill has been amended to clarify that operators of motor vehicles that are designed to carry more than ten passengers will not be exempt from being driver qualified under the DOT rules.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2358, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2358, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Case.

SCRep. 676-96 Consumer Protection and Commerce on H.B. No. 2448

The purpose of this bill is to "grandfather" nondepository financial services loan companies ("FSLCs") which were licensed in the State on July 1, 1993, from having to be incorporated in the State.

Testimony in support of this bill was received from the Hawaii Financial Services Association.

Testimony in opposition to this bill was received from the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs.

Prior to the enactment of the Code of Financial Institutions ("Code"), HRS Chapter 412, effective July 1, 1993, the Division of Financial Institutions ("DFI") found it difficult to obtain reports and information from nondepository FSLCs in Hawaii which were not Hawaii corporations. To assist the DFI with this problem, Article 9 of the Code requires that all nondepository FSLCs, including those licensed on the effective date of the Code, be or form a separate Hawaii corporation. Upon the effective date of the Code, the FSLCs were permitted a three year grace period in which to incorporate. During this grace period the issue has arisen as to whether or not companies licensed before the effective date of the Code must become a Hawaii corporation.

DFI currently takes the position that if the reporting requirement can be resolved in a manner sufficient for DFI requirements, all FSLCs do not need to be incorporated within the State and the "grandfather" issue is moot.

Your Committee has amended this bill by utilizing amendments to the Code as submitted by DFI, which address their concerns of maintaining a reporting requirement, while concurrently not requiring the FSLCs to incorporate in Hawaii. These amendments require the non-Hawaii incorporated FSLCs to maintain in the State all books and records relevant to the business, for the purpose of an examination or as otherwise approved by the commissioner. Additionally, a financial penalty may be implemented in cases of non-compliance.

This bill will enable DFI to maintain a system of reporting requirements and thereby protect the interests of the citizens of the State, while in some cases alleviating the FSLCs of a mandatory incorporation requirement.

Your Committee has made additional 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. 2448, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2448, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 677-96 Consumer Protection and Commerce on H.B. No. 3086

The purpose of this bill is to enable motor vehicle rental companies to offer an additional fueling option to their customers.

Testimony in favor of the bill was received from the Hertz Corporation, Alamo Rent-A-Car, Inc., and the Car and Truck Rental and Leasing Association (CATRALA). Testimony in opposition to the bill, with suggested revisions if the bill is passed, was received from the Department of Commerce and Consumer Affairs (DCCA).

Currently, motor vehicle rental companies (lessors) provide, by statute, a single refueling option in which the lessee is to return the vehicle with the same amount of fuel as when having taken delivery of the vehicle. If the lessee returns the vehicle with less fuel, the lessee is charged the prevailing market price, plus a surcharge of up to one-half of the market price.

This bill permits the lessors to provide an additional fueling option. This option provides for the lessee to purchase a full tank of fuel at the time of taking delivery of the vehicle (pre-purchase the fuel) at the prevailing retail market price.

With this option, the lessee has the convenience of returning the vehicle with any amount of fuel remaining. The lessee does not need to refuel the vehicle before returning it to the lessor and will not be charged by the lessor for any additional refueling.

Additionally, if the vehicle is driven one hundred miles or less, the lessors may cancel the pre-purchase fuel option, and instead, charge the customer for refueling at the prevailing market price, plus a surcharge of up to one-half of the market price. Although the price of the fuel is higher than if the lessee had filled the tank himself or herself, the total will be less expensive than having pre-purchased an entire tank of fuel.

The pre-purchase fueling option is designed to be a convenience factor for those persons desiring to avoid having to refuel the vehicle themselves or incur the lessor's higher refueling fee. Generally, this option is utilized by persons renting a vehicle while on business, where a time schedule may preclude the opportunity to stop at a gas station before returning the vehicle. This option is widely offered by the major lessors on the mainland, and many business travellers are surprised that this option is not available in Hawaii.

This option is in addition to the current permissible fuel charges and your Committee believes there is merit in passage of this bill. However, your Committee is cognizant of objections by both the Governor and DCCA in a similar bill from the prior session of this Legislature. Therefore, your Committee has amended this bill as follows:

- (1) For the pre-purchase fuel option, if the lessee returns the vehicle with a full tank of fuel, the lessee will be credited for the pre-purchased fuel. In other words, the pre-purchase fuel option and its charges will have been cancelled.
- (2) For the pre-purchase fuel option, if the lessee drives less than 100 miles, and the lessee has not returned the vehicle with a full tank of fuel, the lessee's pre-purchase fuel charges shall be cancelled, and the lessee will instead be charged a refueling fee at the market price plus a surcharge of up to one-half of the market price. In other words, if the vehicle is not driven far, the lessee will have returned the vehicle with a significant amount of pre-purchased fuel remaining in the fuel tank. Therefore, the lessor will cancel the pre-purchase option and only charge for the fuel needed to refuel the vehicle. Although the fuel will be more expensive than if the lessee had fueled the vehicle himself or herself, the total cost will be less than that of a pre-purchased full tank of fuel.
- (3) The lessor may not pay a commission to its employees for selling any fuel charge options. This is in response to concerns by DCCA that different fueling options will result in commission incentives encouraging employees of the lessor to sell fueling options that are not in the best interest of the lessee.
- (4) Your Committee has made an additional amendment by correcting a discrepancy in the language of subsection (f).

Furthermore, your Committee has made additional technical, nonsubstantive changes for purposes of style, clarity, and consistency.

This bill, with your Committee's amendments, provides for both a viable new option in refueling charges and addresses significant concerns from the Governor and DCCA.

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. 3086, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3086, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 678-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2411

The purpose of this bill is to prohibit liquor licensees from not only selling, but also serving or allowing the consumption or possession of liquor to certain persons, including minors and persons under the influence of liquor.

Testimony in support of the measure was received from the Department of Finance of the City and County of Honolulu, Mothers Against Drunk Driving, and the Legislative Information Services of Hawaii, Inc.

Testimony indicated that in establishments that serve liquor, it is possible for patrons twenty-one years old or older to purchase liquor for, or share their drinks with, patrons under the legal drinking age.

Your Committees find that the provisions of this bill will help to prevent such illegal practices.

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

- (1) Expanding the defense already available to liquor licensees relating to sales of liquor to minors to also apply to the consumption or possession of liquor by minors; and
- (2) Making technical, nonsubstantive revisions 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. 2411,

as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2411, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, Garcia, Hiraki, Tom, Kawanakoa, Meyer and Thielen

SCRep. 679-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3109

The purpose of this bill is to prohibit manufacturers and dealers from possessing gold and silver jewelry without a registered trademark stamp, and to establish that non-trademarked jewelry is subject to seizure and forfeiture as contraband.

Testimony in support of the bill was received from the Department of Commerce and Consumer Affairs and the jewelers industry.

Section 482D-6 of the Gold and Silver Stamping Act requires that all gold and silver merchandise bearing a quality or fineness mark, e.g. "14k", "sterling", etc., that is sold or offered for sale, imported into, or exported from the state, be stamped with a trademark registered under the laws of the United States.

Jewelry bearing a trademark stamp can be traced to its manufacturer. The ability to identify an item's manufacturer facilitates enforcement of the act, and deters consumer fraud resulting from underkarating and other violations of fineness standards.

Currently, jewelry items with deceptive fineness markings are subject to seizure and forfeiture as contraband under section 482D-9. This bill expands the category of contraband items to include gold and silver jewelry lacking a trademark, with the exception of "antiques", which are defined as "any article of merchandise that is at least one hundred years old." Including non-trademarked jewelry in the forfeiture provision of the act strengthens the trademark requirements of section 482D-6, and permits the seizure of suspect jewelry without the necessity of proving fraud.

Your Committees have amended the bill to provide that section 482D-9 does not apply to second-hand jewelry, which is defined as "any jewelry offered for sale after the first sale to a consumer". The exception for second-hand jewelry exempts persons who deal in second-hand jewelry, including pawnbrokers, from the requirements of the section.

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. 3109, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3109, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hamakawa, Tom and Meyer.

SCRep. 680-96 Finance on H.B. No. 2539

The purpose of this bill is to authorize the Department of Budget and Finance to issue up to \$50,000,000 in special purpose revenue bonds to assist Encogen Hawaii, L.P. in establishing a cogeneration power plant and related facilities.

Encogen Hawaii, L.P. 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. 2539 and recommends that it pass Third Reading.

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

SCRep. 681-96 Finance on H.B. No. 2883

The purpose of this bill is to establish the Hawaii Ecotourism Task Force within the Department of Business, Economic Development, and Tourism, to develop a comprehensive policy for the development and promotion of ecotourism in Hawaii.

The Department of Business, Economic Development, and Tourism, the University of Hawaii at Manoa, the Hawaii Visitors Bureau, and the Chamber of Commerce of Hawaii, submitted testimony in support 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. 2883 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 682-96 Finance on H.B. No. 3203

The purpose of this bill is to appropriate funds for applied research projects of the Center for a Sustainable Future.

The Mauna Lani Resort, Inc., the Polynesian Voyaging Society, and several individuals testified in support of this measure. The University of Hawaii supported 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. 3203, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 683-96 Finance on H.B. No. 3293

The purpose of this bill is to direct the Department of Land and Natural Resources to perform a comprehensive review of the provisions of chapter 171, Hawaii Revised Statutes, to address the problems faced by lessees of state lands.

The Board of Land and Natural Resources, the Hawaii Farm Bureau Federation, the Big Island Farm Bureau, and Wilcox Memorial Hospital testified in support of the measure. The Board of Agriculture supported 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. 3293, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 684-96 Finance on H.B. No. 3307

The purpose of this bill is to establish the Dairy Industry Revolving Fund into which shall be deposited all moneys received from application and licensing fees under the Milk Control Act.

The Department of Animal Science of the College of Tropical Agriculture and Human Resources, Waimea Dairy, the Hawaii Fresh Milk Industry, and Meadow Gold Dairies, Inc. testified in support of the bill. The Department of Agriculture supported 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. 3307 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 685-96 Finance on H.B. No. 3332

The purpose of this bill is to give the Department of Agriculture (DOA) the flexibility to accept any junior mortgage, provided there is adequate equity and there are no prior liens that may jeopardize the security position of the DOA or the borrower's ability to repay.

The DOA 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. 3332 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 686-96 Finance on H.B. No. 3336

The purpose of this bill is to expand the shipment of honey bees to certain importing countries.

This bill authorizes the Department of Agriculture (DOA) to:

- (1) Certify as to the pest condition of honey bee shipments when health certificates are required as a condition for export; and
- (2) Charge fees to cover the certification costs.

The DOA 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. 3336 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 687-96 Finance on H.B. No. 3357

The purpose of this bill is to amend the Uniform Information Practices Act by:

- (1) Transferring responsibility for the maintenance of public records reports required under the Uniform Information Practices Act from the Office of Information Practices to the Department of Accounting and General Services (DAGS);
- (2) Streamlining the information that must be contained in each agency's public records report;
- (3) Allowing the Governor to grant an exemption from the reporting requirements; and
- (4) Creating a new definition for "accessible record" to mean a personal record that is:

- (A) Maintained according to an established retrieval scheme or indexing structure; or
- (B) Otherwise retrievable because an agency may locate the record without an unreasonable expenditure of time, effort, money, or other resources.

Testimony in support of this measure was received from DAGS and the Office of Information Practices. The Department of Education commented 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. 3357, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

SCRep. 688-96 Finance on H.B. No. 3380

The purpose of this bill is to authorize the Housing Finance and Development Corporation to issue an additional \$77,500,000 in tax-exempt revenue bonds for its Housing Loan and Mortgage Programs, increasing its authorization from \$122,500,000 to \$200,000,000.

The Housing Finance and Development Corporation submitted testimony in support 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. 3380 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 689-96 Finance on H.B. No. 3457

The purpose of this bill is to allow the Hawaii Housing Authority to conform with national standards and allow more cost sharing by the recipients of the programs.

The Hawaii Housing Authority 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. 3457 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 690-96 Finance on H.B. No. 3481

The purpose of this bill is to authorize the Hawaii Civil Rights Commission to expend private contributions made to the now-defunct Martin Luther King, Jr. Commission for activities related to the celebration of the Martin Luther King, Jr., state holiday.

The Department of Human Resources Development and the Hawaii Civil Rights 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. 3481, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

SCRep. 691-96 Finance on H.B. No. 3505

The purpose of this bill is to ensure that the Reproductive Rights Protection Committee (Committee) is an effective body by:

- (1) Attaching the Reproductive Rights Protection Committee (Committee) to the Department of Health for administrative purposes, rather than to the State Planning Council on Developmental Disabilities (Council); and
- (2) Eliminating the Committee's authority to hire staff.

The Department of Health and the Commission on Persons with Disabilities submitted testimony in support of the bill. Comments were received from the Council and a private citizen.

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. 3505, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 692-96 Finance on H.B. No. 3514

The purpose of this bill is to transfer the cost of government services relating to Chapter 396, Occupational Safety and Health, Hawaii Revised Statutes, from all taxpayers to the actual users of these services.

This bill authorizes the Director of Labor and Industrial Relations to establish fees for:

- (1) The issuance of permits, certificates, or licenses;
- (2) The provision of records as well as record searches, reviews, and segregation;
- (3) The costs of training materials used in workshops; and
- (4) The costs of public notices required for variances and rule making.

The Department of Labor and Industrial Relations testified in support of this measure. The Chamber of Commerce of Hawaii and the Hawaii Business League offered 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. 3514 and recommends that it pass Third Reading.

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

SCRep. 693-96 Finance on H.B. No. 3520

The purpose of this bill is to provide emergency funding to pay unemployment insurance benefits to former State employees.

Your Committee has received a message from the Governor, dated January 25, 1996:

- (1) Stating there would be a shortfall by February 1, 1996, in the State General Fund Appropriation for unemployment benefits; and
- (2) Requesting the immediate passage of this bill so that the Department of Labor and Industrial Relations will be able to meet its fiscal obligation to provide unemployment benefits to former state employees.

The Department of Labor and Industrial Relations submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3520 and recommends that it pass Third Reading.

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

SCRep. 694-96 Finance on H.B. No. 3523

The purpose of this bill is to enable the State to reduce overall costs relating to the reopening of the rental to be paid on leases of public lands, other than agricultural leases, by authorizing qualified employees of the Department of Land and Natural Resources (DLNR) or disinterested appraisers to determine the fair market rental for the ensuing lease periods.

Comments were received on the bill from the DLNR.

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. 3523, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 695-96 Finance on H.B. No. 3525

The purpose of this bill is to abolish the Hawaii Fisheries Council.

The Board of Land and Natural Resources testified in support 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. 3525 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 696-96 Finance on H.B. No. 3578

The purpose of this bill is to include the privilege of operating a parking lot on State-owned public lands, except for buildings facilities and grounds operated by the Department of Education (DOE), in the definition of "concession" under chapter 102, Concessions on Public Property, Hawaii Revised Statutes, to facilitate the awarding of contracts for these parking lots.

The Department of Transportation testified in support of this measure. The DOE also submitted testimony.

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. 3578, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

SCRep. 697-96 Finance on H.B. No. 3691

The purpose of this bill is to allow the counties to issue bonds for payment of all or a portion of their unfunded liability to the Employees' Retirement System.

Testimony in support of this measure was received from the Department of Finance of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3691 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

SCRep. 698-96 Finance on H.B. No. 3979

The purpose of this bill is to prohibit dual health coverage for an individual covered under more than one employer group health policy, contract, plan, or agreement or health maintenance organization contract.

This bill also requires the insurer to devise a procedure to identify and eliminate any dual coverage and prohibits an insured individual from concealing dual coverage.

The National Federation of Independent Business, the Hawaii Hotel Association, and the Maui Hotel Association testified in support of this measure. The Department of Labor and Industrial Relations, Kaiser Permanente, the Mutual Benefit Association of Hawaii, the United Public Workers, the Hawaii Government Employees Association, ILWU Local 142, and the Chamber of Commerce of Hawaii submitted comments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3979 and recommends that it pass Third Reading.

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

SCRep. 699-96 Finance on H.B. No. 4008

The purpose of this bill is to:

- (1) Extend the term of class E agricultural operating loans from three years to a term not to exceed seven years; and
- (2) Decrease from seventy-five percent to a simple majority the number of directors and shareholders of farmers' cooperative associations or corporations seeking loans that must meet loan eligibility requirements and devote most of their time to farming operations.

The Department of Agriculture testified in support 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. 4008, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 700-96 Finance on H.B. No. 4074

The purpose of this bill is to direct the Board of Land and Natural Resources to enter into a land exchange with the George Galbraith Estate involving private lands north of Wahiawa, Oahu, for public lands to provide the State with additional agricultural lands in central Oahu.

The Board of Land and Natural Resources, Hawaiian Trust Company, Ltd., the Wahiawa Master Plan Task Force, and a member of the public testified in support of the measure. The Board of Agriculture testified in support of the intent of the bill. The Office of Hawaiian Affairs opposed 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. 4074, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 701-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3581

The purpose of this bill is to conform the state commercial driver's licensing law with federal standards by:

- (1) Amending the definition of "out-of-service order" to reflect the federal definition; and
- (2) Providing a penalty for an employer who knowingly allows, permits, or authorizes a person to drive a commercial motor vehicle during any period in which the employee, the motor vehicle, or the motor carrier operation is subject to an out-of-service order.

The Department of Transportation submitted testimony in support of this bill.

Your Committees recognize the importance of state law reflecting the federal requirements since noncompliance may result in the withholding of federal highway funds.

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. 3581 and recommend that it pass Third Reading.

Signed by all members of the Committees except Representatives Hamakawa, Tom and Meyer.

SCRep. 702-96 Finance on H.B. No. 3453

The purpose of this bill is to increase the amount the Department of Hawaiian Home Lands (DHHL) is authorized to borrow or guarantee on loans to cover the projected guarantee requirements for its housing program.

Testimony supporting the measure was received from DHHL and 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. 3453 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 703-96 Finance on H.B. No. 3522

The purpose of this bill is to reduce the appraisal costs for determining the sale price or lease rental of public lands to be disposed of by drawing or negotiation, by allowing:

- (1) An employee of the Board of Land and Natural Resources (BLNR) to appraise the sale price or lease rental; and
- (2) The final sale price or lease rental to be determined by arbitration.

The Department of Land and Natural Resources submitted testimony in support 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. 3522, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 704-96 Finance on H.B. No. 4010

The purpose of this bill is to authorize the Department of Agriculture to negotiate leases with certain persons who hold revocable permits on agricultural lands or who have held agricultural leases.

The Department of Agriculture testified in support 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. 4010, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 705-96 Finance on H.B. No. 4143

The purpose of this bill is to authorize the use of revenue bonds to finance the Hawaii Hurricane Relief Fund (Fund) and to provide that pledges and assignments by the Fund shall constitute a lien and security on moneys received by the Fund.

Testimony in support of this bill was received from the Department of Commerce and Consumer Affairs and the Hawaii Hurricane Relief Fund.

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. 4143 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 706-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3065

The purpose of this bill is to protect the public from unqualified personnel misrepresenting themselves as "nurses". The bill prohibits individuals who are not licensed as registered nurses under chapter 457, Hawaii Revised Statutes, or licensed as registered nurses under the laws of another state or territory of the United States from identifying themselves as "nurses"

A concerned individual submitted testimony in strong support of this measure. The Hawaii Nurses' Association submitted testimony in qualified support of this measure. The Board of Nursing and the Hawaii Government Employees Association submitted testimony in support of the intent of this measure.

Your Committees heard testimony that registered nurse and licensed practical nurse positions are being eliminated to contain costs and that these positions are being filled by unlicensed health care workers. Consequently, some unlicensed health care workers are inaccurately identifying themselves or being inaccurately identified by other health care providers as "nurses" to consumers.

However, your Committees are also aware that licensed practical nurses and advanced practice registered nurses are recognized as "nurses" throughout the United States. Further, all three categories of nurses are required to complete a nursing program recognized by a state board of nursing and pass the National Council Licensing Examination or other examinations recognized by the Board of Nursing. Therefore, the definition of "nurse" in its current form would render Hawaii as the only state to limit the term to registered nurses.

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

- (1) Including within the definition of "nurse", a person licensed as a licensed practical nurse or as an advanced practice registered nurse;
- (2) Clarifying that a person licensed as a licensed practical nurse or as an advance practice registered nurse may also assume the title of "nurse"; and
- (3) Making technical, nonsubstantive revisions 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. 3065, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 3065, H.D. 2.

Signed by all members of the Committees except Representatives Hamakawa, Tom and Meyer.

SCRep. 707-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3406

The purpose of this bill is to streamline, improve, and clarify the regulation of unaccredited institutions by amending the disclosure and registration requirements under Chapter 446, Hawaii Revised Statutes (HRS), concerning unaccredited degree granting institutions.

Testimony in support of the measure was received from a concerned citizen. Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs (DCCA), with no position taken on changes to the proposed language of section 446E-5(b). Testimony in support of the measure, with suggested revisions, was received from the University of Hawaii.

This bill amends chapter 446, HRS, by:

- (1) Repealing the requirement for unaccredited degree-granting institutions to disclose provisional accreditation. Because a provisionally accredited institution is excluded from the definition of "unaccredited institution", this provision in the current statute is meaningless;
- (2) Repealing the requirement for registration with DCCA. DCCA has limited resources in which to administer a registration program, and furthermore, DCCA maintains its oversight authority. Additionally, there is a risk that an institution may attempt to misrepresent to the public that registration comprises State approval; and
- (3) Prohibiting the issuance of specific degrees by any unaccredited school, and the issuance of degrees by otherwise accredited schools unless such schools are accredited by an appropriate association.

Your Committees have adopted the recommendations from the University of Hawaii, and therefore, have amended the bill by amending section 446E-5, HRS. This amendment permits an unaccredited institution to issue specified degrees under the provision that the institution is a candidate for regional accreditation. This amendment is necessary because, in many cases, during the period when an institution is a candidate for accreditation, it must grant one cycle of degrees as a prerequisite for obtaining full accreditation. This amendment is a mechanism to enable and encourage an institution to utilize the regional accreditation process.

Your Committees have further amended the bill by deleting language in the new subsection 446E-5(b) that requires accreditation by the appropriate association for issuance of a degree. This requirement is in many cases unavailable or limited in its usefulness.

The implementation of this bill will assist the citizens of the State, who aspire to obtain academic or professional degrees, in evaluating an appropriate institution, and assist the State by streamlining and clarifying its oversight role.

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. 3406, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 3406, H.D. 2.

Signed by all members of the Committees except Representatives Hamakawa, Tom and Meyer.

SCRep. 708-96 Consumer Protection and Commerce on H.B. No. 2647

The purpose of this bill is to increase the efficiency of primary eye care delivery while maintaining the safety and quality and reducing the overall cost of eye care.

Specifically, this bill proposes to accomplish this by:

- (1) Expanding the practice of optometry to include the diagnosis, treatment, and management of eye disease, including:
 - (A) The use and prescription of topical therapeutic pharmaceutical agents (TPAs); and
 - (B) The removal of superficial foreign bodies;
- (2) Empowering the Board of Examiners in Optometry to certify optometrists with these privileges; and
- (3) Establishing limited categories of pharmaceuticals that therapeutic certified optometrists may prescribe.

Your Committee received voluminous testimonies on this measure. The following is a list of some of the testimonies your Committee received:

- (1) Supporting the bill: the Board of Examiners in Optometry; the Hawaii Optometric Association; the American Public Health Association; the Dean of the College of Optometry at Pacific University; the Dean of the School of Optometry at the University of California, Berkeley; the Dean of Academic Affairs of the Southern California College of Optometry; the Hawaii Nurses' Association; the American Association of Retired Persons; the Hawaii State Primary Care Association; Hawaii's senior United States Senator; and numerous optometrists and individuals; and
- (2) Opposing the bill: the Hawaii Ophthalmological Society; the Hawaii Medical Association; the Hawaii Psychiatric Medical Association; the Hawaii Federation of Physicians & Dentists; and numerous individuals and medical doctors, including ophthalmologists.

State Farm Insurance Companies submitted comments on the bill.

Testimony received indicated that the scope of optometric education has advanced over the years, with increasing emphasis placed on clinical training in the area of diagnosis and treatment of diseases and disorders of the eye. Testimony also indicated that to varying degrees, forty-six states allow their licensed optometrists to use some TPAs in the treatment and management of some eye diseases and disorders.

However, your Committee, committed to protecting the health and safety of the public, has reservations about granting optometrists the authority to use TPAs.

The 1994 Legislative Reference Bureau's report entitled, "In the Eye of the Beholder: The Feasibility of a Therapeutic Drug Law for Optometrists in Hawaii" thoroughly details the arguments for and against this type of law. In particular, the report notes that among other things:

- (1) Ophthalmologists nationwide and in Hawaii have voiced concerns regarding patient safety under a TPA law;
- (2) Optometrists receive less training in diagnosis and treatment of eye diseases and disorders than ophthalmologists;
- (3) While many of the more recent optometry graduates have had the benefits of increased clinical training, the more established optometrists did not receive this same level of educational training; and
- (4) If the Legislature determines that a TPA law is warranted, the initial law should not be "wide-open".

Your Committee finds that to ensure the continued protection of the health and safety of the public, 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 criteria for the Legislature is the impact of such a law on Hawaii's consumers. With the limited data available and the number of questions surrounding this issue, your Committee concurs with the recommendations of the Legislative Reference Bureau, as stated in its report, that as an initial step, the TPA law be drafted narrowly.

Therefore, your Committee has amended the bill by:

- (1) Requiring the Board of Medical Examiners to be responsible for the certification of optometrists to use TPAs, including the selection of an examination as the basis for certification;

- (2) Requiring the Board of Medical Examiners, in consultation with the University of Hawaii Medical School to establish the TPA formulary. This is consistent with the prescriptive privileges law for advanced practice registered nurses;
- (3) Establishing a two-tier system allowing certain optometrists to prescribe and administer certain topical TPAs for selected conditions. Specifically:
 - (A) One tier would allow licensed optometrists who practice under the supervision of an ophthalmologist and have passed the examination selected by the Board of Medical Examiners' to use TPAs; and
 - (B) The other tier would allow other licensed optometrists who are certified by the Board of Medical Examiners and have satisfied the clinical experience requirement to use TPAs;
- (4) Prohibiting optometrists from removing foreign bodies from the eye or eye lids;
- (5) Requiring the Board of Medical Examiners to submit an interim report to the Legislature regarding the status of the development of the formulary and certification requirements;
- (6) Requiring the Board of Medical Examiners and the Board of Examiners in Optometry to submit a joint report to the Legislature regarding the administering, dispensing, and prescribing of TPAs; and
- (7) Including a sunset provision that repeals the law on July 1, 2001.

Your Committee believes that in addition to being consistent with the Legislative Reference Bureau's study, the bill, as amended, provides the most balanced approach to a TPA law with respect to public safety and the accessibility and availability of eye care providers. This is also consistent with the House position taken last year as reflected in H.B. No. 1169, H.D. 2.

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. 2647, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2647, H.D. 1.

Signed by all members of the Committee except Representatives Case and White.
(Representative Thielen voted no.)

SCRep. 709-96 Consumer Protection and Commerce on H.B. No. 2830

The purpose of this bill is to support island agricultural products by requiring the Public Utilities Commission to provide a discount for the transportation of island agricultural products.

Testimony in support of the measure was received from the Department of Agriculture, Hawaiian Natural Water Company, Inc., and the Hawaii Cattlemen's Council, Inc. The Hawaii Farm Bureau and the Meat and Poultry Association of Hawaii submitted testimony supporting the bill with amendments. The Kauai Kookie Company, the Hawaii Food Manufacturers Association, Hawaiian Sun Products, Inc., the Department of Transportation, the Hawaii Fresh Milk Industry, and the 50th State Dairy Farmers' Cooperative submitted comments on the bill.

Transportation and packaging play critical roles in the future of the agricultural industry in Hawaii. Because of the geographical configuration of the state, local businesses are at a disadvantage as they depend on interisland carriers to distribute their products to the marketplace.

Your Committee believes that by providing a discount to Hawaii companies to transport their island agricultural products interisland, these companies will become more viable marketers of island agricultural products statewide.

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

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2830, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2830, H.D. 2.

Signed by all members of the Committee except Representatives Tom and White.
(Representative Meyer voted no.)

SCRep. 710-96 Finance on H.B. No. 2642

The purpose of this bill is to clarify certain provisions of Act 217, Session Laws of Hawaii 1995, which amended the Public Employees Health Fund law, specifically that employees hired on July 1, 1996:

- (1) With less than twenty-five years of service are subject to the changes to State and county contributions to the Public Employees Health Fund effected by Act 217, Session Laws of Hawaii 1995; and
- (2) Must be retired with twenty-five years or more of service to receive Health Fund benefits at no cost.

The Hawaii Public Employees Health Fund Board of Trustees testified in support of the technical corrections proposed in the bill.

Your Committee has amended the bill by:

- (1) Making the changes in State and county contributions applicable to employees hired "after June 30, 1996," rather than "on or after July 1, 1996"; 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. 2642, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2642, H.D. 1.

Signed by all members of the Committee except Representative Ward.

SCRep. 711-96 Finance on H.B. No. 2658

The purpose of this bill is to:

- (1) Exempt persons seeking to reactivate an expired driver's license from being required to undergo a reexamination of their driving skills including the actual demonstration of the ability to operate a motor vehicle; and
- (2) Require that a \$5 reactivation fee be paid by holders of expired licenses for each thirty-day period, or fraction thereof, that has elapsed after the ninety-day grace period.

The Department of Finance of the City and County of Honolulu testified in favor of this bill. Comments were received from the Department of Transportation.

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. 2658, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2658, H.D. 3.

Signed by all members of the Committee except Representatives Isbell and Jones.

SCRep. 712-96 Finance on H.B. No. 2710

The purpose of this bill is to eliminate the requirement that the State and the counties make monthly contributions to the Hawaii Public Employees Health Fund for employee-beneficiaries or their dependents who are covered by another health benefit plan or a spouse's benefit plan.

The Hawaii Public Employees Health Fund, the Hawaii Government Employees Association, the United Public Workers, the State of Hawaii Organization of Police Officers, and the Voluntary Employees' Benefit Association of Hawaii commented on this measure.

Your Committee has amended this measure 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2710, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2710, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 713-96 Finance on H.B. No. 2729

The purpose of this bill is to implement certain recommendations of the Legislative Auditor's 1995 sunset evaluation of the Hawaii Omnibus Forfeiture Act (Act) and to remove the July 1, 1996, sunset date of the Act.

Comments were received from the State Department of the Attorney General, the Law Enforcement Coalition, the Department of the Prosecuting Attorney, City and County of Honolulu, and the Honolulu Police Department.

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. 2729, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2729, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 714-96 Finance on H.B. No. 3153

The purpose of this bill is to protect citizen voting rights by:

- (1) Ensuring compliance with the federal Voting Rights Language Assistance Act of 1992 by requiring the publication and dissemination of voting materials in the languages of Hawaii's minority citizens with limited English proficiency; and
- (2) Requiring the Chief Election Officer, upon certification of bills setting forth a question for vote by the electorate, to coordinate the preparation of appropriate voter materials with the Legislative Reference Bureau.

Testimony in support of this measure was received from the Chief Clerks of the House of Representatives and the Senate. The Office of Elections and the Office of the Legislative Reference Bureau submitted comments on this bill.

Your Committee has amended this bill by:

- (1) Specifying the voting materials to be prepared by the Legislative Reference Bureau for submittal to the Chief Election Officer; 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. 3153, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3153, H.D. 2.

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

SCRep. 715-96 Finance on H.B. No. 3335

The purpose of this bill is to:

- (1) Authorize the Department of Agriculture (DOA) to establish fees for off-site inspections and import permits;
- (2) Exempt algae, bacteria, and fungus used as food or for food preparation from import permit requirements;
- (3) Clarify that articles quarantined in DOA's biocontrol containment facilities require a permit before the articles can be released;
- (4) Prohibit the importation of any plant or microorganism which is detrimental to the environment;
- (5) Authorize the DOA to issue a special permit for the importation and possession of certain types of animals for worthwhile research projects; and
- (6) Authorize the DOA to issue a short-term special permit for the importation and possession of certain types of animals for filming, performance, or exhibition.

The DOA, the Department of Business, Economic Development, and Tourism, the Hawaii Biotechnology Group, Inc., and concerned individuals offered comments.

Technical, nonsubstantive amendments were made for purposes of clarity and style and 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. 3335, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3335, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 716-96 Finance on H.B. No. 3424

The purpose of this bill is to conform Hawaii's Insurance Code governing the priority of distribution of assets of an insolvent insurer to federal bankruptcy laws.

The Department of Commerce and Consumer Affairs submitted testimony in support of this bill.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3424, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3424, H.D. 2.

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

SCRep. 717-96 Finance on H.B. No. 3527

The purpose of this bill is to facilitate the administration of commercial marine licenses by:

- (1) Deleting the:
 - (a) Time period for which commercial marine licenses are valid;

- (b) Specifications for the issuance of duplicate licenses; and
- (c) Commercial marine license fee waiver for trainees;
- (2) Giving commercial marine licensees flexibility in the content of their monthly catch reports submitted to the Department of Land and Natural Resources (DLNR);
- (3) Defining "wet weight harvest";
- (4) Deleting the deadline for commercial marine dealers to submit their monthly catch reports to DLNR; and
- (5) Extending the time commercial marine dealers are required to keep their commercial marine transaction receipts.

Testimony in support of the intent of this measure was received from DLNR.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3527, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3527, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 718-96 Finance on H.B. No. 3532

The purpose of this bill is to clarify that the Aina Hoomalu Special Fund may be used to:

- (1) Monitor resources; and
- (2) Determine the carrying capacity of park facilities.

The Board of Land and Natural Resources submitted testimony in support of the bill.

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. 3532, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3532, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 719-96 Finance on H.B. No. 3612

The purpose of this bill is to allow the following to become contributory class A members of the Employees' Retirement System (ERS):

- (1) The Administrative Director of the State;
- (2) County managing directors;
- (3) County deputy managing directors; and
- (4) Directors and deputy directors of the respective county departments.

The bill also specifies that the following be classified as contributory class B members of the ERS:

- (1) Police chiefs of the county departments;
- (2) Fire chiefs of the county departments; and
- (3) Deputies of the county police chiefs and fire chiefs.

The Judiciary, the Conference of Personnel Directors, the County of Hawaii Department of Civil Service, and the County of Kauai Department of Personnel Services submitted testimony in support of the bill. The Hawaii State Teachers Association supported the intent of the bill. The ERS submitted comments on the bill.

Your Committee has amended this 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. 3612, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3612, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 720-96 Finance on H.B. No. 3916

The purpose of this bill is to assist Hamakua and Hilo coast residents by extending the expiration date from June 30, 1996, to June 30, 1998, for the State to negotiate and enter into lease agreements for state agricultural lands.

Testimony in support of this measure was received from the Department of Land and Natural Resources, the Hamakua/North Hilo Agricultural Cooperative, and the Hamakua Concerned Citizens. Comments were submitted by the Department of Agriculture.

Your Committee has made a technical, nonsubstantive amendment to ensure that the authority to enter into lease agreements will be continuous.

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. 3916, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3916, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 721-96 Health on H.B. No. 2555

The purpose of this bill is to:

- (1) Permit residential or agricultural property owners to register family burial plots with the Department of Health (DOH) if human remains were interred on their property prior to June 4, 1967; and
- (2) Permit additional family members to be buried in family burial plots registered with the DOH.

Testimony in support of this bill was received from the Department of Commerce and Consumer Affairs (DCCA) and an individual. Testimony opposing the bill was received from the DOH.

Testimony given by the DCCA stated that, in the interest of preserving family traditions, it would support family burial plots provided that families could not profit by selling the plots to nonfamily members.

Your Committee finds that there are some kama'aina families who wish to bury loved ones on family owned land. Up until 1967, this was possible as long as the family was registered with the DOH. Currently, the DOH does not allow family burial plots.

Your Committee feels that these families have the right to preserve their family tradition of burying family members on family-owned land.

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

- (1) Eliminating the requirement that human remains must have been interred on the property prior to June 4, 1967, in order for the property to be registered with the DOH as a family burial plot;
- (2) Permitting the registration of family burial plots with the DOH so long as a family member has already been lawfully interred on the property;
- (3) Eliminating the two-year time period, starting from the effective date of the Act, in which to register family burial plots with the DOH;
- (4) Requiring that any subsequent disinterment of any person from a family burial plot be done in compliance with section 338-25.5, Hawaii Revised Statutes (HRS), rather than section 6E-41, HRS;
- (5) Deleting the proposed amendments to section 441-15, HRS, as being unnecessary; and
- (6) Making technical, nonsubstantive revisions to the bill 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. 2555, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2555, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 722-96 Consumer Protection and Commerce on H.B. No. 2542

The purpose of this bill is to make the purchase of flood insurance optional for condominium properties located in federally designated flood hazard areas.

Testimony in support of the bill was received from the Hawaii Chapter of the Community Associations Institute, Discovery Bay Association, the law firm of Neeley and Anderson, and a concerned condominium owner. The Real Estate Commission (Commission) had reservations about the bill, and therefore, opposed its passage. The Insurance Division of the Department of Commerce and Consumer Affairs, offered comments on the measure.

Currently, chapter 514A, Hawaii Revised Statutes, requires that condominium projects located in federally designated flood hazard areas purchase and maintain flood insurance. In recent years, apartment associations have faced staggering increases in the cost of flood insurance. Amending the law to make the purchase of flood insurance optional rather than mandatory would provide some financial relief for condominium owners. For example, the Discovery Bay Association testified that a change in the law would result in a savings of \$40,000 a year for the condominium.

Your Committee is mindful that changes to state laws regarding flood insurance must be made in the context of federal requirements. The Flood Disaster Protection Act of 1973 mandates the purchase of flood insurance as a condition for the receipt of federal or federally related assistance for the acquisition and/or construction of buildings in Special Flood Hazard Areas (SFHAs). Further, the Act prohibits federal agencies such as the Federal Housing Administration, Veteran's Administration, and Small Business Administration from making or guaranteeing a loan that is secured by a building in a SFHA, unless the building is covered by flood insurance.

Therefore, your Committee has amended the bill to require the purchase of flood insurance for federally funded condominium projects. For projects located in a federally designated flood hazard zone, flood insurance shall be required, unless the bylaws of the association of apartment owners expressly state that flood insurance is not required. Your Committee has adopted the recommendation of the Commission to require that in the case of condominium projects falling within the latter category, a decision not to purchase flood insurance must be passed by a sixty-five percent majority vote of the owners.

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. 2542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2542, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 723-96 Consumer Protection and Commerce on H.B. No. 3241

The purpose of this bill is to disallow the use of unmarked proxies for quorum purposes only, and to provide that unmarked proxies shall be considered void.

Testimony on this measure was received from the Real Estate Commission, Hawaii Chapter of the Community Associations Institute (CAI), and the Hawaii Council of Association of Apartment Owners (HCAAO).

Last session, section 514A-83.2(c), Hawaii Revised Statutes, was amended in response to problems experienced by condominium associations in securing a quorum to conduct association business. Unmarked proxies received by the association's board were voided and could not be counted for quorum purposes. Condominium associations were unable to conduct business and incurred costs in rescheduling meetings. Therefore, the law was amended to require that proxy forms provide homeowners with at least four options for utilizing their proxies. The amended law also authorized the use of an unmarked proxy for quorum purposes only.

Your Committee has learned that the new proxies law has not simplified or clarified the use of proxies by condominium associations. According to the CAI and HCAAO, both homeowners and board members have had difficulty understanding and executing the proxies. This has led to irregularities in the solicitation of proxies and marking of the proxy forms. Moreover, allowing the use of unmarked proxies for quorum purposes only has not facilitated the board's ability to conduct the association's business. While unmarked proxies have been used to secure a quorum, they cannot be used for voting purposes, and therefore, their usefulness has been limited.

This bill is intended to rectify the problems that have arisen with the use of unmarked proxy forms by establishing that these forms shall be considered void and cannot be used for quorum purposes only. Based on the recommendation of the CAI, your Committee has amended the bill to delete all references to unmarked proxies, and made other amendments to address concerns raised by the condominium associations. The bill has been amended by:

- (1) Deleting paragraph (1) which required a box on the proxy form indicating that an owner was giving the proxy for quorum purposes only;
- (2) Deleting the phrase "by the owner" in paragraph (2). This requirement has resulted in the invalidation of proxies where another individual rather than the proxy giver/owner printed the proxy holder's name on the form; and
- (3) Deleting all language at the end of subsection (c) referring to unmarked proxy forms. The bill, as received by your Committee, would establish that unmarked proxy forms are void. As amended, the bill would remove the sentence in its entirety, thereby deleting the sentence which reads, "A proxy form which does not have a box marked shall be considered a proxy for quorum purposes only".

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. 3241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3241, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tom.

SCRep. 724-96 Consumer Protection and Commerce on H.B. No. 3291

The purpose of this bill is to provide relief against rising property insurance costs for individuals with coverage provided by the Hawaii Property Insurance Association (HPIA).

Currently, section 431:21-109, H.R.S., relating to insurance coverage for properties insured by HPIA, requires that qualifying properties be eligible for the standard fire policy and extended coverage endorsement, and additional coverage as approved by the Insurance Commissioner. The bill adds a new subsection to the law that:

- (1) Allows a person securing a mortgage on property that qualifies for HPIA coverage to obtain coverage only for the amount of the mortgage, subject to submitting a written request to the association;
- (2) Designates the mortgagee as the beneficiary of the policy in an amount equal to the outstanding mortgage balance; and
- (3) Offers the insured at the time of the policy's renewal, the option of continuing coverage for the original mortgage amount, or obtaining coverage for the outstanding mortgage balance only.

Testimony in support of the bill was received from members of the Hawaii County Council, and interested members of the public. The Insurance Division of the Department of Commerce and Consumer Affairs (DCCA) testified in support of the bill's intent, but expressed concerns that the bill permitted the overinsurance of property in violation of existing state law. Comments on the measure were submitted by HPIA and a concerned individual.

Following Hurricane Iniki, the availability of property insurance in the state declined, and its cost increased dramatically. Homeowners unable to pay the higher premiums, especially those with fixed incomes, faced the prospect of losing their homes. More recent developments affecting the state's economy threaten the ability of Hawaii's citizens to keep their homes, such as the closure of the sugar industry on the island of Hawaii which has left many of its residents unemployed.

Your Committee supports the enactment of this measure as a means of lowering insurance costs for property owners who choose to limit their coverage. In order to address concerns raised by DCCA and HPIA, the bill has been amended to:

- (1) Extend coverage under this subsection to property owners with existing mortgages;
- (2) Provide property owners with a range of coverage, from an amount no less than the mortgage obligation, up to an amount no greater than the value of the property being insured, subject to HPIA liability limits;
- (3) Require that coverage comply with the requirements of article 10E of chapter 431; and
- (4) Delete the provision permitting coverage options for policy renewals.

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. 3291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3291, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 725-96 Consumer Protection and Commerce on H.B. No. 3711

The purpose of this bill is to enable Hawaii insurance agents and brokers to more freely engage in business in other states by repealing certain restrictions governing nonresident insurance agents and brokers in Hawaii.

Testimony in support of the measure was received from two concerned individuals. The Department of Commerce and Consumer Affairs expressed concerns regarding the bill.

Testimony indicated that currently, insurance laws vary from state to state. Although not required to take the State's insurance examination, nonresidents must comply with the law that places limitations on their activities with respect to placing insurance on a subject of insurance located in Hawaii. Because of its restrictive nature, these limitations virtually prevent nonresidents from engaging in business in Hawaii. Consequently, under the reciprocity agreements between states, Hawaii's insurance agents and brokers are restricted in engaging in business in other states where they are nonresidents.

This bill would remove these limitations on nonresident agents and brokers transacting business in Hawaii, thereby, making it easier for Hawaii agents to engage in business in other states.

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. 3711 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, Tom, White and Meyer.

SCRep. 726-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2688

The purpose of this bill is to prohibit "no rules combat" exhibitions in this state.

Specifically, this bill creates a new section in chapter 440, Hawaii Revised Statutes, that:

- (1) Defines a "no rules combat" contest as a match involving the use of boxing, martial arts, wrestling, or other combination of techniques to defeat or knock out an opponent, including punches, kicks, chokes, joint locks, and other maneuvers, and, that involves compensation for training expenses or prize money;
- (2) Prohibits participation in a "no rules combat" contest, either as a contestant or participant;
- (3) Prohibits the broadcasting of a "no rules combat" contest, either live or taped via closed circuit television; and
- (4) Establishes a fine of \$1,000 and not less than one hundred hours of community service for violations of this section.

The bill also amends the definition of "boxing" in section 440-1 to exclude a "no rules combat" contest.

Testimony in support of this bill was received from the Hawaii State Commission On The Status Of Women, Domestic Violence Clearinghouse and Legal Hotline, the Department of Human Resources for the City and County of Honolulu, and Hawaii Catholic Conference. The Boxing Commission testified in favor of the prohibition, but questioned its authority under the bill to regulate and enforce the broadcasting prohibition. The Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs opposed the bill because of concerns about enforcement of the prohibition, and placement of the law within chapter 440 relating to the regulation of boxing contests.

Your Committees believe that violence should not be promoted as sport or entertainment in this state. "No rules combat" contests are characterized by brutal and extreme violence, and contestants risk sustaining serious bodily injury, or even death, as a result of their participation. However, competitors are not the only parties harmed by these exhibitions. "No rules combat" contests glorify violence and desensitize its viewers to the horror and brutality of violent acts. In enacting a ban, Hawaii will join the states of Kansas, Oklahoma, and South Carolina in rejecting "no rules combat" contests as acceptable and legitimate entertainment.

Your Committees have amended the bill to clarify that it is not their intent to ban legitimate sports and martial arts exhibitions and contests. Therefore, the definition of "no rules combat" contest is amended to read as follows:

"(c) As used in this section, the term "no rules combat" contest means a match or exhibition performed in this State, in which the contestants:

- (1) Use a combination of combative contact techniques, including the use of punches, kicks, chokes, joint locks, or other maneuvers, with or without the use of weapons, that in the opinion of the boxing commission tend to place the contestants at an unreasonably high risk of bodily injury or death. The promoter of a "no rules combat" contest shall have the burden of proving beyond a reasonable doubt to the boxing commission that a particular contest is not a "no rules combat" contest. "No rules combat" contest does not include a contest exclusively involving boxing, wrestling, kickboxing, karate, or other martial arts disciplines or techniques; and
- (2) Have received or will receive, directly or indirectly, any money, prize, reward, purse, or other compensation, either for the expenses of training for the contest or for taking part therein."

Your Committees have also added a savings clause to the bill to address concerns about the viability of the prohibition against "no rules combat" contests if certain provisions of the act pertaining to closed circuit television are subsequently deemed invalid.

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. 2688, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2688, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives McMurdo, Swain, Tom, Kawanakoa and Meyer.

SCRep. 727-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3102

The purpose of this bill is to prohibit an individual from claiming an owner-builder exemption from the contractors licensing requirements more than once in three years, and to establish fines for violations of this prohibition.

Testimony in support of the bill was received from the Contractors License Board (Board), Constructive Industry Legislative Organization (CILO), General Contractors Association of Hawaii, and Hawaii Operating Engineers Industry Stabilization Fund. The Building Association of Hawaii and Subcontractors Association of Hawaii also testified in favor of the bill. The Department of Commerce and Consumer Affairs (DCCA) expressed concerns about the measure.

Chapter 444 requires that individuals licensed as contractors pass a written exam and meet the experiential requirements set by the board. Licensed contractors are also required to maintain workers' compensation and liability insurance. These laws were enacted, in part, to ensure the health and safety of the public by requiring that contractors possess a minimum level of expertise, experience and training.

Section 444-2 of the Hawaii Revised Statutes establishes various exemptions from the licensing requirements. One of these exemptions is for owners or lessees of property who build or improve residential, farm, industrial, or commercial buildings on property for their own use or the use of their immediate family. Under this exemption, the buildings cannot be offered for sale or lease for one year, electrical or plumbing work is excluded, and registration under section 444-9.1 is required. Violation of this section precludes a claim under the owner-builder exemption for a three year period.

This measure amends section 444-2(7) to limit the use of the owner-builder exemption to once every three years, and establishes the following fines for violation of this section:

- (1) For the first offense, the greater of \$5,000 or forty per cent of the building's appraised value as determined by the county tax appraiser; and
- (2) For every subsequent offense, the greater of \$10,000 or fifty percent of the building's appraised value as determined by the county tax appraiser.

Members of the construction industry testified that the owner-builder exemption is being misused by unlicensed contractors circumventing the licensing process. This unlicensed activity puts consumers at risk because the public has no assurance that a building offered for sale by an unlicensed contractor has been constructed by an individual with the requisite knowledge, training, and experience. Limiting the use of the owner-builder exemption would help to curb abuses of the exemption.

While DCCA supported the intent of the bill, it expressed concerns that the blanket prohibition against use of the exemption more than once in a three year period would unduly restrict bona fide homeowners or lessees who found it necessary to make improvements more frequently. The department was also concerned that the prohibition would stifle activity in the home improvement industry.

Your Committees share in DCCA's concerns that a blanket limitation on use of the owner-builder exemption is too inflexible. Your Committees also believe that limiting use of the exemption to once every three years is overly restrictive, and allowing the exemption to be taken once every two years is reasonable. Therefore, the bill has been amended to provide that an individual claiming the owner-builder exemption more than once in two years is presumed to be in violation of section 444-2, H.R.S. The presumption is subject to rebuttal upon proof that the claimant is a bona fide owner or lessee making improvements within the scope of the exemption.

Technical, nonsubstantive amendments were made to the bill 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. 3102, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3102, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 728-96 Finance on H.B. No. 3088

The purpose of this bill is to exclude from State income taxation the capital gains from the sale of real or personal property that has been owned and held within the State by the taxpayer for at least seven consecutive years.

The Chamber of Commerce of Hawaii, the Hawaii Congress on Small Business, the Honolulu Japanese Chamber of Commerce, GTE Hawaiian Telephone, Inc., the Hawaii Association of Realtors, and Liberty House testified in favor of this measure.

The Department of Taxation and the Tax Foundation of Hawaii also submitted testimony.

Your Committee has amended the bill by:

- (1) Clarifying the capital gains that qualify for the exclusion from taxation; 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. 3088, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3088, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 729-96 Finance on H.B. No. 3550

The purpose of this bill is to minimize the taxpayers' burdens in complying with Hawaii's tax law by maintaining state income tax conformance with the Internal Revenue Code.

The Department of Taxation submitted testimony in favor of this measure. Comments were received from the Tax Foundation of Hawaii.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3550, 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 Isbell, Jones and Ward.

SCRep. 730-96 Finance on H.B. No. 4021

The purpose of this bill is to limit the pension income tax exclusion by an unspecified amount.

Comments on this measure were received from the Department of Taxation, the Tax Foundation of Hawaii, and the Legal Aid Society of Hawaii.

Your Committee has amended this bill by 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. 4021, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4021, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.
(Representative Ward voted no.)

SCRep. 731-96 Public Safety and Military Affairs and Judiciary on H.B. No. 3541

The purpose of this bill is to allow crime victims to present written testimony or make oral comments at the minimum term imprisonment hearing of the criminal.

Testimony in support of this measure was received from the Hawaii Paroling Authority, the City and County of Honolulu Department of the Prosecuting Attorney, the City and County of Honolulu Police Department, the County of Maui Prosecuting Attorney Victim/Witness Assistance Division, and the County of Hawaii Prosecuting Attorney Victim Assistance Program.

Your Committees support efforts to allow crime victims to participate in the minimum term hearings of the criminal. The current statute provides that minimum term hearings are open to victims. This language is vague and could be interpreted to mean that victims, although allowed to be present, may not be allowed to speak. This bill will clarify the right of victims to be heard at these hearings.

Your Committees further agree that the right of victims to be heard at minimum term hearings should not be limited to victims of crimes against the person, but should be open to all victims of crime in which the criminal receives a minimum term hearing. Additionally, it is your Committees' intent that these hearings proceed in a nonadversarial manner.

Your Committees have amended this bill by specifying that victims may present a written statement, rather than written testimony, at minimum term of imprisonment hearings.

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. 3541, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3541, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, Menor, Swain and Tom.

SCRep. 732-96 Public Safety and Military Affairs and Judiciary on H.B. No. 3545

The purpose for this bill is to delete the statutory function for the centralization of data collection and maintenance from the State Intake Service Centers.

Testimony from the Department of Public Safety traced the history for the responsibility for centralization of corrections information and maintenance of statistical data. With the creation of the Department of Corrections and later, with the Department of Public Safety, these functions, but not the statutory responsibilities, were transferred to general administration. The statutory functions remained with the Intake Service Centers. HB 3545 will enable the Director of the Department of Public Safety to assign these functions to the appropriate office or agency.

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. 3545 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, Menor, Swain and Tom.

SCRep. 733-96 Public Safety and Military Affairs and Judiciary on H.B. No. 3546

The purpose of this bill is to authorize the Director of Public Safety to transfer committed felons to a correctional institution in another state, provided that the institution:

- (1) Complies with appropriate health, safety, and sanitation codes of the state where the institution is located;
- (2) Provides a level of program activity suitable to the inmate; and
- (3) Is operated by the state where it is located, any of the state's political subdivisions, or by a private institution.

Testimony in support of this measure was received from the Department of Public Safety. The City and County of Honolulu Police Department submitted testimony in support of the intent of this bill.

Your Committees have amended this bill by:

- (1) Requiring that the correctional institution provide a level of program activity for the inmate that is suitable, rather than a level of program activity that is suitable to the inmate; and
- (2) Making a technical, nonsubstantive revision for the purpose of clarity.

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. 3546, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3546, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Chun Oakland, Menor, Swain and Tom.

SCRep. 734-96 Judiciary on H.B. No. 2975

The purpose of this bill is to increase existing penalties for the possession or distribution of methamphetamines to counter increased property and violent crimes associated with the use of this dangerous drug.

The Department of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department testified in support of this measure. The Office of the Public Defender commented on the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2975 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 and Swain.

SCRep. 735-96 Judiciary on H.B. No. 3338

The purpose of this bill is to eliminate the State Archives as one of the designated depositories of state and county publications.

Your Committee received favorable testimony from a representative of the Department of Accounting and General Services.

This bill would amend the law to delete the State Archives as a depository due to the duplication of efforts presently existing whereby the public library system and the university library already serve to fulfill this function. The Archives will then be able to concentrate on their main duties which are acquisition and care of government records and reference activities with regard to the 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. 3338 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 and Swain.

SCRep. 736-96 Judiciary on H.B. No. 2896

The purpose of this bill is to provide civil immunity for notaries acting in their official capacity, except for a failure to exercise the ordinary skill and care of their profession.

Your Committee received testimony in support of the bill from a representative of the Attorney General's Office and a suggested amendment from the City and County of Honolulu Department of Personnel.

It is the finding of your Committee that notaries should be held accountable only for the specific acts within the purview of their function and that notaries are not responsible for the accuracy or truthfulness of the document text.

Your Committee has amended subsection 456-6(a), Hawaii Revised Statutes (HRS), to provide for a limitation of liability to the specific acts for which a notary is responsible and to clarify that the notary is not responsible for substantive content. In subsection 456-6(b), HRS, the original language of the existing statute is retained as the proposed language is superfluous.

As affirmed by the record of votes of 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. 2896, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2896, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 737-96 Judiciary on H.B. No. 2956

The purpose of this bill is to grant immunity from civil liability to volunteers acting in good faith and within the scope of the volunteers' functions.

Your Committee received testimony in support of this bill from representatives of the Judiciary, the Hawaii Medical Association, the Aloha Society of Association Executives, the Hawaiian Auxiliary Navy-Marine Corps Relief Society, State Volunteer Services, the Voluntary Action Center, and the Network of Volunteer Leaders. Testimony in opposition to this bill was received from representatives of the Department of Health and the Consumer Lawyers of Hawaii.

While wanting to encourage volunteerism in this State by providing some immunity from civil liability for those generous enough to give of their time and energy, your Committee feels that we must also take into account those who may be injured by negligent acts of volunteers. In seeking this balance, your Committee has amended this bill by:

- (1) Limiting the scope of the immunity provided in the bill to damage or injury caused by a volunteer's negligent conduct rather than for injury or damage not caused by wilful and wanton misconduct;
- (2) Adding a respondeat superior clause in section 2 of the bill which will allow suits against organizations using volunteers, keeping in mind that the bill will apply to civil suits for damages commenced 180 days from the effective date to allow organizations to obtain necessary insurance coverage if they so wish;
- (3) Eliminating the exception from immunity relating to motor vehicles since those with no fault insurance should not be treated differently than those without insurance;
- (4) Adding exceptions to civil immunity to ensure that those volunteers engaged in illegal conduct, conduct which unreasonably interferes with the lawful activities of another, or conduct involving more than negligence be held accountable for their actions;
- (5) Amending the purpose clause to reflect these changes; and
- (6) Making technical, nonsubstantive changes 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. 2956, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2956, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 738-96 Judiciary on H.B. No. 2983

The purpose of this bill is to prohibit health care providers from charging applicants, beneficiaries, or their representatives a fee for a copy of their medical records if the records are requested to support a claim or appeal under the Social Security Act or a state or federal financial-needs based benefit program.

Your Committee received testimony in support of this bill from representatives of the Legal Aid Society, the Department of Human Services, and the Protection and Advocacy Agency of Hawaii. A representative of Kaiser Permanente shared concerns about this bill.

Your Committee finds that passage of this bill will assist people with disabilities in expediting their applications for various federal and state benefits. While in full support of the intent of this bill, your Committee does not wish to overburden health care providers with the costs of copying extensive records.

Therefore, your Committee has amended this bill by setting a ceiling on the number of pages that must be provided by health care providers without charge at twenty-five pages. Technical, nonsubstantive 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. 2983, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2983, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 739-96 Judiciary on H.B. No. 3350

The purpose of this bill is to clarify what constitutes an application for services to the Child Support Enforcement Agency, and to allow for direct payment of child support between parents with approval of the court as an exception to the income withholding requirements.

Your Committee received testimony from a representative of the Attorney General's office.

Your Committee finds that there are circumstances where it would be in the best interest of the child to permit the direct payments of child support. In order to make sure that abuses do not occur, the measure provides for the option of either party to void the agreement for direct payments at any time.

Your Committee has amended the bill to clarify that proof of timely payments, as required for approval of an agreement for direct payment, must be made only when there had been a previous order of child support. Technical, nonsubstantive amendments were made to correct drafting errors.

As affirmed by the record of votes of 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. 3350, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3350, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 740-96 Judiciary on H.B. No. 3572

The purpose of this bill is to clarify who may be held criminally liable for various state tax violations and to make the failure to secure a required tax license a misdemeanor.

Testimony was received by your Committee in support of the bill from the Department of Taxation.

Your Committee finds that responsible individuals in a corporation or other entity should be held criminally liable for various tax violations the same as a private individual would be. However, your Committee has amended the bill to ensure that only those persons in corporations or other entities who are under both a duty to perform and are principally responsible for performing the act in respect to which the violation occurs will be held criminally responsible.

As affirmed by the record of votes of 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. 3572, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3572, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 741-96 Judiciary on H.B. No. 3595

The purpose of this bill is to permit the chief election officer and clerk of a county to require voters in precincts with less than 200 voters and in precincts affected by natural disasters to vote by absentee ballot.

Your Committee received testimony in support of the measure from a representative of the Office of the Lieutenant Governor.

Your Committee finds that there are good reasons for absentee balloting in the case of a natural disaster, but that every effort should be made to provide regular polling places for every voter who wishes to exercise his or her franchise at the voting booth.

Therefore, your Committee has amended the measure by eliminating all references to precincts with less than 200 voters and limiting the effect of the measure only to precincts affected by a natural disaster.

As affirmed by the record of votes of 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. 3595, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3595, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 742-96 Hawaiian Affairs and Housing on H.B. No. 3279

The purpose of this bill is to prohibit lessees of Hawaiian home lands from selling, subleasing, or transferring the lease interest for compensation. The bill will allow the Department of Hawaiian Home Lands to offer incentives to reclaim the land from awardees who do not improve the land.

The Department of Hawaiian Home Lands (DHHL) provided testimony in support of the intent of this bill. However, the DHHL testified that the focus of the department should be to place beneficiaries on the land, not to buy them off of the land. Also, the DHHL expressed concern that if certain transfers of leases are prohibited, the department will be unable to enforce the regulation since it is not always a party to the transaction. They suggested that a resolution be submitted to establish a task force to study the issues and concerns regarding homestead lease transfers.

The Ahupua'a o O'ahu provided testimony in support of the intent to prevent transfers of leases strictly for financial gain. However, it was in opposition to the bill in its current form. It believed that a resolution calling for a task force to study the issue of lease transfers for profit should be made. The State Council on Hawaiian Homestead Associations was opposed to the bill.

Your Committee recognizes that the necessity may arise for beneficiaries to transfer their leases as a result of circumstances beyond their control. It is the intent of your Committee to draft a resolution establishing a task force to study the issues and concerns regarding transfers of Hawaiian homestead leases. It is for that reason your Committee, upon careful consideration, has amended this bill by:

- (1) Deleting the provision authorizing the DHHL to implement a financial incentive reclamation program;
- (2) Allowing for transfers of leases with compensation for infrastructure improvements made or paid for by the lessee; and
- (3) Making technical, non-substantive changes for the purposes of conformity 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. 3279, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3279, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kawakami.
(Representative Kawanakoa voted no.)

SCRep. 743-96 Hawaiian Affairs and Housing on H.B. No. 3741

There has been increased concern regarding the accountability and fiduciary responsibilities of the Trustees of the Office of Hawaiian Affairs (OHA). The recent infusion of cash and other assets into the OHA trust has brought a diversity of investment and financial opportunities to the Board and the beneficiaries of the OHA trust. Yet recent financial managements of trust funds has brought into question the amount of stewardship and consequently accountability the OHA Trustees possess.

Current statutory provisions only require Board approval for the appointment of the Administrator. The Board is not privy to the hiring of any additional staff members whose responsibilities have increased significantly with the increase in the amount of available trust funds. This bill seeks to rectify the lack of control experienced by the Trustees in hopes of providing direct accountability to the Board for the management of assets on behalf of the OHA beneficiaries.

The purpose of this bill is to make the OHA's Administrator's employment of deputies and officers subject to the notification and approval of the majority of the Board of Trustees. The bill further allows the Board to appoint and terminate hires when the Administrator's office is vacant.

Testimony in support of this bill was received from OHA Trustee Beamer and Trustee Akana, Na Koa Ikaika, and private citizens.

Testimony in opposition to the bill was received by the Association of Hawaiian Civic Clubs. It expressed concern that the semi-autonomous arrangement of the OHA would be threatened by the internal controls forced on the Board by the Legislature.

In recognizing the concerns which this bill both attempts to address as well as create, your Committee realizes the unique nature and relationship the OHA has with the Legislature. By making the Trustees more accountable, it in essence increases the Board's autonomy in fulfilling their fiduciary responsibilities to the beneficiaries. It is the belief of your Committee that if the Trustees are to be held liable professionally as well as personally for the management of the OHA trust funds, then the Trustees should be given absolute discretion over the choices of those members of the OHA staff who dispense those trust funds.

Upon further consideration, your Committee has amended this bill to incorporate the suggestions of the Trustees which included:

- (1) Allowing the Board of Trustees to remove the Administrator for cause by a majority, rather than a two-thirds, vote of the Board;
- (2) Removing the proposed language allowing the Board to appoint and terminate hires when the Administrator's office is vacant,
- (3) Requiring Board approval for the hiring of the Administrator's deputies, but not the officers, and
- (4) Making technical, non-substantive changes.

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. 3741, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3741, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 744-96 Hawaiian Affairs and Housing on H.B. No. 3970

The purpose of this bill is to restrict for ten years the resale of real property developed by the Housing Finance and Development Corporation (HFDC) to either the HFDC or to a qualified resident at a price and terms that preserve the intent of making dwelling units available at affordable rates for owner-occupants, with certain restrictions on use, sale, and transfer of the real property.

Testimony in support of this bill was received from a private citizen and the City and County of Honolulu's Department of Housing and Community Development (DHCD). The DHCD provided amendments which removed the proposed requirement that the buyer be within the same income category as the original purchaser. It was recommended that the proposed language requiring approval of the HFDC be removed.

Testimony in opposition to the bill was received from the HFDC. The amendments: (1) would remove their absolute option to repurchase the property; (2) could create hardships in finding buyers within the same income level; (3) would force the owner to incur certain sales costs by imposing a restricted buyback formula; and (4) would not allow the owner to be able to pay off the statutorily required shared appreciation equity if the owner sells directly to a new buyer.

Further discussion with the HFDC and the DHCD provided possible solutions to their concerns. Upon consideration of this discussion, your Committee has amended this bill by:

- (1) Restoring the clause which gives the HFDC the first option to repurchase;

- (2) Removing the proposed restriction that the selling price not exceed the sum of:
 - (a) The original purchase price;
 - (b) The cost of improvements; and
 - (c) Simple interest on the original cost and capital improvements.

- (3) Making technical, non-substantive changes for consistency 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. 3970, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3970, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kawanakoa.

SCRep. 745-96 Consumer Protection and Commerce on H.B. No. 3096

The purpose of this bill is to specify minimum requirements for refunds, exchanges, and merchandise credits, for goods returned to the retail merchant.

Testimony supporting the measure was received from Liberty House, and the Legislative Information Services of Hawaii, Inc.

Testimony supporting the bill with amendments, was received from Kramer's, The Fashion Store for Men, ABC Stores, The Retail Merchants of Hawaii, and The Pocketbook Man.

Testimony in opposition to the measure was received from the Office of Consumer Protection, Department of Commerce and Consumer Affairs (DCCA). During testimony, the DCCA proposed that the Committee consider amendments to Chapter 481B-5 as contained in H.B.1733, H.D.1, a measure heard during the 1994 regular session.

Your Committee finds H.B.1733, H.D.1 is consistent with the intent of the bill to establish minimum requirements for refunds, exchanges, and merchandise credits. Furthermore, H.B.1733, H.D.1, contains important provisions for consumers and merchants not included in the bill. Among its important provisions are the following:

- (1) Establishes minimum requirements for refunds, exchanges and merchandise credits if the merchant does not post conspicuous signs stating otherwise;
- (2) Retains flexibility for the merchant to deviate from the minimum requirements by posting conspicuous signs;
- (3) Retains provision in current statutes that a merchant shall post a conspicuous sign if the period of time allowed for returned goods is less than 60 days;
- (4) Allows merchants to deduct charges for shipping from the refund on custom or specially ordered goods if the merchant accepts the return;
- (5) Changes the provision in the bill for merchants to issue refunds in cash from returned goods costing \$200 or less to returned goods costing \$25 or less;
- (6) Changes the maximum full amount of payment requiring a refund by check from \$200 or more, provided that the check is issued within 5 business days from the date of return, to \$25 or more, provided that the check is issued within 10 business days from the date of the return;
- (7) Changes the number of banking business days a merchant has to submit credit documentation to the merchant's financial institution, from 2 to 5 banking business days, for purchases paid by credit card and returned to the merchant;
- (8) Retains current statute requirement that if goods are not selected within 30 days for merchandise credit, the merchant shall issue a refund in cash or check depending on the full amount of payment for the returned goods; and
- (9) Provides consumers with refunds in cash when the consumer has been issued a merchandise credit and selects goods costing less than the merchandise credit. The difference is to be refunded in cash and the merchant may require proof that the goods were purchased from the merchant and require surrender of the merchandise credit.

Your Committee finds that existing statutes governing refunds, exchanges, and merchandise credits are difficult to understand and that a need exists to establish clearly defined minimum requirements for consumers and merchants.

After carefully considering the merits of this measure, the testimonies received, and input from DCCA and retailers, your Committee has amended the bill by accepting the DCCA suggestion and inserting the contents of H.B.1733, H.D.1, from the 1994 regular session, and making the following additional amendments:

- (1) Adding a definition of "ancillary charges" to include service agreements, warranties and replacements;
- (2) Adding a definition of "full amount of payment" which includes ancillary charges and taxes paid incident to the purchase;

- (3) Adding natural persons returning goods purchased or received primarily for personal, family or household purposes to the definition of "purchaser";
- (4) Clarifying the definition of "merchant" to mean merchants selling goods to purchasers at retail;
- (5) Requiring that for a purchase paid by check, the merchant shall refund cash if the returned goods cost \$25 or less or refund by check if over \$25 and providing instructions to the merchant when the purchaser's check has not cleared the bank on which the check was drawn;
- (6) Adding language that the merchant is not required to turn merchandise credits to cash if they post a conspicuous sign to that effect;
- (7) Requiring that all refunds, exchanges and merchandise credits shall be equal to the full amount of payment. No deductions shall be made for ancillary charges, restocking of merchant's inventory or administration fees related to the refund;
- (8) Deleting all language related to return tag procedures; and
- (9) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee finds the bill, as amended, to be a fair, consistent and easily understood refund, exchange, and merchandise credit law fulfilling the intent of the bill as introduced.

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. 3096, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3096, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 746-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3099

The purpose of this bill is to define the crime of theft of utility services and to amend the Penal Code to specifically address this crime.

Testimony in support of the measure, with proposed amendments, was received from: Hawaiian Electric Company, Inc.; Kauai Electric; BHP Gas Company; and The City and County of Honolulu Board of Water Supply, on behalf of the Boards of Water Supply of the four counties.

Testimony in opposition to the measure was received from the Office of the Public Defender.

This bill would add a new section to chapter 708, Hawaii Revised Statutes (HRS), "theft of utility services" which defines the types of activities considered to be utility theft and classifies such theft as a class C felony.

Your Committees find the theft of utility services to be a crime which has unique problems in deterrence, proof of acts, and enforcement of current statutes. Furthermore, the theft of utility services through diversion, disconnection and reconnection, or other means may create hazardous conditions. These hazardous conditions may endanger the perpetrator, utility company personnel, and other persons in the vicinity of such acts. Additionally, utility service thefts divert utility revenues, which in turn decrease or result in a loss of revenue to the State and increase costs for consumers.

After careful consideration of the testimonies received and consideration of the unique nature of the theft of utility services, your Committees agree that a new offense specifically addressing the theft of utility services is warranted.

While your Committees are in general agreement with this bill, your Committees have significant concerns with the penalty designated as a class C felony, regardless of the extent or type of theft.

Moreover, stating that the law shall presume a "permitted inference", when an instrument used to commit the theft or an altered meter is found on a customers' or persons property, is not clear in its intent. Your Committees agree that the burden of proof regarding this situation should rest with the defense as a "rebuttable presumption".

Furthermore, use of the term "tampering" is indistinct from other applicable terms in this bill. Under existing statutes, it is your Committees' understanding that tampering with the property of utilities without their consent is in violation of section 708-827, HRS, and classified as a petty misdemeanor which is contradictory to this bill.

Additionally, the BHP Gas Company and the Boards of Water Supply testified that they have severe problems with utility thefts and requested inclusion of their utility services in this bill.

Accordingly, your Committees have amended this bill by:

- (1) Establishing two classes of offenses for the theft of utility services - utility theft in the First and Second Degree. Utility theft in the First Degree is a class C felony with a fine of at least \$1000 or two times the value of the theft, whichever is greater, for the first offense. Utility theft in the Second Degree is a misdemeanor with a fine of \$500 for the first offense, increasing in increments of \$500 for each subsequent offense. Those included in the class C felony are: commercial trades or businesses; persons hired to commit the theft, such as an electrician hired to bypass electrical lines, and the person responsible for the hiring; and persons in their

domicile where the theft of services exceeds \$300. All other persons will fall under the misdemeanor classification;

- (2) Deleting the term "permitted inference" and replacing with "rebuttable presumption" which in some circumstances places the burden of proof with the defense;
- (3) Removing "tampering" as a referenced term in the bill. Actions pertaining to "tampering" are included by the nature of the definitions in the new section of chapter 708;
- (4) Removing reference of tampering with the property of a utility from the statute regarding criminal tampering in the second degree (deleting section 708-827(b), HRS, tampers or makes connection with the property of a utility without its consent);
- (5) Adopting recommendations from BHP Gas Company and the Boards of Water Supply to include their utility services within the scope of this bill; and
- (6) Making additional technical, nonsubstantive changes 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. 3099, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3099, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 747-96 Legislative Management on H.B. No. 3146

The purpose of this bill is to make all statutory references to the "Legislative Auditor" consistent throughout the Hawaii Revised Statutes.

There has been confusion as to the official title of the Legislative Auditor because this position is referred to as the "Auditor," "State Auditor," and "Legislative Auditor." By making references to the Legislative Auditor uniform throughout the Hawaii Revised Statutes, your Committee hopes to clarify the matter and leave no question as to what position is being discussed.

Your Committee has amended this bill by:

- (1) Changing the effective date of the bill to the date when the constitutional amendment proposed by H.B. No. 3145, in its final form, takes effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii; 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 Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3146, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3146, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Say, Arakaki and Souki.

SCRep. 748-96 Judiciary on H.B. No. 2416

The purpose of this bill is to limit the ability of the Civil Rights Commission to search residential premises.

Your Committee received testimony in support of this bill from representatives of the Chamber of Commerce of Hawaii and Access Communications Inc. Testimony recommending amendments was received from the Civil Rights Commission.

Your Committee finds that the Civil Rights Commission has never had occasion to enter a business which is also used as a residence in conducting an investigation under Chapter 378.

However, the law as it is currently written, is broad enough to permit the Commission access to residential premises without consent and without court order or supervision. Your Committee feels that this should be narrowed to meet the current practice and to make it clear that residential premises should be regarded as more private and should be afforded greater protections than other business premises.

Your Committee has amended this bill by redrafting the purpose clause to make it clearer as to what the current practice is and has added in section 2 of the bill, that a court order will only be required for dwelling residences if voluntary access is denied. 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. 2416, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2416, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 749-96 Judiciary on H.B. No. 2516

The purpose of this bill is to:

- (1) Reclassify the crime of manslaughter from a class B felony to a class A felony; and
- (2) Clarify the circumstances under which a prosecution for murder in the first or second degree may be reduced to manslaughter.

Your Committee received testimony in support of the bill from the Attorney General, the Prosecuting Attorney of the City and County of Honolulu, the Hawaii State Commission on the Status of Women, the Domestic Violence Clearinghouse, Hawaii Women's Political Caucus, Hawaii Women's Coalition, Parents and Children Together, HOPE, and concerned citizens. The Office of the Public Defender testified in opposition to the measure.

While in agreement with the intent of this bill to reclassify manslaughter from a class B felony to a class A felony, your Committee finds it necessary to permit a person convicted of manslaughter to be sentenced to a term of probation because of the varying possible degrees of culpability, from voluntary manslaughter to involuntary manslaughter. Your Committee feels that the sentencing judge must be given the discretion to structure the appropriate sentence to encompass the different degrees of culpability. Accordingly, your Committee has amended the law to permit a person convicted of manslaughter to receive a sentence of probation even though the offense is being reclassified as a class A felony.

Under the present manslaughter statute, it is a defense, which reduces the offense of murder to manslaughter, that at the time the defendant caused the other person's death, the defendant was under the influence of extreme mental or emotional disturbance for which there is a reasonable explanation. Your Committee has amended the bill to clarify that the reasonableness of the defendant's explanation is to be determined by the trier of fact from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be.

As affirmed by the record of votes of 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. 2516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2516, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Menor, Swain and Yoshinaga.

SCRep. 750-96 Judiciary and Consumer Protection and Commerce on H.B. No. 2609

The purpose of this bill is to create the offense of arson, separate and apart from the offense of criminal property damage. The bill authorizes the Police Chief and Prosecuting Attorney to obtain information from insurers relating to suspicious fires and requires the use of anti-arson applications for all fire insurance policies issued in Hawaii.

Your Committees received testimony in support of this bill from representatives of the Department of the Prosecuting Attorney, City and County of Honolulu, the Honolulu Police Department, the State Farm Fire Council, and the Honolulu Fire Department. Testimony in opposition to this bill was received from the Office of the Public Defender. State Farm Insurance Companies supported this bill in part and opposed it in part.

Your Committees feel that arson is a serious crime involving extensive economic loss. As such, your Committees believe that this should be treated separately from other types of criminal property damage.

Your Committees made the following amendments to this bill:

- (1) Eliminating the requirement that insurers provide certain information relating to fire losses to the fire chief, police chief, and prosecuting attorney of the county in which the fire loss occurred as it would be onerous for insurers to keep and compile this information which is not related to an insurance purpose;
- (2) Eliminating the requirement mandating the use of anti-arson applications for all insurance policies issued in this State against the peril of fire or explosion as the use of such policies would be too burdensome upon insurers and applicants;
- (3) Reducing the class of offense for intentionally, knowingly, or recklessly creating or causing physical harm to an occupied structure by means of an incendiary device, fire, or explosion from arson in the first degree to arson in the second degree since it includes damage where no bodily injury is implicated;
- (4) Reducing the state of mind required to be found guilty of arson in the second degree to that of reckless conduct;
- (5) Basing the class of felony for arson in the second degree upon the value of the damage to property rather than the value of the property involved in the fire; and
- (6) Making technical, nonsubstantive revisions for the purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2609, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2609, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives White, Cachola, Herkes, Hiraki, Swain and Yamane

SCRep. 751-96 Judiciary on H.B. No. 3544

The purpose of this bill is to modify the eligibility provisions for emergency release of certain pretrial detainees by the Director of Public Safety.

In addition, this bill extends the sunset provision of Act 156, Session Laws of Hawaii 1995, from 1996 to 2001.

The Attorney General, the Department of Public Safety, the American Civil Liberties Union, and the Corrections Population Management Commission testified in support of the measure. The Department of the Prosecuting Attorney for the City and County of Honolulu and the Honolulu Police Department testified in opposition of the bill.

Your Committee has amended the bill by:

- (1) Reinstating the requirement that persons who have been charged with, or convicted of, or who are on parole for a serious crime as defined in section 804-3, Hawaii Revised Statutes (HRS), are not eligible for emergency release;
- (2) Deleting the requirement that persons who have been charged with, or convicted of, or who are on parole for an offense under sections 708-840 and 708-841, HRS, shall not be eligible for emergency release;
- (3) Changing the sunset date from 2001 to 1999; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3544, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3544, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hamakawa, McMurdo, Menor and Swain.
(Representative Thielen voted no.)

SCRep. 752-96 Judiciary on H.B. No. 3924

The purpose of the bill, as received by your Committee, was to require buyers of ammunition to show proof of registration of a particular weapon before a sale of ammunition could be made.

Testimony in support of the measure was received by your Committee from representatives of the Honolulu Police Department, the Injury Prevention Advisory Committee, and the Hawaii Firearms Control Coalition, as well as from several private citizens.

Testimony in opposition to the measure, or suggesting amendments, was received by your Committee from representatives of the Hawaii Rifle Association, the Hawaii Historic Arms Association, Hawaii Citizens' Rights, and from a number of private citizens.

Your Committee was concerned that the provisions in this bill unnecessarily burdened the lawful gun owner.

Your Committee believes there is a better approach to regulating the sale of ammunition and has therefore amended the measure by redrafting the bill to:

- (1) Prohibit the sale of ammunition to those under eighteen; and
- (2) Prohibit the sale of ammunition designed exclusively for handguns to those under twenty-one.

The measure was further amended to encourage sellers to demand and review the picture identification of potential purchasers who may be underage.

As affirmed by the record of votes of 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. 3924, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3924, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 753-96 Public Safety and Military Affairs and Judiciary on H.B. No. 2607

The purpose of this bill is to require the Hawaii Paroling Authority (HPA) to provide reasonable notice to the prosecuting attorney before reducing a minimum term of imprisonment or reconsidering or rehearing a parole case.

Additionally, this bill allows the State to be represented by the prosecuting attorney at initial parole hearings and all subsequent parole hearings.

Testimony in support of this measure was received from the State Attorney General, the Department of the Prosecuting Attorney of the City and County of Honolulu, and a concerned individual. Comments on this bill were submitted by HPA.

Your Committees have amended this measure by:

- (1) Specifying reasonable notice as sixty days notice to the prosecuting attorney before HPA reduces a minimum term of imprisonment or reconsiders or rehears a parole case; and

- (2) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

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. 2607, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2607, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Cachola, Hamakawa, Menor and Yamane.

SCRep. 754-96 Water and Land Use Planning on H.B. No. 2840

The purpose of this bill is to require the Department of Land and Natural Resources (DLNR) to:

- (1) Adopt rules to manage introduced game, non-game, and other wildlife; and
- (2) Establish and manage game management areas, wildlife sanctuaries, and public hunting areas.

Testimony supporting this bill was received by your Committee from the International Longshoremen's and Warehouse's Union (ILWU), the Wildlife Conservation Association of Hawaii, Pig Hunters of Hawaii, and the Hawaii Rifle Association. The DLNR submitted testimony stating that it had no problem in supporting this bill, but questioned the need for it. The Sierra Club Legal Defense Fund testified in support of the intent of this measure.

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. 2840 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 Garcia, Kanoho, McMurdo, Tarnas and Yoshinaga.

SCRep. 755-96 Water and Land Use Planning on H.B. No. 3521

The purpose of this bill is to allow the Department of Land and Natural Resources (DLNR) to extend the one hundred eighty day application processing period for a conservation district use permit an additional ninety days and to provide for additional extensions in certain situations.

DLNR testified in support of this bill. DLNR informed your Committee that currently extensions can only be requested by an applicant and if the applicant refuses to request an extension for a pending environmental impact statement or contested case, the Land Board must deny the permit before the processing deadline has lapsed or the project will be approved because of the Land Board's failure to take action. If a special management area permit is pending, an application must be withdrawn and resubmitted in order to avoid the Land Board's denial of an application.

The Department of Land Utilization of the City and County of Honolulu testified in support of this bill. The Land Use Research Foundation also submitted testimony. Hawaiian Electric Company, Inc., testified in opposition to this bill.

Your Committee understands the concerns raised by those who opposed this measure but believes that this bill will expedite the permitting process and alleviate the problem of administratively cumbersome procedures.

Upon careful consideration of the testimony presented, your Committee has amended this bill by:

- (1) Providing that DLNR may extend the one hundred eighty day processing period an additional ninety days at the request of an applicant when an environmental impact statement or special area management permit is involved;
- (2) Providing a separate section that allows DLNR to extend the one hundred eighty day processing period an additional ninety days when a contested case hearing is requested pursuant to chapter 91, Hawaii Revised Statutes; and
- (3) Making technical, nonsubstantive changes 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. 3521, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3521, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kanoho, McMurdo, M. Oshiro and Meyer.

SCRep. 756-96 Water and Land Use Planning and Energy and Environmental Protection on H.B. No. 3917

The purpose of this bill is to ensure the continued viability of game mammals such as the feral pig by recognizing them for cultural, subsistence, and recreational purposes:

- (1) When consistent with other laws and rules;

- (2) Where continued existence of these mammals do not pose a threat to essential or critical habitats of threatened or endangered species; and
- (3) Where continued taking of these mammals are consistent with sound management practices.

This bill also requires the Department of Land and Natural Resources (DLNR) to adopt rules in a way that respects the cultural traditions of subsistence hunters.

The following testified in support of this bill: the Wildlife Conservation Association of Hawaii; ILWU Local 142; the Association of Hawaiian Civic Clubs, Hawaii Council; the Hawaii Rifle Association; and five concerned individuals. The DLNR supported this measure and suggested amendments. The Sierra Club Legal Defense Fund opposed this measure. The Environmental Center offered comments.

Your Committees have amended the requirements that specify the conditions under which game mammals may be recognized by:

- (1) Specifying that the applicable laws include but are not limited to chapters 183 (Forest Reserves, Water Development, Zoning), 183D (Wildlife), 195 (Natural Area Reserves System), and 195D (Conservation of Aquatic Life, Wildlife, and Land Plants); and
- (2) Deleting the requirement that game mammals do not pose a threat to the habitats of threatened or endangered species. There was concern over these provisions because critical habitats have yet to be designated.

Your Committees have further amended this bill by making technical, nonsubstantive revisions for the purpose of clarity.

Finally, 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. 3917, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. 3917, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Garcia, Kanoho, McMurdo, M. Oshiro and Meyer.

SCRep. 757-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2825

The purpose of this bill is to:

- (1) Include the brewpub licensee in the definition of "retail licensee" found in section 281-1, Hawaii Revised Statutes (HRS);
- (2) Allow brewpubs to sell malt beverages they manufacture, in brewery-sealed packages, to wholesale licensees, pursuant to clearances from all government agencies;
- (3) Restrict brewpub licensees to purchasing from wholesale licensees and manufacturer licensees when purchasing liquors for sale to its customers;
- (4) Apply existing special restrictions to prohibit brewpub licensees from inducing purchases by retail licensees; and
- (5) Change the governance of the special restrictions from the Federal Bureau of Alcohol, Tobacco and Firearms (BATF) "tied house" regulations to those set forth in the Liquor Commission rules.

Testimony in support of the measure, with proposed amendments, was received from the Director of Finance, City and County of Honolulu, the Director of the Department of Liquor Control, County of Maui, and the Director of Liquor Control, County of Hawaii.

Testimony in opposition, with comments, was received from the Retail Liquor Dealers Association and the Ali'i Brewing Company, Inc.

Among its important provisions, this bill would include the Class 14 - brewpub licensee under section 281-1, HRS, and thereby subject brewpub licensees to the laws governing retail licensees. This bill would also allow brewpubs to locate in commercially zoned areas and sell malt beverages produced by the licensee, in brewery sealed packages, to wholesale licensees. Furthermore, this measure clarifies that a brewpub licensee may sell other liquor products that have not been manufactured on the licensee's premises only if the liquor was purchased from a manufacturer or a wholesale dealer.

Your Committees agree that the brewpub licensee should be included in the HRS definition of "retail licensee" in recognition of the fact that a brewpub licensee is permitted to engage in retail activities on the licensee's premises and therefore is appropriately classified as a retail licensee. Moreover, your Committees agree with the County Liquor Commissions, that the authority of counties to allow brewpub licensees to sell to wholesalers while operating in commercial zones needs to be clarified.

In addition, your Committees agree with the section in this bill that would delete the provision under existing law that allows brewpub licensees to sell intoxicating liquor "regardless of source". This change in the law is intended to

discourage and prevent brewpub licensees from violating current laws governing the sale of liquor to retail licensees. For example, under existing law, it is your Committees' understanding that a retail licensee is prohibited from purchasing liquor products from another retailer for sale to the licensee's customers.

While your Committees are in general agreement with this bill, your Committees find that certain revisions need to be made based on concerns expressed by various testifiers. For example, the Director of the Department of Liquor Control, County of Maui, testified that the County Planning and Public Works Departments are the governmental agencies on the county level that have the authority to regulate the location of brewpub establishments. Therefore, it was recommended that this bill be amended to allow the County Planning and Public Works Departments to set the guidelines and conditions for the sale of malt beverages by brewpub licensees to wholesalers in commercial zones.

Additionally, the representative from the Retail Liquor Dealers Association testified about the need to retain the BATF "tied house" regulations under the special restrictions that apply to wholesalers and manufacturers instead of allowing each county to develop its own rules.

Accordingly, your Committees have amended this bill by:

- (1) Specifying that brewpub licensees may sell, in brewery sealed packages, malt beverages they manufacture, if they meet all conditions imposed by the County Planning and Public Works Departments;
- (2) Omitting brewpub licensees from the special restrictions relating to prohibited practices to induce purchases by retailers;
- (3) Retaining the governance of Federal Bureau of Alcohol, Tobacco and Firearms, (BATF) "tied house" regulations, 27 Code of Federal Regulations Part 6, Subpart D regulating exceptions to certain restrictions placed on the conduct of liquor suppliers; and
- (4) Making technical, nonsubstantive changes 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. 2825, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2825, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 758-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3233

The purpose of this bill is to ensure that the origin of aquatic foods sold in Hawaii are not misrepresented to the purchaser.

Testimony in support of this measure was received from the Big Island Fishermen's Association, the Hawaii Big Game Fishing Club; and K-Pono, with suggested changes. Testimony in support of the intent of the bill was received from the Department of Land and Natural Resources and the Department of Health.

Testimony neither supporting nor opposing this bill, but, providing comments, was received from the Department of Commerce and Consumer Affairs, Office of Consumer Protection, and the Department of Business, Economic Development, and Tourism.

Testimony in opposition to this bill was received from the Department of Agriculture, the Hawaii Restaurant Association, and the Hawaii Food Industry Association.

The Hawaii based fishing industry has encountered numerous problems with wholesalers, retailers, and restaurants selling mislabeled aquatic food products (mostly fish and crustaceans). This mislabeling generally has two forms: First, aquatic products which misrepresent a Hawaiian origin. For example, when prawns from a foreign country are sold by retail outlets as Kahuku prawns. Second, when an aquatic product is sold in Hawaii, using a recognized Hawaiian name, with a false statement of inference that the product is locally caught or landed in Hawaii. For example, Mahi Mahi is sometimes shipped to Hawaii from a foreign country and sold by local restaurants with a marketing/sales emphasis on the Hawaiian name. In some cases, the patrons are falsely under the impression that the Hawaiian names equates to a fish that has been freshly landed in Hawaii.

This bill provides a new section in chapter 486, HRS, and would implement changes to the labeling or identification of aquatic products. Your Committees are in general agreement with this bill, however, with careful consideration of the testimonies received, your Committees find that certain revisions need to be made. Following are the important provisions of this bill, with each provision followed by the amendments made by your Committees:

- (1) This provision of the bill prohibits a person from labeling any aquatic food for sale that uses a Hawaiian name and misrepresents the origin as being caught or harvested within the boundaries of the State. Your Committees are in general agreement with this provision, however, find this requirement is limiting to the intent of the bill. Based on concerns from this bill's proponents, the designation of "landed" more accurately reflects the reality of commercial fishing. Most of the Hawaiian based fishing takes place beyond Hawaiian waters, however, the catch is "landed" in the State.

Accordingly, your Committees have amended this provision by:

- (a) Removing a Hawaiian name as a necessary condition to finding misrepresentation;

- (b) Replacing all references to "caught or harvested" with the term "landed". Defining "landed" to mean brought ashore at a port or harbor located within the Hawaiian Islands by the boat or vessel that caught or harvested the aquatic product"; and
- (c) Including in this provision aquatic foods that have been grown, manufactured, or significantly processed within the State.
- (2) This provision of the bill would mandate the identification of aquatic foods caught or harvested outside of the State, sold to a wholesaler or consumer, to contain a label stating the food is imported, and its general geographic location or country of origin. Your Committees find that retail stores are not included and should be listed as a business subject to this provision; that aquatic foods using a Hawaiian name that are not landed in Hawaii should be identified as such; and that including the geographic location where the fish was landed may be an overly burdensome requirements.

Accordingly, your Committees have amended this provision by:

- (d) Adding a retail store as a business subject to this bill;
- (e) Adding the requirement that if a Hawaiian names is used, and the aquatic food is landed outside the State, it shall be labeled as imported; and
- (f) Deleting the requirement to indicate the general geographic location or country of origin.
- (3) This provision of the bill would require food service establishments to identify on a menu, placard, or bill of fare, that any aquatic food caught or harvested outside of the State is imported, and its general geographic location or country of origin. Your Committees are in general agreement with this provision, however, find that aquatic foods using a Hawaiian name that are not landed in Hawaii should be identified as such on the menu, placard, or bill of fare; that including the geographic location where the fish was landed may be an overly burdensome requirement; and the term "food service establishment" is overly inclusive in its scope.

Accordingly, your Committees have amended this provision by:

- (g) Adding the requirement that if a Hawaiian name is used, and the food is landed outside the State, the aquatic food must be listed as imported on the menu, placard, or bill of fare;
- (h) Deleting the requirement to indicate the general geographic location or country of origin; and
- (i) Deleting the reference of a "food service establishment" by replacing it with "restaurant".

Your Committees further amended this bill by making December 31, 1996 the effective date in order to give merchants and restaurants sufficient time to comply with the provisions.

In addition, your Committees have made additional technical, nonsubstantive changes 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. 3233, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3233, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 759-96 Consumer Protection and Commerce on H.B. No. 2443

The purpose of this bill is to amend the Code of Financial Institutions to remove the restriction limiting the types of fees that may be charged by financial services loan companies (FSLCs) for consumer loans.

Testifying in support of the bill was the Hawaii Financial Services Association. The Financial Institutions Division of the Department of Commerce and Consumer Affairs testified in opposition to the bill.

Historically, FSLCs have been restricted in their right to charge fees on loan transactions because of the power they have to make loans with interest rates in excess of that generally permitted by law. Currently, section 412:9-304(5), Hawaii Revised Statutes, limits the types of fees FSLCs can charge on consumer loans secured by real property to notary fees, appraisal fees, appraisal review fees, and attorney's fees for preparing certain documents.

FSLCs compete with banks, savings and loans, credit unions, and mortgage brokers for loan customers. While the law does not prohibit these financial institutions from assessing a fee for loan preparation and documentation services, FSLCs are prohibited from passing on these costs to their customers by section 412:9-304(5), Hawaii Revised Statutes.

Your Committee finds that lifting the fee restriction imposed on FSLCs will level the playing field among financial institutions. Competition in the marketplace and the requirement that the fees be bona fide, reasonable, and not unfair or deceptive will act as constraints against the assessment of excessive fees on consumer loan transactions by FSLCs. Further, the Financial Institutions Division of the Department of Commerce and Consumer Affairs continues to exercise regulatory oversight over FSLCs and has the power to enforce violations of the law.

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. 2443 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, Hiraki, Tom and White.

SCRep. 760-96 Consumer Protection and Commerce on H.B. No. 3298

The purpose of this bill is to reclassify motor vehicles in category 3 of the licensing provisions of section 286-102, HRS, by increasing the maximum gross vehicle weight rating (GVWR) from 10,000 pounds to 11,000 pounds.

Testimony in support of the bill was submitted by Bubbies Homemade Ice Cream & Desserts, and Hawaiian Bagel Inc. The Department of Transportation (DOT) supported the measure with amendments. The Hawaii Transportation Association also submitted comments on the bill.

At the time the present law was enacted, all major automobile companies manufactured trucks at a gross vehicle weight rating ("GVWR") of 10,000 pounds. However, the recent trend within the motor vehicle industry has been to produce trucks with a GVWR of 11,000 pounds.

Current law requires a type 4 license to operate a vehicle with a GVWR of 11,000 pounds. This regulation has increased the operational costs of small businesses that are required to hire additional personnel with the required license to drive category 4 vehicles. Businesses that cannot afford to hire drivers with the proper licenses are forced to operate their vehicles in violation of the law.

Your Committee finds that raising the maximum weight limitation for category 3 vehicles from 10,000 GVWR to 11,000 GVWR would enable small businesses to operate within the limits of the law, without compromising public safety. The Hawaii Transportation Association testified that there was only a negligible difference between driving a vehicle with a GVWR of 10,000 pounds and a vehicle with a GVR of 11,000 pounds. Further, DOT testified that amending the law would not cause the department to be in noncompliance with federal regulations so long as other sections of chapter 286 were conformed to reflect the increased weight limitation for category 3 vehicles. Accordingly, your Committee has amended the bill by amending section 286-102(b)(4) to read:

"(4) All of the motor vehicles in category (3) and trucks having a gross vehicle weight rating of [ten] eleven thousand one through twenty-six thousand pounds."

Technical, nonsubstantive amendments were also 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. 3298, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3298, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 761-96 Consumer Protection and Commerce on H.B. No. 3925

The purpose of this bill is to require the Department of Commerce and Consumer Affairs to adopt rules requiring cable access organizations to broadcast disclaimers immediately prior to, at appropriate intervals during, and immediately after, any program not created by the access organization.

Testimony in support of the bill was submitted by the Cable Television Division of the Department of Commerce and Consumer Affairs (DCCA) and Sand Island Business Association. Olelo: The Corporation for Community Television (Olelo), and Ho'ike: Kaua'i Community Television, Inc., testified in opposition to the bill. Oceanic Cable offered comments on the measure.

Section 440G-8.2(f), Hawaii Revised Statutes, requires that cable operators designate channels for public, educational, or governmental (PEG) use. These PEG channels are managed and operated by PEG access organizations, such as Olelo and Ho'ike. This bill mandates that the director of DCCA adopt rules requiring PEG access organizations to broadcast disclaimers before, during, and after any program not created by the access organization.

While federal law prohibits cable operators from exercising editorial control over channels designated for PEG use, it does authorize local cable franchising authorities, such as DCCA, to establish rules or procedures for the use of PEG channels.

Your Committee finds that the adoption of rules requiring disclaimers is necessary in order to clarify that the speech contained in programming produced by a PEG channel user is the responsibility of the speaker or producer, and not endorsed by the access organization.

Technical, nonsubstantive amendments have been made to the bill 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. 3925, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3925, 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. 762-96 Labor and Public Employment on H.B. No. 696

The purpose of this bill is to require employers to provide employees with a mandatory meal period or a thirty minute break in the middle of an eight hour work shift.

Upon careful consideration, your Committee amended this bill by deleting its contents and replacing them with the present provisions. As amended, this measure re-defines "employee" under the wage and hour law to include seamen. Specifically, this measure removes "seamen" as a category of individuals excluded as "employees" under the law.

Your Committee finds that the removal of the exclusion is necessary to provide seamen with coverage under the wage and hour law.

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. 696, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 696, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 763-96 Labor and Public Employment on H.B. No. 2991

The purpose of this bill is to replace the existing language of the domestic service exclusion under the Hawaii Employment Security Law with a reference to Section 3306(c)(2) of the Internal Revenue Code of 1986, as amended.

Section 3306(c)(2) specifically exempts "domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year."

Existing law specifies that domestic services are not considered employment for unemployment purposes if the employer pays less than \$225 to an individual and less than a total of \$1,000 in cash wages for all individuals per calendar quarter for such services.

Considering that the state minimum wage is now \$5.25 per hour, the \$225 per quarter restriction can be deleted without compromising the purpose of the law, which is to protect domestic employees from the hazards of unemployment.

The Department of Labor and Industrial Relations submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2991 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 Abinsay, Ito and Ward.

SCRep. 764-96 Labor and Public Employment on H.B. No. 3468

The purpose of this bill is to repeal section 76-22, Hawaii Revised Statutes (HRS), relating to the use of unassembled examinations to evaluate candidates for higher ranking civil service positions. An unassembled examination consists solely of the rating of training and experience of applicants.

Testimony in support of this bill was received from the Department of Human Resources Development and the Department of Civil Service of the County of Hawaii.

Your Committee finds that section 76-22, HRS, which limits the use of unassembled examinations to higher ranking supervisory, administrative, fiscal, and professional positions is obsolete and that repeal of the section is appropriate.

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. 3468 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 Abinsay, Ito and Ward.

SCRep. 765-96 Labor and Public Employment on H.B. No. 3519

The purpose of this bill is to clarify that the Department of Labor and Industrial Relations (DLIR) is responsible for assuring, as far as possible, compliance with the Boiler and Elevator Safety Law (Chapter 397, Hawaii Revised Statutes).

DLIR supported this measure. A representative from Outrigger Hotels commented on this measure.

DLIR stated that with a growing inventory of over 20,000 regulated items, it must work with building owners, users, vendors, architects, contractors, employees, and the general public to assure the safe operation and use of boilers, pressure vessels, elevators, and similar equipment.

Your Committee finds that this law now requires DLIR to insure compliance with Chapter 397. This measure would enable DLIR to monitor the safe operation and use of boilers and similar equipment, without placing the State in jeopardy of potential liability actions.

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. 3519 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 Ito and Ward.

SCRep. 766-96 Education on H.B. No. 2515

The purpose of this bill is to require students to attend a public or private school until sixteen years of age rather than eighteen years of age.

Testimony in support of this measure was received from the Hawaii State Teachers Association, the principal of Farrington High School, several teachers at McKinley High School, and concerned individuals. The Department of Education and the Honolulu Police Department submitted testimony in opposition to this measure.

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

- (1) Clarifying that schools cannot tolerate student behaviors that jeopardize the safety and well-being of other children;
- (2) Clarifying that it is not the intent of the Legislature to encourage students to leave the educational system, but that it is a waste of time to compel students to attend school when they are determined not to be a part of the learning process;
- (3) Providing that students who have arrived at the age of sixteen and who choose not to attend school, must have the consent of their mother, father, guardian, or other person having charge;
- (4) Requiring the Departments of Education, Health, Human Services, and Labor and Industrial Relations, and the family courts, with the assistance of the Legislative Reference Bureau to:
 - (a) Evaluate existing alternative education programs for their ability to provide for alienated students;
 - (b) Assess the numbers and situations of students who would leave school;
 - (c) Assess the possible outcome of students who leave school at age sixteen;
 - (d) Determine how these students can best be served; and
 - (e) Develop a plan to assist students to pursue a path that will lead to gainful employment or job training;
- (5) Changing the effective date to July 1, 1998, except that the evaluation by the departments and the family courts will take effect upon approval; 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 Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2515, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2515, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Takamine.
(Representatives Santiago and Shon voted no.)

SCRep. 767-96 Education on H.B. No. 3249

The purpose of this bill is to establish rules pursuant to chapter 91 to allow each public high school's School/Community-Based Management council or public high school's principal to:

- (1) Develop community service programs; and
- (2) Establish a community service requirement for graduation from high school.

The Department of Education submitted testimony concurring with the intent of this measure, however opposed the implementation of this bill stating that making community service mandatory would not be in keeping with the voluntary spirit and nature of service to others.

The members of your Committee affirm that community service is indeed valuable, should be encouraged, and is in line with the goals for student development as outlined by the Department of Education.

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. 3249 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 Arakaki, Lee, Takamine, Takumi and Yonamine.

SCRep. 768-96 Education on H.B. No. 3252

The purpose of this bill is to make the education laws easier to understand in view of the systemic policy reforms that have taken place over the past several years, by recodifying the education statutes.

The Department of Education, the Hawaii State Teachers Association, and the Hawaii Business Roundtable submitted testimony in support of this measure.

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

- (1) Clarifying that educational officers remain subject to the certification standards established by the Department of Education; 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. 3252, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3252, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 769-96 Finance on H.B. No. 2502

The purpose of this bill is to transfer moneys from the State Educational Facilities Improvement Special Fund, the Aloha Stadium Special Fund, the Dwelling Unit Revolving Fund, and the Homes Revolving Fund to the general fund for fiscal year 1996-1997.

Testimony was received from the Housing Finance and Development Corporation, the Department of Education, the Department of Accounting and General Services, and the Department of Budget and Finance.

Your Committee has amended this bill by deleting its substance and inserting provisions transferring excess funds in the Rental Assistance Revolving Fund, the Agriculture Loan Revolving Fund, and the Aquaculture Loan Revolving Fund to the general fund for fiscal year 1996-1997.

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. 2502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2502, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Isbell and Jones.

SCRep. 770-96 Finance on H.B. No. 2709

The purpose of this bill is to establish an Emergency and Budget Stabilization Fund to, among other things, meet emergencies when declared by the Governor or determined to be urgent by the Legislature.

The Tax Foundation of Hawaii commented on this measure.

Your Committee has amended this bill by 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. 2709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2709, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 771-96 Finance on H.B. No. 3135

The purpose of this bill is to extend the appropriation period for the authorization of general obligation bond funds from three to four years.

Testimony in support of the intent of the bill was submitted by the Department of Education. Comments were received from the Department of Budget and Finance.

Your Committee has amended this bill by:

- (1) Authorizing appropriations from the State Educational Facilities Improvement Special Fund (Fund) to be made for up to four-year periods;
- (2) Providing that a sufficient amount of the moneys to be appropriated into the Fund for the subsequent budget period is to be used to satisfy the financial terms of the design-build contract; 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. 3135, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3135, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 772-96 Finance on H.B. No. 3387

The purpose of this bill is to reimburse to the general fund unspecified amounts paid for claims during a ten-year period that are attributable to programs not supported by the general fund.

The Department of Budget and Finance testified that this bill was intended to reimburse the general fund for past claims against the State that were paid by general funds, but should have been funded by non-general funds. The Department of Budget and Finance also submitted a partial list of claims paid from the general fund since 1991, totalling \$4,631,393.25 identified so far by the Attorney General, which are attributable to the Department of Transportation's Highway Special Fund.

Your Committee has amended the bill by:

- (1) Inserting the amount of \$4,631,393.25 to be appropriated from the highway special fund to the general fund as partial reimbursement to the general fund; 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. 3387, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3387, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Isbell and Jones.

SCRep. 773-96 Finance on H.B. No. 3388

The purpose of this bill is to require that from July 1, 1996, to June 30, 1997, the Department of Taxation deposit all remittances of the Rental Motor Vehicle and Tour Vehicle Surcharge Tax into the state general fund, instead of the State Highway Fund.

Testimony in support of this measure was received from the Department of Budget and Finance. The Tax Foundation of Hawaii and the Hawaii Transportation Association also commented on this bill.

Your Committee has amended this bill by:

- (1) Inserting provisions:
 - (A) Stating that there is at least \$21,000,000 in excess of the requirements of the State Highway Fund;
 - (B) Authorizing and appropriating \$21,000,000 from the retained earnings of the State Highway Fund for deposit into the state general fund for fiscal year 1996-1997; and
 - (C) Limiting the transfer of the \$21,000,000 to ensure that at least 150 percent of the requirement for the ensuing twelve months remains in the State Highway Fund; and
- (2) Putting the bill's original provision in Session Laws rather than statutes because its duration is only one year.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3388, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 774-96 Finance on H.B. No. 3389

The purpose of this bill is to avoid jeopardizing the ratings of the State's bonds by establishing policies and controls over lease purchase transactions (municipal leases) used to acquire facilities and equipment.

If properly structured, the interest component of a municipal lease payment is tax exempt to the lessor in the same manner as interest on a municipal bond is to the bondholder. These types of financings are often referred to as "off-the-books" financings, because they are used to avoid bond financing for capital projects.

However, organizations that rate the credit of the State's bonds take into consideration the amount of "off-the-books" financing in their evaluation of the State's debt paying ability. As a result, the unrestricted use of municipal leases may have an adverse impact on the State's credit rating.

The Department of Budget and Finance offered comments on this measure.

Your Committee has 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. 3389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3389, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 775-96 Finance on H.B. No. 3800

The purpose of this bill is to appropriate an unspecified amount for an orientation program for newly-arrived immigrants to Hawaii to be administered by the Office of Community Services.

Testifying in support of the bill were the Susannah Wesley Community Center, the Free Vietnam Organization, and the United Filipino Council of Hawaii.

Child and Family Services testified 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. 3800 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 776-96 Finance on H.B. No. 3823

The purpose of this bill, as received by your Committee, is to allow state departments to carry over up to five percent of any appropriation of general funds for operating purposes at the close of each fiscal year.

Your Committee finds that there is a compelling state interest to deal with the \$250,000,000 budget shortfall in an innovative and expeditious manner, while minimizing the negative impact on public employees.

Recognizing that difficult times require bold and creative leadership, your Committee offered a proposal to institute a furlough program to encourage further discussion on the development of solutions to the State's economic condition. Although such a program would require the cooperation and sacrifice of Hawaii's public employees, it would also preserve jobs and prevent further layoffs and terminations.

For purposes of the public hearing, your Committee circulated a proposed version of this bill to establish such a furlough program.

In response to this proposal, the Department of Budget and Finance, the Department of Public Safety, the University of Hawaii, the Department of Health, and the Department of Education supported the intent of the concept, while noting concerns.

The Hawaii Government Employees Association, the United Public Workers, and the Hawaii State Teachers Association also commented on the proposal.

This bill has been amended by deleting its substance and inserting language that:

- (1) Requires all public officers, whether elected or appointed officials, and employees at all levels of public employment within the executive, judicial, and legislative branches of government to participate in a temporary furlough program;
- (2) Provides that each employee take authorized leaves of absence without pay for 12 days during the period beginning July 1, 1996, and ending June 30, 1997, at the rate of one day each month or at such other rate to achieve 12 days over a work year;
- (3) Includes employees covered under collective bargaining agreements under the furlough program; and
- (4) Requires each department head to report on the status of the furlough program to the Legislature before the 1997 Regular Session.

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. 3823, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3823, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 777-96 Finance on H.B. No. 3964

The purpose of this bill is to ensure that the State achieves cost savings by improving its data collection and analysis operations.

This bill:

- (1) Requires the Department of Health (DOH) and the Department of Human Services to analyze their data collection and analysis methods and other operations that may benefit from the use of advanced computing technologies; and
- (2) Appropriates funds for a computing consultant to analyze the operations of both departments if it is determined to be necessary.

The DOH supported the intent of this measure. A concerned individual submitted comments.

Your Committee has amended this bill by:

- (1) Substituting the appropriations with the use of performance-based contracts in which a vendor would be compensated according to performance standards established by the departments;
- (2) Describing procedures for awarding these contracts;
- (3) Requiring annual status reports by both departments until full implementation has been completed; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3964, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3964, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Chang.

SCRep. 778-96 Finance on H.B. No. 4111

The purpose of this bill is to amend chapter 42D, Grants, Subsidies, and Purchases of Service, Hawaii Revised Statutes (HRS), by:

- (1) Transferring the responsibility for handling purchase of service agreements to the Hawaii Public Procurement Code (chapter 103D, HRS);
- (2) Repealing the advisory council and the executive coordinating council;
- (3) Providing for multi-year contracts up to four years;
- (4) Requiring a transition plan to facilitate the transfer of the administration of the purchase of service system; and
- (5) Establishing advisory councils to make recommendations on types of services and service delivery for purchases of service.

The Department of Budget and Finance and the State Procurement Office offered comments.

Your Committee has amended this bill by:

- (1) Designating an administrator and not the Chief Procurement Officer to be responsible for implementing the transition plan;
- (2) Establishing a policy group to monitor and facilitate the implementation of the transition plan; and
- (3) Making technical, nonsubstantive revisions for purposes of consistency and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4111, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4111, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 779-96 Judiciary on H.B. No. 2521

The purpose of this bill is to allow a petition for relief in cases of domestic abuse to allege only that past acts of abuse have occurred rather than recent past acts.

Your Committee has received favorable testimony from the First Circuit Family Court, Child and Family Service, the Hawaii Medical Service, the Domestic Violence Clearinghouse, and Parents and Children Together.

While in agreement with the intent of the bill to provide the trial court with a wider latitude in deciding the appropriateness of the petition for relief, it is necessary to set some guideline for the decision maker. Consequently, the reference to relevant acts is included as this term is well defined in the case law and evidence code. The arbiter, in weighing the allegations, will be able to discern which petitions have enough merit to be granted.

This bill has been amended by your Committee to allow consideration of any relevant past acts or threats of abuse that make it probable that an act of abuse is imminent.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2521, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2521, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 780-96 Judiciary on H.B. No. 3216

The purpose of this bill, as received, is to permit a police officer who has reasonable grounds to believe that a person has recently assaulted or threatened to assault a family or household member, to seize all firearms and ammunition alleged to have been involved in or threatened to be used in the abuse of family or household members. In addition, the bill permits a police officer to seize all firearms and ammunition in plain view or discovered during a consensual search if necessary for the protection of the officer or other person.

Your Committee received testimony in support of this bill from the Department of Health, the Domestic Abuse Clearinghouse, the Hawaii Rifle Association, the Honolulu Police Department, and the Hawaii State Commission on the Status of Women, as well as from private citizens. Testimony in opposition to this bill was received from a representative of Hawaii Citizen's Rights and the Public Defender expressed concerns related to this bill.

Domestic violence is a serious issue in today's society and your Committee feels that victims must be protected. Many deaths involving domestic violence are caused by the use of firearms.

Your Committee has amended this bill by:

- (1) Requiring that the police officer have reasonable grounds to believe that the firearm or ammunition were used or threatened to be used in the commission of the assault or threatened assault before being permitted to seize the firearm or ammunition;
- (2) Requiring that the police officer must reasonably believe that the seizure of a firearm or ammunition in plain view or discovered during a consensual search is necessary for the officer's protection or the protection of the person against whom the abuse or harm was inflicted;"
- (3) Clarifying that if the firearm or ammunition is not taken as evidence, the police officer is to give the owner or lawful possessor a receipt indicating how the seized item may be recovered;
- (4) Clarifying that only the owner or a person who was in lawful possession of the firearm or ammunition may recover the seized item;
- (5) Deleting the language which limits the retention of seized items only as evidence related to criminal charges brought as a result of the assault or threats against a family or household member so that the seized items may be used as evidence of other crimes;
- (6) Revising the purpose clause to reflect the substantive changes to the bill; and
- (7) Making technical, nonsubstantive 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. 3216, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3216, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 781-96 Judiciary on H.B. No. 3496

The purpose of this bill is to extend the sunset date for Act 205, Session Laws of Hawaii 1995, which imposed monetary assessments on criminal defendants who are convicted of certain drug offenses.

The Office of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department testified in support of the measure. The Office of the Public Defender commented on the bill.

Your Committee has amended the bill by changing the repeal date from June 30, 2001, to June 30, 1998.

As affirmed by the record of votes of 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. 3496, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3496, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Chun Oakland, Hamakawa, Menor, Saiki, Swain and Yoshinaga.

SCRep. 782-96 Judiciary on H.B. No. 3666

The purpose of this bill, as received by your Committee, was to include cruelty to animal offenses in the scope of the statutes providing remedies against nuisances.

Your Committee received testimony in support of amending the measure to expand its scope from representatives of the Police Department of the City and County of Honolulu, the Department of the Prosecuting Attorney for the City and County of Honolulu, and the Downtown Neighborhood Board No. 18.

Testimony expressing concern as to the type of additional language that might be added was received from a representative of the Office of the Public Defender.

Your Committee believes that extensive new legislation to address concerns regarding locations that have become nuisances due to drug dealing and other illegal activity is not necessary.

Rather, the present nuisance statutes can be modified and strengthened to accomplish the goal of shutting down nuisances and evicting those who are causing the nuisance.

Therefore, your Committee has amended the measure by eliminating the references to cruelty to animal statutes and referencing and modifying other portions of the nuisance statutes to permit any organization to bring the suit and to provide that the court can order, as part of the abatement of the nuisance, the exclusion of the person causing the nuisance from the premises under certain conditions.

As affirmed by the record of votes of 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. 3666, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3666, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 783-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3623

The purpose of this bill is to revise and update Article 5 (letters of credit), and related sections of Article 9 (secured transactions), of the Uniform Commercial Code.

Testimony in support of the measure was received from the Hawaii Commission to Promulgate Uniform Legislation, and the Hawaii Bankers Association.

A letter of credit is a payment instrument utilized by businesses in addition to drafts, checks, and electronic fund transfers, for the purpose of assuring a payee that payment will be made. It is an undertaking by an "issuer" of the credit (usually a bank) to a "beneficiary" (the payee person/company), on behalf of an "applicant" (the person/company to whom credit is extended by the "issuer").

A typical example is when a company in Hawaii intends to buy goods from a foreign manufacturer. The foreign manufacturer may insist upon receiving assurances of payment for the goods. Therefore, the Hawaii company will apply to its bank for a letter of credit. In that letter, the manufacturer will be guaranteed that the bank will pay the funds due. The Hawaii company may then take the letter of credit to the manufacturer while negotiating for the purchase of the goods. This enables the Hawaii company to provide a guarantee of payment, have negotiating leverage, and facilitate the transaction.

This bill repeals Article 5 of chapter 490, Hawaii Revised Statutes, and replaces it with a revised and updated version. Since 1965, the current version of Article 5 has substantially remained unchanged. The passage of time and advancement of technology has resulted in the need to reflect the use of electronic technology, widely accepted standards of business practice, and other changes.

Although the basic scheme in the current version of Article 5, of providing a framework to accommodate letters of credit, has been reimplemented by this bill, significant additional changes have been introduced. The following summarizes the most salient modifications:

- (1) Parties will rely upon observing standard practices of financial institutions that regularly issue letters of credit. The standards will apply unless the contract otherwise specifies. This is in recognition of the use of Uniform Customs and Practices for Documentary Credits (UCP), which are greatly relied upon in international trade as a common language in letter of credit transactions. Additionally, because almost the entirety of Article 5 is variable by agreement, deviations from the UCP are permitted. The reliance upon a standard of practice is the most significant change this bill provides to Article 5.
- (2) Recognize electronic communications as a substitute for a written document. This is accomplished by requiring that a letter of credit may be issued in any form that can be an authenticated record, hence, allowing a properly preserved computer record.
- (3) Clarify the definitions of fraud or forgery which may result in an injunction.
- (4) Change the language to become more consistent concerning remedies against an issuer for wrongful repudiation or dishonor of a letter of credit.
- (5) Provide specific rules concerning subrogation.
- (6) Expressly permit deferred payment letters of credit.
- (7) Provide rules for unstated expiration dates and perpetual letters of credit.

- (8) Article 9 (secured transactions), has been changed in relevant parts to entail a security interest in the right to proceeds of a letter of credit.

The bill was reconsidered and amended for purposes of technical, nonsubstantive changes for purposes of style, clarity and consistency.

Your Committees find a letter of credit to be an important and widely used transaction tool in international trade. The updated version as provided in this bill will assist Hawaii's companies in successfully conducting their transactions and help to ensure their legal rights within the scope of Hawaii Revised Statutes.

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. 3623, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3623, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 784-96 Consumer Protection and Commerce on H.B. No. 3148

The purpose of this bill is to permit insurance companies to invest their funds in income producing real property.

Currently, insurers are limited to real property investments in a home office building, branch office buildings, and long term leases of property. In the aggregate, an insurer may not invest more than 30% of its assets in real property.

Testimony was received from the Insurance Division of the Department of Commerce and Consumer Affairs (Department) supporting the intent of this bill. The Department, however, recommended that amendments be made to the measure.

Your Committee has amended this bill to implement the recommendations of the Department. The amended bill, while still permitting an insurer to invest in income producing real property, limits an insurer's investment in such property to 10% of its assets and permits such investments only if certain terms and conditions, similar to those which apply to an insurer's long term lease arrangements, are met. In addition, technical, nonsubstantive changes have been made for purposes of style, clarity, and consistency.

Your Committee finds that limiting an insurer's investment in income producing real property to 10% of its assets while retaining the overall restriction limiting an insurer's real property investments in the aggregate to 30% of its assets will help to ensure that Hawaii's insurance companies maintain a prudent and stable financial base.

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. 3148, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3148, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Tom.

SCRep. 785-96 Consumer Protection and Commerce on H.B. No. 3785

The purpose of this bill is to require accident and sickness insurers, health care service contractors, and health maintenance organizations, to provide employees, members, enrollees, and consumers with written disclosure regarding coverage and benefits. The disclosure provided must include coverage principles, coverage exclusions or restrictions, and upon request, evaluation and treatment policies. The information provided must also be current, easily understandable, and easily available.

Testimony in support of the bill was received from the Insurance Division of the Department of Commerce and Consumer Affairs and the Hawaii Nurses' Association. The Hawaii Medical Association, the Hawaii Medical Services Association, and Kaiser Permanente submitted testimony in support of the intent of the measure with comments.

Requiring health plans to provide detailed, comprehensive written disclosure regarding coverage and benefits enables consumers to make intelligent and informed choices about their health coverage. However, your Committee is concerned that the bill's requirement that the disclosure information be "easily understandable" and "easily available" is overly vague, and fails to provide health insurance organizations with sufficient guidance for compliance purposes. Therefore, the bill has been amended by deleting the term "easily" from its text, and by making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3785, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3785, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 786-96 Consumer Protection and Commerce on H.B. No. 3818

The purpose of this bill is to give banks the statutory authority to transact insurance, annuities, and securities business. More specifically, the bill:

- (1) Permits banks to transact a business of insurance within the state, subject to chapter 431, Hawaii Revised Statutes (HRS), including the making of contracts of insurance, and the sale of insurance and annuities, through any department, division, subsidiary, or affiliate of the bank;
- (2) Allows banks, through a department, division, subsidiary, or affiliate, to transact in the following securities activities within the state, subject to chapter 485, HRS:
 - (a) The sale or purchase of any security for the account of customers, either alone or in conjunction with rendering investment advice through a discount or full-service brokerage;
 - (b) The organization, sponsorship, operation, control, or distribution of one or more investment companies;
 - (c) The provision of portfolio advice to customers, and investment and financial advice to government agencies; and
 - (d) Acting as dealer-manager or financial advisor to corporations, partnerships, or other persons;
- (3) Allows banks to own or control the capital stock of a company that either:
 - (a) Transacts in insurance or annuities business; or
 - (b) Engages in securities activities; and
- (4) Repeals statutory language that prohibits banks from engaging in business for which an insurance agent, insurance agency, securities broker, or securities dealer license is required.

Testimony in support of the bill was received from the Hawaii Bankers Association, and Bank of Hawaii. Testimony in opposition to the bill was submitted by the Hawaii State Association of Life Underwriters, and the Hawaii Independent Insurance Agents Association. The Department of Commerce and Consumer Affairs and State Farm Insurance Companies submitted comments on the measure.

The passage of this bill would allow Hawaii's banks to compete with other financial institutions and diversified financial services companies that are presently able to offer their customers both insurance and banking products. Proponents of the measure also contend that allowing banks into the marketplace would result in more competition, and the greater availability of insurance in the state.

Any grant of expanded authority to banks must be accompanied by safeguards and restrictions to protect consumers, and to avoid giving banks an unfair advantage in the marketplace. Therefore, your Committee has amended the bill to provide that:

- (1) A bank's underwriting activities shall be conducted in a separately capitalized subsidiary with a distinct name and logo, and subject to other "firewalls";
- (2) Tie-in sales, the solicitation of insurance prior to the finalization of a loan commitment in writing, and the use of loan renewal proprietary information without consent is prohibited;
- (3) A bank shall obtain approval from the commissioner of financial institutions prior to conducting insurance business; and
- (4) The insurance, securities, and annuities transactions authorized by this bill shall be subject to the provisions of chapters 412, 431, and 485.

Technical, nonsubstantive amendments were made to the bill for purposes of clarity, style and conformity.

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. 3818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3818, 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. 787-96 Consumer Protection and Commerce on H.B. No. 3393

The purpose of this bill is to permit interstate branching in Hawaii effective June 1, 1997. More specifically, the bill:

- (1) Authorizes Hawaii state banks to establish and operate interstate branches by merger, acquisition, or de novo;
- (2) Authorizes out-of-state banks to establish and operate branches in Hawaii by merger, acquisition, or de novo;
- (3) Authorizes banking activities and operations of direct branch, agency, and representative offices in Hawaii by foreign country banks, generally under terms and conditions no less favorable than those applicable to comparable, federally-licensed branches and offices of foreign banks in the United States; and

- (4) Establishes a statutory framework for the licensing, regulation and supervision of interstate branches and offices.

Testimony in support of the measure was received from the Division of Financial Institutions of the Department of Commerce and Consumer Affairs, First Hawaiian Bank, and Bank of Hawaii. The Hawaii National Bank testified in qualified support of the bill. Testimony in opposition to the bill was received from the Bank of Honolulu.

Pursuant to the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, interstate banking is currently mandated across the nation. Interstate banking allows out-of-state bank holding companies to acquire banks in other states.

The federal act also authorized the states to permit interstate branching by national banks effective June 1, 1997. Under interstate branching, state-chartered banks are allowed to branch into and out of the state, acquiring branches through acquisition, merger, or by establishing a new branch (de novo). The branches serve as offices of the parent bank and share its management and board of directors. The law also permits foreign banks to branch to the same extent as U.S. domestic banks, and prohibits discriminatory treatment of foreign banks under state laws. The act gives states the choices of opting into interstate branching effective June 1, 1997, opting in early, or opting out. As of January 31, 1996, twenty two states and Puerto Rico have opted-in with various restrictions. Texas is the only state that has opted-out.

Even prior to the passage of the Riegle-Neal Act, quasi-interstate banking and branching activities have been conducted in Hawaii. Brokerage firms, such as Merrill Lynch, offer deposit-like products, several of the state's financial services loan companies are owned by out-of-state institutions, and nationally-based, non-banking institutions such as American Express and major automobile manufacturers offer various financial services. Therefore, there already exists a trend in the community involving interstate operations in the financial services industry.

Your Committee finds that allowing interstate branching in the state would open up competition within the industry and benefit consumers by offering them a variety of choices. It would also enable Hawaii's state-chartered banks to engage in interstate operations on a comparable basis with national banks.

However, your Committee is also sensitive to the concerns raised by some of the state's smaller financial institutions regarding the risks of permitting interstate branching in Hawaii. Larger institutions could establish a de novo branch as a deposit-taking facility, and drain deposits from smaller state-chartered banks by offering higher interest rates. Permitting the acquisition of a single branch would allow out-of-state banks to enter the state without having to bear the overhead expenses and costs required to support a corporate structure.

In view of these concerns, your Committee has amended the bill to incorporate the following restrictions:

- (1) From June 1, 1997 through May 31, 2002, an interstate merger transaction resulting in the acquisition of a Hawaii state bank by an out-of-state bank, shall be prohibited unless the Hawaii state bank has been in continuous operation for at least five years as of the date of the acquisition. This restriction may be waived by the commissioner in the case of a Hawaii state bank subject to supervisory action.
- (2) From June 1, 1997 through May 31, 2000, the establishment of a de novo interstate branch by an out-of-state bank is prohibited.
- (3) From June 1, 1997 through May 31, 2000, the acquisition of a branch by an out-of-state bank is prohibited. This restriction may be waived by the commissioner in the case of a bank subject to supervisory action.

Additionally, technical, nonsubstantive amendments were made to the bill 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. 3393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3393, 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. 788-96 Consumer Protection and Commerce and Judiciary on H.B. No. 3641

The purpose of this bill is to establish the basic requirements for self-governance of a planned community association.

Testimony in support of the measure was received from the Mililani Town Association, the Community Associations Institute, a law firm, and a private citizen.

This bill would implement standards of self-governance for planned community associations (associations) sometimes referred to as homeowner associations, or HOAs. In general, an association consists of property owners within a subdivision who operate a self-governing authority.

Associations are common interest communities, other than condominiums or cooperative housing corporations, which are comprised of members who own real property. The association members own and maintain certain property within the planned community for their common use or benefit. Associations range in size from less than a dozen units to the Mililani Town Association, the largest in the State with over 12,000 units.

Currently, there is no law which sets forth a framework for associations in Hawaii. Statutory framework is provided for condominium associations under chapter 514A, Hawaii Revised Statutes (HRS), and for cooperative housing corporations

under chapter 421I, HRS. This bill would implement a framework for the governance of planned community associations and is generally based upon the provisions of chapter 514A, HRS.

The bill provides for the following with regard to planned community associations:

- (1) Sets the minimum qualifications for directors;
- (2) Sets the standards for proxies;
- (3) Establishes general rules for open meetings of the board of directors;
- (4) Prohibits directors from voting on matters on which they have a conflict of interest;
- (5) Specifies that meetings of the board and the association are to be conducted in accordance with Robert's Rules of Order;
- (6) Requires that the association's books and records to be open for inspection;
- (7) Requires that members be given advance notice prior to any increase in assessments;
- (8) Provides that associations may recover attorneys' fees and costs incurred to collect delinquent assessments or to enforce other provisions of the governing documents of the association.

Your Committees find that the provision permitting associations to recover attorneys' fees and costs is necessary to ensure the continued viability of the associations. The governing documents of the majority of associations provide for the recovery of attorneys' fees for collection costs from delinquent members. However, some judges have begun limiting association attorneys' fees to 25% of the amount of the judgment, on the basis that, currently, there is no statute which entitles associations to collect all of the attorneys' fees.

An association's fee structure may make an association's financial stability highly sensitive to vagrancies in the collection of fees, because most associations have a low assessment. For example, Mililani Town Association's monthly assessment is \$21 per month. Resorting to legal proceedings through an attorney, without having the mechanism to collect attorneys' fees in addition to funds owed, may create a severe financial hardship on the association. Therefore, your Committees believe that the specific statutory authorization for the associations to recover collection costs is an essential element in this bill.

Your Committees find that this bill requires added provisions to further enable the collection of debts owed to associations. Accordingly, your Committees have amended this bill by:

- (1) Providing for the court to determine the reasonableness of attorneys' fees in the event of the association foreclosing a lien;
- (2) Permitting the board of directors to authorize the use of a collection agency; and
- (3) Providing that sections 443B-9 and 443B-19(3), HRS, shall not apply to collections pursuant to this bill's section pertaining to attorneys' fees and expenses for enforcement. This would permit a collection agency to attempt to collect its collection fees from a debtor.

Upon careful consideration of testimonies received, your Committees have further amended the bill by:

- (1) Adding the definition of "member" to help avoid ambiguities throughout the measure;
- (2) Specifying the procedure to establish the number of members to serve on the board of directors;
- (3) Requiring that proxy votes be in writing;
- (4) Providing for members' participation in board meetings;
- (5) Adding a new section which provides for the amendment of association documents when no procedure is provided. These rules are provided in the event the association does not have established procedures;
- (6) Adding a new section which provides for mediation of disputes. This provision requires mediation, at the request of any party, as a dispute resolution method of first resort. However, mediation is not mandated for the collection of assessments as the process of collecting delinquent assessments involves repeated requests for payment and mediation is usually not an effective tool for this type of problem resolution; and
- (7) Making additional technical, nonsubstantive revisions 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. 3641, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3641, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 789-96 Judiciary on H.B. No. 1866

The purpose of this bill is to clarify which boards or other State entities are subject to sunshine law requirements.

Your Committee received supporting testimony from the Office of the Attorney General and the Honolulu Board of Water Supply. Common Cause Hawaii opposed the measure. A concerned citizen suggested amendments.

It is the finding of your Committee that it is necessary for greater efficiency that a board member seek out and discuss matters in various circumstances which may be in violation of chapter 92, the Sunshine Law. Additional interaction outside open meetings can increase effectiveness if certain safeguards regarding subsequent reporting are required.

In addition private discussions are necessary concerning the selection of board officers, interactions between certain government officials with board members acting in other capacities, and communication of administrative matters with the department to which the board is assigned.

Your Committee has deleted the provisions dealing with the definition of a board and substituted the following provisions to increase board efficiency while remaining mindful of the sometimes competing interests of open government:

- (1) Permitting board members to privately discuss matters if a written summary is included on the agenda of the next meeting;
- (2) Assigning board members to investigate a defined matter and report in writing with notice to the public at a subsequent meeting;
- (3) Allowing discussions with the Governor and State officials who are board members of matters not related to the board's exercising adjudicatory function;
- (4) Allowing discussions regarding the selection of board officers;
- (5) Allowing discussions with the head of the department to which the board is assigned regarding administrative matters; and
- (6) Creating procedures for reporting on matters, noticing the public, and setting permitted matters on a subsequent agenda.

As affirmed by the record of votes of 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. 1866, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1866, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 790-96 Judiciary on H.B. No. 2802

The purpose of this bill is to:

- (1) Abolish joint and several liability with respect to all joint tortfeasors; and
- (2) Provide that when a government entity or any other person or entity, whether public or private, is a joint tortfeasor, that person or entity is liable for no more than the percentage share of damages attributable to that person or entity.

Your Committee received testimony in support of this bill from representatives of the Chamber of Commerce of Hawaii, the Hawaii Civil Justice Coalition, the Hawaii Congress on Small Business, the Maui Hotel Association, the National Federation of Independent Business, numerous other organizations, and a private citizen. Testimony in opposition to this bill was received from representatives of the Hawaii Women Lawyers and the Consumer Lawyers of Hawaii.

Your Committee feels that, as a matter of fairness, joint and several liability must be abolished. Joint tortfeasors should not be liable for more damages than their degree of fault merits. Abolishing joint and several liability will also eliminate the current practice of seeking "deep pockets" to sue, in the event that other defendants are judgment proof.

As affirmed by the record of votes of 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. 2802 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 Menor.
(Representatives Hamakawa and Saiki voted no.)

SCRep. 791-96 Judiciary on H.B. No. 3151

The purpose of this bill is to eliminate the proof of financial responsibility requirement for people convicted of driving without a valid no-fault policy for the first time within a five-year period.

Your Committee received testimony in support of this bill from the State Insurance Commissioner, the Public Defender, and a representative of the City and County of the Honolulu Department of Finance. Testimony in opposition to this bill was received from a representative of the Hawaii Insurers Council.

Numerous amendments have been made to this bill in order to clearly word it to accomplish its purpose. A new section was added to the bill to amend section 287-20, Hawaii Revised Statutes (HRS), to ensure that it is consistent with section 431:10C-117, HRS.

Your Committee has amended this bill by:

- (1) Providing the driver or the owner of the motor vehicle will be subject to certain penalties rather than both of them; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3151, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 792-96 Judiciary on H.B. No. 3725

The purpose of this bill is to require the courts to determine the reasonableness of attorneys' fees in condominium association disputes and allow condominium associations to use collection agents instead of attorneys to collect fees including costs and court-determined attorneys' fees.

Your Committee received testimony in support of this bill from a representative of the Collection Management Group and various condominium and community associations. Testimony opposing this measure was received from the Hawaii Chapter of Community Associations Institute.

It is the sense of your Committee that, particularly in such an economically pervasive area as the collection of delinquent common expenses against homeowners, Hawaii should be in the forefront of:

- (1) Assisting in the reduction of legal costs and judicial involvement when at all possible and advisable; and
- (2) Making alternative procedures available to condominiums and other homeowner associations.

Your Committee believes that this bill helps in holding associations accountable for excessive attorneys' fees in disputes and other collection actions, and that collection agencies may be a valuable alternative mechanism by which a condominium association may collect its fees and costs in an efficient and cost-effective way, without burdening the same owners with attorneys' fees out of proportion to the amounts collected.

Section 514A-94(a), Hawaii Revised Statutes (HRS), allows a condominium association to recover "[A]ll costs and expenses, including reasonable attorneys' fees" incurred for "[F]oreclosing any lien." Unfortunately, under present Hawaii law were an association to utilize the services of a collection company, that company would be prohibited from recovering the fee for its services on behalf of the association. As a result, the association would be in a position of not recovering "all costs and expenses," contrary to the express language and intent of section 514A-94(a), HRS. It is this direct conflict between the two sections which your Committee seeks to alleviate.

Therefore, your Committee has amended this bill by providing that sections of Chapter 443B, HRS, governing collection agencies, not apply in regard to the collection of the agency's ability to collect for a condominium association and all of their fees and costs including those of collection fees, not in excess of twenty-five per cent of the unpaid principal balance, and any court-determined attorneys' fees. The amendments to this bill do not, nor is it your Committee's intent to exclude, any other provisions of Chapter 443B, HRS, which may be applicable. These amendments are solely for the purpose of:

- (1) Providing an association with the flexibility to utilize the services of a licensed Hawaii collection company; and
- (2) Allowing the collection company to recover its fees for and on behalf of the condominium association.

As affirmed by the record of votes of 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. 3725, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3725, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 793-96 Consumer Protection and Commerce and Judiciary on H.B. No. 2524

The purpose of this bill is to add sexual misconduct as a ground for disciplinary action against physicians and osteopaths.

Your Committees received testimony in support of this bill from a representative of the Sex Abuse Treatment Center and from a private citizen. Your Committees also received testimony in opposition to this measure from representatives of the Department of Commerce and Consumer Affairs and the Hawaii Medical Association.

While your Committees feel that sexual misconduct should be specifically addressed in the disciplinary rules governing physicians and osteopaths, we also find that the seriousness of the penalties should comport with the seriousness of the conduct. The bill as received contained terms and conditions that were vague in the scope of application and would have caused numerous problems in enforcement.

Therefore, your Committees have amended this bill to permit disciplinary action to be taken against a physician or osteopath when the physician or osteopath has been convicted of a sexual offense under the penal code involving a patient.

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. 2524, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2524, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives McMurdo, Swain, Tom, Kawanakoa and Meyer.

SCRep. 794-96 Judiciary on H.B. No. 3637

The purpose of the bill is to establish a more inexpensive, fair and simple system of probate administration.

Your Committee received testimony in support of the measure from representatives of the Committee on Uniform Probate Code and Probate Court Practices and the American Association of Retired Persons as well as from several private citizens.

Your Committee finds that probate laws should not require parties to appear before the court for probate matters unless there is a controversy or dispute.

Your Committee further believes that the simplified and uniform probate system as found in the most recent version of the Uniform Probate Code is an excellent model upon which to base Hawaii law.

In order to bring the proposed measure closer to the spirit and purpose of the Uniform Probate Code your Committee has amended the bill by:

- (1) Increasing to \$20,000 the amount of a gift which a donee can receive without concern that it may be drawn back into the augmented estate;
- (2) Adding a new section regarding sources from which the elective share is payable as the omission from this measure of that portion of the Uniform Probate Code was an oversight;
- (3) Increasing the time limit for informal probate or appointment to five years from three years;
- (4) Eliminating certain notice requirements upon application requesting informal probate when the application is by a corporate fiduciary or specified close family relative;
- (5) Providing that the beneficiaries should receive notice that the Court will not review attorney fee charges unless an interested person requests review;
- (6) Adding a new section regarding notice requirements for informal appointment proceedings;
- (7) Making an additional reference to the approval of giving notice by certified mail;
- (8) Permitting a personal representative the opportunity to choose whether to formally publish a notice to creditors;
- (9) Lessening the ultimate time limit to present claims from three years to one year;
- (10) Providing for abatement equally between real and personal property;
- (11) Repealing Chapter 534A and 236A of the Hawaii Revised Statutes; and
- (12) Eliminating language about qualifications of Judges as it had no application to the circumstances in Hawaii.

In addition, numerous technical, nonsubstantive changes were 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. 3637, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3637, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 795-96 Consumer Protection and Commerce, Judiciary, and Finance on H.B. No. 3403

The purpose of this bill, as received by your Committees, is to:

- (1) Authorize the Insurance Commissioner to hire a no-fault cost compliance specialist and a no-fault insurance investigator, in positions exempt from chapters 76 and 77, Hawaii Revised Statutes; and
- (2) Establish that, with respect to payment on a claim for no-fault benefits, a no-fault policy issued on a vehicle shall be primary over other coverage, subject to exceptions.

Testimony in support of the bill was received from the Insurance Division of the Department of Commerce and Consumer Affairs (Insurance Division), Consumer Lawyers of Hawaii, State Farm Insurance Companies, and the Hawaii Insurers Council. Testimony in opposition to the bill was received from Alamo Rent A Car, the Hawaii Independent Insurance Agents Association, and CATRALA-Hawaii.

Since the commencement of the peer review process on June 1, 1993, the Insurance Division has processed over six thousand claims disputing no-fault payments for medical treatment or rehabilitative services. Over the last three years, the backlog for processing claims has been reduced from three months to three weeks, due in part to the efforts and expertise of the division's no-fault cost containment specialist and no-fault insurance investigator. Termination of the specialist and investigator is anticipated to occur soon due to the loss of two exempt positions from the Insurance Division's budget. Your Committees find that the amendment proposed in section one of this bill is necessary in order to provide for the continued staffing of the specialist and investigator positions.

After careful consideration of this measure, your Committees have amended the bill by:

- (1) Deleting the provisions in the original bill relating to the source of payment on a claim for no-fault benefits; 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, Judiciary, and Finance that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3403, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3403, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative McMurdo.

SCRep. 796-96 Consumer Protection and Commerce, Judiciary, and Finance on H.B. No. 3391

The purpose of this bill is to reduce motor vehicle insurance premiums while still ensuring basic rights and opportunities for drivers to maintain no-fault benefits.

Specifically, this bill addresses cost factors directly contributing to the high cost of motor vehicle insurance premiums by among other things:

- (1) Providing claimants the option to elect binding arbitration to resolve claims in tort that are covered by liability insurance;
- (2) Requiring awards for recovery for accidental harm, whether by suit or settlement, to be reduced by \$20,000;
- (3) Reducing personal injury protection benefits (also known as no-fault benefits) from \$20,000 to 10,000;
- (4) Repealing the peer review process;
- (5) Requiring a rate freeze and rate reduction of thirty-five to forty percent;
- (6) Making optional, certain currently mandatory coverages; and
- (7) Repealing the medical-rehabilitative limit (the monetary threshold on the right to sue).

Testimony in support of the measure was received from the Department of Commerce and Consumer Affairs. The Hawaii Medical Association submitted testimony supporting the intent and purpose of the bill. The Hawaii Insurers Council and the Consumer Lawyers of Hawaii submitted testimony in opposition of the bill. Additionally, your Committees received comments from: Advocates for Consumer Rights, the Hawaii Independent Insurance Agents Association, the Hawaii State Chiropractic Association, the Chamber of Commerce of Hawaii, Hawaii Women Lawyers, the Good Drivers' Coalition, State Farm Insurance Companies, the Physicians for Patients' Rights, the American Association of Retired Persons in Hawaii, and numerous individuals.

CURRENT SITUATION

The cost of motor vehicle insurance in the State is prohibitively high. According to some reports, Hawaii has consistently been ranked at the top of all states in premium rates for motor vehicle insurance. Testimony received by your Committees indicated that Hawaii had the second highest motor vehicle insurance premiums in the country.

Along with the prohibitively high cost of motor vehicle insurance, Hawaii residents have to contend with costs of housing and living that are among the highest in the nation. This has placed a tremendous financial burden on many Hawaii residents and placed many of them in a situation where they often must choose between putting food on the table, paying the rent or mortgage, or purchasing motor vehicle insurance.

When placed in this stressful situation, many of these hard working, honest and decent, law abiding citizens feel that they have but one choice. That choice is often to feed and provide shelter for their families. Consequently, many decide to drive to their jobs without motor vehicle insurance, and in the eyes of the law, become criminals.

It appears that many motorists in Hawaii are in this unfortunate situation. According to some reports, as many as twenty-five to thirty percent of the motorists on Hawaii's roads and highways are uninsured.

Your Committees find that continuing attempts to modify the no-fault system has resulted in unacceptable limitations and additional bureaucracy which undermines the purpose for its very existence. As a result, the trend nationwide has been the repeal of no-fault insurance in many states that originally adopted no-fault. Some states which have repealed no-fault insurance have had a positive rate experience.

Your Committees understand the urgent need to reform Hawaii's motor vehicle insurance system and to afford immediate relief to the driving public. Delay is not a luxury that Hawaii's consumers can afford, as every year, a significant portion of their take home pay is consumed by no-fault insurance premiums. Therefore, your Committees are committed to taking aggressive action to ensure that Hawaii's citizens have the opportunity to use their scarce resources for life's other needs.

REFORM

After carefully considering the merits of the measure and the voluminous testimonies received, your Committees have amended the bill by blending proposals supported by consumers, insurers, regulators, health care providers, and attorneys. Collectively, these proposals create a comprehensive package of reforms that deliver real savings to the consumer, without sacrificing fundamental rights.

As amended, the bill proposes major reforms to Hawaii's motor vehicle insurance system by attacking the major cost drivers that have been identified through innovative means that have received broad consensus support.

Specifically, the bill among other things:

- (1) Requires a twenty-five to thirty-five percent rate reduction;
- (2) Implements a preferred repair provider program for repair of damaged motor vehicles to reduce physical damage expenses in property damage, collision, and comprehensive coverages;
- (3) Allows the use of like kind and quality after-market parts to reduce physical damage expenses for property damage, collision, and comprehensive coverages;
- (4) Strengthens laws relating to motor vehicle theft and use of stolen parts to reduce motor vehicle insurance losses;
- (5) Eliminates the medical-rehabilitative threshold which is a major cost driver for both medical expenses and bodily injury liability coverages;
- (6) Repeals the peer review organization system, which has become expensive and time consuming, and has resulted in litigation between insureds and their insurance companies;
- (7) Caps unlimited liability limits at \$50,000;
- (8) Prohibits attorneys, health care providers, and suppliers of goods and services from committing unfair and deceptive acts;
- (9) Allows the Supreme Court to regulate the competence of attorneys representing injured victims or defendants in personal injury actions arising out of motor vehicle accidents;
- (10) Provides consumers a choice in selecting medical and disability benefit options;
- (11) Requires that medical payments benefits be used within one year;
- (12) Allows group insurance plans to allow group purchasing of motor vehicle insurance at lower premiums;
- (13) Strengthens the Insurance Commissioner's power to regulate rates;
- (14) Requires fraud investigation and prosecution;
- (15) Provides amnesty for uninsured motorists who have not been able to purchase insurance because of financial inability, rather than poor driving record; and
- (16) Provides for alternative legal penalties against the poor who may be unable to afford motor vehicle insurance due to temporary financial hardship, rather than poor driving record.

In making these amendments to the bill, your Committees have proposed major reforms to Hawaii's motor vehicle insurance system. Basically, as amended, the bill repeals the State's no-fault system of motor vehicle insurance.

EFFECT OF BILL, AS AMENDED

Your Committees believe that, as amended, this bill will benefit consumers by reducing motor vehicle insurance premiums. The bill accomplishes this by addressing many of the major cost drivers:

- (1) Costs to repair damaged motor vehicles often account for almost half of the insurance premiums. This major cost driver is addressed by implementing:
 - (A) Preferred repair provider programs;

- (B) Use of after market replacement parts; and
- (C) Laws to strengthen motor vehicle theft and the use of stolen parts.
- (2) Preferred repair provider programs allow insurers to contract with one or more repair shops, thereby providing these repair facilities higher volume repair work in exchange for reduced prices. These cost savings will result in lower claims payments and savings to the consumer.
- (3) After-market repair parts, of equal quality to original manufacturer parts, are often available at less cost. This bill allows repair facilities to utilize quality after-market parts to reduce repair costs. Consumers are protected against inferior parts through a requirement that insurers guarantee the parts for at least as long as the original manufacturers' parts.
- (4) Insurance losses from automobile theft has skyrocketed in recent years. The Honolulu Police Department has estimated that approximately 7,000 cars are stolen annually resulting in millions of dollars of unnecessary insurance payments. The bill strengthens motor vehicle theft laws and strengthens laws regarding the use of stolen parts for motor vehicle repairs.
- (5) Consumer choice has been advanced by allowing consumers greater flexibility in selecting coverages and deductibles appropriate for their personal circumstances. Mandatory personal injury protection benefits, that provide primarily medical and wage loss coverage, have been made optional to allow those that have similar coverage to avoid duplication and unnecessary expense.
- (6) The bill also proposes to repeal the peer review organization system of administering personal injury protection benefits, as the administration and the overwhelming majority of consumers have attested to the fact that the system has been a failure. Rather than expediting the processing of personal injury protection benefits, the peer review system has resulted in an administrative bottleneck and interminable delays.
- (7) The medical-rehabilitative threshold is being eliminated in the bill. Although intended to reduce expenses, this threshold has actually served as an incentive for fraud and abuse, resulting in inflated claims for personal injury protection and bodily injury liability coverages.
- (8) Group insurance plans are permitted to enable consumers to obtain volume group discounts.
- (9) Tort liability is being limited by:
 - (A) Placing a cap on unlimited liability limits. Currently, bodily injury liability limits are set at \$25,000 per person, without any maximum limitation for each accident. This unlimited liability potential has been capped in the bill at \$50,000 per accident; and
 - (B) Providing claimants the option to elect arbitration to resolve claims in tort that are covered by liability insurance.
- (10) Amnesty and reduced penalty provisions have also been included to assist those good citizens whose only crime has been an inability to afford the prohibitively high motor vehicle insurance premiums. Motorists who have not been able to purchase insurance because of financial inability, rather than poor driving record, are provided amnesty.
- (11) Strict criminal penalties for driving without insurance have been softened for those who have been forced to drive uninsured because of temporary financial hardship or circumstances beyond their control, rather than bad driving record. These provisions are necessary to address the effects of the general economic downturn, and specific economic situation of areas such as Hamakua on the Big Island, due to the closure of the sugar industry, and the island of Kauai, due to Hurricane Iniki.
- (12) The Insurance Commissioner's power to regulate rates has been strengthened to provide the Commissioner greater flexibility in reducing rates during times of increased insurance company profits.

As a result of these major reforms, consumers will see real savings as this bill does not only promise the potential for savings, but also imposes a mandatory twenty-five to thirty-five percent rate reduction.

Your Committees feel that the approach contained in this bill represents a balance between the rights of those who sustain legitimate injuries to hold the responsible party liable, with the need to reduce the cost of motor vehicle insurance premiums.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce, Judiciary, and Finance that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3391, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3391, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative McMurdo.
(Representative Kanoho voted no.)

The purpose of this Bill is to direct the Board of Land and Natural Resources to encourage active citizen participation in the State's environmental protection programs by requiring the Department of Land and Natural Resources (DLNR) to significantly expand its volunteer and community service programs.

The Legislature in 1995 passed S.B. No. 201, in which your Committees note a provision that allowed the DLNR to develop a citizen-based extension service as a means of stretching or augmenting its resources in protecting the State's fragile environment. In its testimony in support of this measure before your Committees, the DLNR pointed out the various programs already in operation, such as Wilderness Watch on the island of Kauai, and the success of the Natural Area Reserves and Na Ala Hele programs in effectively integrating volunteers into their respective management capacities.

It is your Committees' intent to continue encouraging the expansion of volunteer efforts in environmental protection, and to continue its oversight of these efforts so that their successful application might be considered by other fiscally strapped departments as possible means in reconciling their particular mission with the current reality of budgetary limitations.

As affirmed by the records of votes of the members of your Committees on Energy and Environmental Protection and Water and Land Use Planning that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2889 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 Kanoho McMurdo and Tarnas.

SCRep. 798-96 Energy and Environmental Protection on H.B. No. 3793

The purpose of this Bill is to require the Department of Land and Natural Resources (DLNR) to adopt rules authorizing the sale of selected endangered plant species by any person who certifies that the plant was grown from nursery stock and was not collected from the wild.

Your Committee received testimony from the DLNR, the Lyon Arboretum, the Hawaii Farm Bureau, the Big Island Farm Bureau, and the Hawaii Association of Botanical Gardens in support of the measure.

It is the finding of your Committee that there is overwhelming consensus to allow responsible commercial use of threatened and endangered plants. As long as these plants are not harvested from the wild, propagation for domestic and/or professional landscaping purposes will serve to bolster and stabilize threatened and endangered populations.

Your Committee further finds that through micropropagation techniques a large number of threatened and endangered plants are produced which currently have no outlet and have been unnecessarily destroyed. It is reasonable to assume that should threatened and endangered species be made readily available to the public, their destruction in wild habitats will correspondingly lessen, thus fortifying their population base both in the wild and in populated areas.

It is also the intention of your Committee by amending the Bill to include a purpose clause, that the DLNR should not adopt rules which would be unduly burdensome on those who either purchase or privately propagate threatened and endangered plants which are certified to be of nursery stock and not taken from the wild. Such onerous rulemaking would effectively discourage the propagation of threatened and endangered species and would thus negate the purpose of this Act.

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. 3793, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3793, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 799-96 Judiciary on H.B. No. 2366

The purpose of the bill is to propose an amendment to the Constitution of the State of Hawaii defining marriage as the relationship reserved exclusively for the lawful union of a man and a woman.

Testimony in support of the measure was received by your Committee from representatives of the minority of the Commission on Sexual Orientation and the Law as well as from representatives of the Christian Voice of Hawaii, the Hawaii Catholic Conference and numerous other organizations and private citizens.

Testimony in opposition to the measure was received by your Committee from a representative of the majority of the Commission on Sexual Orientation and the Law, as well as from representatives of the Hawaii Civil Rights Commission, the American Civil Liberties Union of Hawaii, the Coalition for Equality and Diversity and numerous other organizations and private citizens.

Your Committee finds that in 1994, this Legislature adopted Act 217 relating to marriage in order to firmly state the Legislature's view that marriage in the State of Hawaii is reserved exclusively for the lawful union of a man and a woman.

Act 217 was necessary because the Hawaii Supreme Court in Baehr v. Lewin incorrectly interpreted existing state law, both statutory and constitutional, when it held that Hawaii's marriage laws discriminated on the basis of sex against same-sex couples.

Since that time, the case of Baehr has remained pending in the courts without resolution.

Your Committee finds that when an interpretation of the Constitution of the State of Hawaii does violence to the intent of the voters who adopted it, it is necessary and proper to submit the matter to the voters for resolution.

The citizens of the State of Hawaii are the ultimate constitutional authority. The Constitution is an expression of their will, not the will of any branch of government.

Therefore, your Committee recommends that a proposed constitutional amendment be submitted to the voters so that they may determine whether lawful marriage is a union exclusively reserved for opposite sex couples.

Your Committee has amended the measure by clarifying that the proposed amendment defines marriage as being reserved exclusively for the lawful union of a man and a woman.

As affirmed by the record of votes of 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. 2366, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2366, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative McMurdo.
(Representatives Case, Chun Oakland, Hamakawa and Saiki voted no.)

SCRep. 800-96 Judiciary 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 and several high school students testified in support of the measure. The Board of Education testified in opposition to the bill.

Your Committee has amended the bill to provide that the student member may not vote on any issue directly pertaining to either fiscal or personnel matters.

As affirmed by the record of votes of 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. 593, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 593, H.D. 1.

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

SCRep. 801-96 Judiciary on H.B. No. 2972

The purpose of this bill is to enhance a county's ability to collect civil fines by:

- (1) Requiring that any appeal of an administratively imposed civil fine be filed within thirty days from the date of the final written decision;
- (2) Clarifying that unpaid civil fines, whether ordered by a court of competent jurisdiction or administratively imposed, cannot be added to fees or charges for water for residential use or sewer charges;
- (3) Providing for the review of the appropriateness of the amount of civil fines which accrued during a violator's unsuccessful appeal of the county's enforcement action;
- (4) Establishing the date when an administratively imposed fine becomes due and collectible; and
- (5) Requiring that counties establish by ordinance a county agency to conduct appeal proceedings for particular civil fine actions if one does not already exist prior to imposing any civil fines.

The Office of State Planning, the Building Department of the City and County of Honolulu, the Department of Finance of the City and County of Honolulu, the Department of Corporation Counsel of the City and County of Honolulu, the Department of Wastewater Management of the City and County of Honolulu, the Planning Department of the County of Hawaii, the Office of the County Attorney, the Planning Department and the Department of Public Works for the County of Kauai testified in support of this measure.

Your Committee has amended this bill to ensure that section 46-1.5(24)(B), Hawaii Revised Statutes, is not repealed on June 30, 1996.

As affirmed by the record of votes of 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. 2972, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2972, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, Menor, Saiki, Swain and Yamane.

SCRep. 802-96 Judiciary on H.B. No. 3283

The purpose of this bill, as received by your Committee, is to substitute the phrase "Native Hawaiian Vote" for the term "plebiscite" in the law which created the Hawaiian Sovereignty Elections Council and to change the dates for the proposed election, the expenditure of funds and the report to the Legislature. In addition, the measure proposes to repeal

the provision of the Act which dealt with potential conflicts with the laws of the State of Hawaii that might later arise as a result of the process described in the Act.

Your Committee received testimony in support of the measure from representatives of the Office of Hawaiian Affairs, the Hawaiian Sovereignty Elections Council (Council), the Association of Hawaiian Civic Clubs, and other organizations as well as from a number of private citizens.

Testimony in opposition to the measure was received from representatives of the Ka Lahui Hawaii, Na Koa Ikaika, as well as from private citizens.

Your Committee finds that the use of the term "Native Hawaiian Vote" (each word beginning with a capital letter) is appropriate to describe the election called for in the Act.

Your Committee notes that "Native Hawaiian" is defined in Section 3 of Act 359, Session Laws of Hawaii (SLH) 1993, as meaning any descendent of the races inhabiting the Hawaiian islands prior to 1778 and the use of the term "Native Hawaiian" in this measure is specifically intended to reflect that definition only.

Your Committee finds that the extension of dates called for in the measure are appropriate under the circumstances.

Lastly, your Committee finds that the proposed repeal of Section 14 of Act 200, SLH 1994 (Section 14), would be unwise as that section was enacted by the Legislature when the role of the council changed from advisory in nature to one of autonomy. The Legislature adopted section 14 to ensure that the authority granted to the Council would not be deemed as an unconstitutional delegation of legislative power.

There is nothing in Section 14 that suggest in any way that the State will ignore the results of decisions made by native Hawaiians. Section 14 only provides that actions taken as a result of the Act do not automatically change the Hawaii Constitution or state law.

It would be irresponsible for your Committee to recommend deleting language which could subject the measure to a court challenge and risk a ruling that the whole process is unconstitutional, simply because some individuals use Section 14 to argue that the State intends to ignore decisions made by the Hawaiian people. Your Committee finds that such arguments are wholly without merit.

Your Committee believes that if the State was truly planning to ignore the will of the Hawaiian people, the Legislature would never have attempted to assist in the process of self-determination and would not have allocated public moneys to finance the work of the Council. The whole purpose of the law the Committee is amending is to assist the Hawaiian people in their efforts towards self-determination, and no action should be taken by the Legislature to jeopardize the constitutionality of the process.

Therefore, your Committee has amended the measure by deleting the section of the bill proposing the repeal of the provision of the law dealing with potential conflicts with the laws of the State of Hawaii. In addition, technical, nonsubstantive amendments have been made to this measure for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3283, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3283, H.D. 2.

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

SCRep. 803-96 Judiciary on H.B. No. 3470

The purpose of this bill is to preserve the anonymity of subject matter consultants who assist in the preparation and rating of civil service applications and examinations.

Your Committee received testimony in support from a representative of the Hawaii County Civil Service Department. The Department of Human Resources Development (DHRD) suggested amendments and the Office of Information Practices took no position.

It is the finding of your Committee that to encourage participation in the civil service process by consultants, it is necessary to keep their identities confidential. In addition, the Director of the DHRD should be able to call on volunteer resources outside of the State system for assistance and be able to protect the confidentiality of their identities as well.

Your Committee has amended the bill to authorize the Director of the DHRD to select any individual to act as a volunteer subject-matter consultant rather than be limited to only officers and employees in the state service.

As affirmed by the record of votes of 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. 3470, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3470, H.D. 2.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 804-96 Judiciary on H.B. No. 3529

The purpose of this bill is make state aquatic resource laws more effective by:

- (1) Establishing administrative or civil penalties for violations of aquatic resource laws;

- (2) Providing for the right of seizure of any property used in the commission of or obtained through a violation of aquatic resource laws;
- (3) Allowing for the destruction or other disposition of items seized when no longer needed; and
- (4) Expanding the authority of the Department of Land and Natural Resources so that it applies to all provisions relating to aquatic resources and wildlife.

Testimony in support of this bill was submitted by the Board of Land and Natural Resources.

Your Committee has amended the bill by:

- (1) Reducing the fine for the first violation of aquatic resources and wildlife laws from \$10,000 to \$5,000;
- (2) Reducing the fine for the second violation which occurs within five years of a previous violation from \$15,000 to \$10,000; and
- (3) Reducing the fine for a third or subsequent violation which occurs within five years of the last violation from \$25,000 to \$15,000.

As affirmed by the record of votes of 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. 3529, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3529, H.D. 1.

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

SCRep. 805-96 Judiciary on H.B. No. 3533

The purpose of this bill is to create a presumption that an illegally moored vessel was moored by the vessel owner.

Your Committee received testimony in support of this bill from a representative of the Department of Land and Natural Resources (DLNR) and testimony in opposition to this bill from a private citizen.

Your Committee feels that the presumption will help in the enforcement of mooring violations. However, your Committee also is aware of disagreements between the DLNR and boaters relating to enforcement.

Accordingly, your Committee has amended this bill to reiterate that DLNR shall follow all applicable enforcement procedures, including those for notice, impoundment, and relating to emergencies.

Your Committee has also amended the bill to reflect that evidence of ownership creates a presumption rather than prima facie evidence that the owner was the person who unlawfully moored or placed the vessel where the violation occurred.

In addition, your Committee has amended the bill by stating that "competent" evidence may be presented by the vessel owner and adding that the presumption may be rebutted by competent evidence that the vessel was moored or placed in accordance with prior written permission of the State.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3533, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3533, H.D. 2.

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

SCRep. 806-96 Judiciary on H.B. No. 3580

The purpose of this bill is to decriminalize parking infractions at the airport.

Your Committee received testimony in support of this bill from representatives of the Department of Transportation and the Judiciary.

Your Committee amended this bill by removing the reference to guilt in relation to traffic infractions since they are decriminalized. Your Committee also changed the effective date of this bill to July 1, 1996, a date certain, to facilitate enforcement of 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. 3580, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3580, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, Saiki, Swain and Yamane.

SCRep. 807-96 Judiciary on H.B. No. 3601

The purpose of the bill is to allow the Office of Hawaiian Affairs to be made a party to all actions to quiet title to kuleana land in which the claim of title is based upon or derived from an alleged escheat occurring before July 1, 1977, or adverse possession.

Testimony in support of the measure was received by your Committee from a representative of the Office of Hawaiian Affairs.

Your Committee finds that the Office of Hawaiian Affairs should have the opportunity to ensure that all those seeking to quiet title to kuleana land meet their legal burden of proving a valid claim.

Your Committee has amended the measure to clarify that a party claiming an escheat must establish by a preponderance of the evidence that heirs to the property cannot be identified despite diligent search and inquiry by the claimant.

In addition, technical, nonsubstantive amendments were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3601, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3601, H.D. 2.

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

SCRep. 808-96 Judiciary on H.B. No. 3603

The purpose of this bill is to clarify that property transferred to the Office of Hawaiian Affairs (OHA) is to be part of the trust held for native Hawaiians and Hawaiians.

Your Committee received testimony in support of the measure from a representative of OHA.

Your Committee finds that this proposal will clarify the trust duty owed by OHA to Hawaiians and native Hawaiians in the exercise of its control and management of properties transferred to OHA.

Your Committee has amended the measure by deleting the reference to section 4 of Article XII of the State Constitution as sections 5 and 6 of Article XII are the appropriate references when speaking of the duties imposed when properties are transferred to OHA.

As affirmed by the record of votes of 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. 3603, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3603, H.D. 1.

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

SCRep. 809-96 Judiciary on H.B. No. 3618

The purpose of this bill is to allow for legislative oversight of administrative agency rules by the Joint Legislative Management Committee (Committee).

Testimony in support of this measure was submitted by the Legislative Information Service of Hawaii. The Attorney General and the Department of Education submitted comments in opposition of the bill.

Your Committee has amended the bill by:

- (1) Deleting the prohibition against the introduction of legislation to implement a minority decision of the Committee; 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. 3618, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3618, H.D. 2.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 810-96 Judiciary on H.B. No. 3638

The purpose of this bill is to decriminalize parking violations on stadium property.

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

Your Committee has amended this bill by providing that parking violations are to be decriminalized, but kept violations of Stadium Authority rules regulating conduct punishable as petty misdemeanors. Your Committee also raised the fine for the petty misdemeanor to be consistent with the Penal Code. Technical, nonsubstantive changes were made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3638, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3638, H.D. 1.

Signed by all members of the Committee except Representatives White, Cachola, Herkes, Saiki, Swain and Yamane.

SCRep. 811-96 Judiciary on H.B. No. 3763

The purpose of this bill, as received by your Committee, is as follows:

- (1) Require the owner or operator of a well or stream diversion work to report on their water use with the Commission on Water Resource Management (Commission);
- (2) Repeal the requirement that the Commission must act upon a declaration of water use within six months of its filing;
- (3) Require that whenever a declared use of water is terminated or transferred, the user of the water must notify the Commission within sixty days; and
- (4) Establish July 1, 1997, as the date to determine whether a contested case is appealed to the Circuit Court or to the Hawaii Supreme Court.

Your Committee heard supporting testimony from the Commission and the Honolulu Board of Water Supply. The Native Hawaiian Legal Corporation was partially opposed and the Koolau Agricultural Company, Ltd. opposed this measure.

It is the finding of your Committee that a definite time limit should be set for the Commission to accomplish its stated duties. Accordingly, your Committee has amended the bill to set new deadlines for the Commission to act upon water use declarations:

- (1) For a declaration filed prior to March 1, 1996, the Commission has until July 1, 1998, to act upon the declaration; and
- (2) For a declaration filed on or after March 1, 1996, the Commission has two years from the date of the filing to act upon the declaration.

However, the Governor may extend the deadline for an additional year in both instances for good cause shown as to a particular declaration.

As affirmed by the record of votes of 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. 3763, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3763, H.D. 2.

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

SCRep. 812-96 Judiciary on H.B. No. 3862

The purpose of this bill is to address the issues of parental responsibilities and discipline.

The Hawaii State Teachers Association submitted testimony in support of the intent of this bill. The Department of Education submitted testimony stating that this bill is not necessary. The Office of the Public Defender submitted comments on this bill.

Currently, the law allows principals to suspend students with the approval of the district superintendent. Additionally, the Department of Education's rules authorize, among other things, principals to suspend a student for up to ten days. Your Committee believes student conduct that presents a clear threat to the physical safety of others or is extremely disruptive requires effective and efficient action on the part of the school principal. Providing statutory authority to allow principals to preclude students from attending school for up to ten days in any single semester without the approval of the district superintendent helps to ensure a safe learning environment and sets forth policy and guidelines without establishing rules.

It is expected that all public school principals will exercise prudence in determining whether or not a student should be immediately removed from the school. All students have a right to be treated fairly and without discrimination in the application of discipline. Providing principals with the authority to address school discipline and safety problems does not relieve the Department of Education or the University of Hawaii College of Education from continuing to explore strategies and new methods of delivering curriculum to help prevent disruptive behavior, or training teachers to be skilled in conflict and classroom management. Schools must make certain that their curriculum is relevant to the development of personal responsibility and that staff is skilled for the task.

Upon careful consideration, your Committee has deleted the substance and inserted new language to clarify the following by:

- (1) Authorizing the principal to preclude a student from attending school for not more than ten days in any single semester;

- (2) Authorizing the principal to preclude a student, except those students who receive special education services, from attending school for more than ten days in any single semester with the approval of the district superintendent; and
- (3) Requiring the Department of Education to provide alternative educational services for these students, including a procedure for reintegration back to their home school.

Technical, nonsubstantive amendments were also made to this measure for purposes of consistency 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. 3862, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3862, H.D. 2.

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

SCRep. 813-96 Judiciary and Consumer Protection and Commerce on H.B. No. 2433

The purpose of this bill is to increase the efficiency of the motor carrier law by extending the repeal date of Act 105, Session Laws of Hawaii 1995, from June 8, 1996, to June 8, 1998.

Testimony in support of this measure was received from the Department of Transportation and the Public Utilities Commission.

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

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2433, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2433, H.D. 2.

Signed by all members of the Committees except Representatives White, Cachola, Herkes, Hiraki, Swain and Yamane.

SCRep. 814-96 Judiciary and Consumer Protection and Commerce on H.B. No. 2627

The purpose of this bill is to:

- (1) Require a prescription for the dispensing of schedule V controlled substances (schedule V substances);
- (2) Require the labelling of packages containing schedule V substances;
- (3) Prohibit practitioners from prescribing schedule V substances for their own use except in a medical emergency;
- (4) Repeal the requirement that the addresses of the prescribing practitioner and the patient or animal owner be placed on the label of the package containing the drug;
- (5) Authorize the Department of Public Safety to require registrants to submit documents relevant to registration; and
- (6) Extend the regulation of prescriptions for controlled substances to include physicians on the staff of any facility serving veterans.

Your Committees received testimony in support of this bill from representatives from the Department of Public Safety and Longs Drugs.

Your Committees find that the practice in the past has been not to dispense schedule V substances without a prescription even though the law permitted it.

Your Committees have amended this bill by clarifying that it is the "business" address of the dispensing practitioner that is to be placed on the label of the package containing the controlled substance.

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. 2627, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2627, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Herkes, Hiraki, Saiki, Swain, White and Yamane.

SCRep. 815-96 Judiciary and Consumer Protection and Commerce on H.B. No. 2726

The purpose of this bill is to:

- (1) Exempt the Auditor from being required to disclose any working papers containing information that the Auditor holds confidential under the Uniform Information Practices Act;
- (2) Specify that the Auditor and the Auditor's staff shall be absolutely immune from being summoned to testify in any judicial or administrative proceeding concerning any audit or other investigation undertaken pursuant to chapter 23, Hawaii Revised Statutes, except to appear as a witness on behalf of the State;
- (3) Require that concurrent resolutions requesting the Auditor's assessment of any proposed mandatory health insurance coverage designate a specific legislative bill that has been introduced in the Legislature and includes certain required information; and
- (4) Require that new regulatory measures that would subject unregulated professions and vocations to licensing or other regulatory controls referred to the Auditor for analysis be done so by concurrent resolution that identifies a specific legislative bill to be analyzed.

Your Committees received testimony from the Auditor in support of this bill.

Your Committees believe that confidentiality of the Auditor's working papers should be maintained to protect the privacy and confidentiality rights of the persons and agencies audited. Immunity from testifying will ensure independent audits and investigations without the chilling effect that frequent court appearances would generate. Your Committees find that requiring specific reference to a bill will facilitate the Auditor in focusing in on the mandated health insurance coverage or regulatory measure to be analyzed.

Your Committees have amended this bill by adding a new section which authorizes the Auditor to employ or retain attorneys. Your Committees find that since the Auditor is required to conduct postaudits of all departments, offices, and agencies of the State and its political subdivisions, the Auditor may encounter situations where legal counsel must be retained to ensure independence from the executive branch.

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. 2726, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2726, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Case, Hamakawa, Herkes, Hiraki, McMurdo, Menor and Swain.

SCRep. 816-96 Consumer Protection and Commerce on H.B. No. 2575

The purpose of this bill is to increase the accessibility and availability of vision screening tests and refractions by allowing licensed dispensing opticians to perform these tests.

Testimony in support of the measure was received from the Board of Dispensing Opticians, the Dispensing Opticians of Hawaii, a professor from the New York City Technical College, and numerous opticians. Testimony opposing the bill was submitted by the Board of Examiners in Optometry, the Hawaii Optometric Association, and numerous optometrists and individuals.

Currently, optometrists and ophthalmologists are allowed to perform vision screening tests and refractions. However, opticians do not have the same authority.

Testimony indicated that allowing dispensing opticians to perform vision screening tests and refractions would, among other things:

- (1) Enable consumers to update their eyeglass prescriptions between eye examinations, without having to pay for another eye examination;
- (2) Better enable optometrists and ophthalmologists to dedicate more of their valuable time to the diagnosis and treatment of eye diseases and disorders; and
- (3) Allow dispensing opticians to apply their optical skills for which they have received training.

However, because your Committee is committed to protecting the health and safety of the public, your Committee has serious reservations on the bill as received because many consumers may not obtain an eye examination if they receive a vision screening test and refraction from dispensing opticians. This could result in serious eye diseases or disorders being left undiagnosed or untreated.

Your Committee finds that to ensure the continued protection of the health and safety of the public, a very cautious approach to allowing dispensing opticians to perform vision screening tests and refractions in Hawaii is warranted.

Therefore, in order to reflect this intent, your Committee has amended the bill by:

- (1) Requiring the Board of Examiners in Optometry to be responsible for the certification of dispensing opticians to perform vision screening tests and refractions, including the selection of an examination as the basis for certification;
- (2) Establishing a two-tier system allowing certain dispensing opticians to perform vision screening tests and refractions. Specifically:

- (A) One tier would allow licensed dispensing opticians who practice under the supervision of an optometrist or ophthalmologist and have passed the examination selected by the Board of Examiners in Optometry to perform vision screening tests and refractions; and
- (B) The other tier would allow other licensed dispensing opticians who are certified by the Board of Examiners in Optometry and have satisfied the practical experience requirement to perform vision screening tests without charge to the customer, and refractions;
- (3) Specifying that dispensing opticians who provide vision screening tests and refractions be held to the same standard of care that is commonly exercised by optometrists in the same community;
- (4) Requiring the Board of Examiners in Optometry to submit an interim report to the Legislature regarding the status of the development of the certification requirements;
- (5) Requiring the Board of Examiners in Optometry and the Board of Dispensing Opticians to submit a joint report to the Legislature regarding the performance of vision screening tests and refractions; and
- (6) Including a sunset provision that repeals the law on July 1, 2001.

Your Committee believes that the bill, as amended, provides the most balanced approach to allowing dispensing opticians to perform vision screening tests and refractions with respect to public safety and the potential cost savings.

It is your Committee's intention that in establishing appropriate guidelines, the Board of Examiners in Optometry must assure that opticians have sufficient didactic and clinical training to enable them to detect and refer disease.

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. 2575, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2575, H.D. 2.

Signed by all members of the Committee except Representatives tom and Whtie.

(Representatives Case and Thielen voted no.)

SCRep. 817-96 Consumer Protection and Commerce on H.B. No. 3207

The purpose of this bill is to streamline and facilitate the state permit approval process, by:

- (1) Requiring that any county permit application requiring state agency approval undergo the consolidated application process under section 201-62, Hawaii Revised Statutes;
- (2) Specifying that the Department of Business, Economic Development, and Tourism (DBEDT) is the lead agency to administer and facilitate the consolidated application procedure for county permit applications that require state agency approval;
- (3) Establishing a Permit Process Task Force (Task Force) within DBEDT to:
 - (a) Streamline and facilitate the state permit approval process;
 - (b) Examine the consolidated application process and review all state agency rules pertaining to the state permit approval process;
 - (c) Identify all permits and approvals the state currently requires from applicants seeking permits;
 - (d) Determine which permits shall be approved by administrative rule ("permit by rule"), and which permits shall be approved by departmental review ("permit by review");
 - (e) Adopt a plan and make recommendations to enable all applicants seeking state agency approval for permits to undergo the permit by rule procedure rather than the permit by review procedure; and
 - (f) Provide recommendations to expedite and facilitate the permit approval process within each state agency;
- (4) Requiring the Task Force to submit annual reports to the Legislature on their findings, recommendations, and actions taken; and
- (5) Making DBEDT responsible for certifying all applications that have obtained permit approval from the appropriate state agencies.

Testimony in support of the bill was received from the Department of Health (DOH), Department of Business, Economic Development, and Tourism (DBEDT), Construction Industry Legislative Organization (CILO), Land Use Research Foundation of Hawaii, and AIA Hawaii State Council. Comments on the measure were received from the Consulting Engineers Council of Hawaii.

Your Committee recognizes that there are many areas in the permit approval process that require streamlining in order to expedite and facilitate the commencement of construction projects in the State. Greater coordination, interaction, and

communication are needed among and within the various state agencies. Improved coordination of state and county regulatory procedures is also necessary in order to reduce the time required to obtain state and county approvals to begin construction. By authorizing use of the consolidated application process to secure state and county permits, and creating a task force to review and improve the permit process, your Committee believes that this measure will lead to increased and more vigorous construction activity in this state.

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

- (1) Deleting provisions:
 - (a) Requiring the Task Force to submit annual reports to the Legislature; and
 - (b) Making DBEDT responsible for certifying applications that have obtained permit approval from the appropriate state agencies;
- (2) Requiring the counties to advise applicants of the consolidated application procedure when a state regulatory permit is required to obtain a county permit;
- (3) Requiring applicants for county permits involving state permit approvals obtained by review, to submit a form issued by DBEDT to apply for consideration under the consolidated application process;
- (4) Specifying that:
 - (a) State permits approved by rule are to be deemed approved by the county upon certification by the licensed design professional that the plans and specifications are in compliance with state rules; and
 - (b) The appropriate county shall submit a set of drawings and specifications submitted by the applicant to the state agency that developed the rules for state permits approved by rule;
- (5) Requiring that plans and specifications requiring state agency review be submitted with the consolidated application procedure to the appropriate state agency, with a copy to DBEDT;
- (6) Requiring that in developing the procedures for approval by rule and review, permit requirements shall be clearly stated, and performance standards, rather than specific technologies or procedures shall be specified whenever appropriate;
- (7) Exempting from the county permit approval process, all permit approvals for public buildings and structures on public land that is not dedicated to any county, except when the construction or development has an effect on county services; and
- (8) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3207, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3207, H.D. 2.

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

SCRep. 818-96 Hawaiian Affairs and Housing on H.B. No. 2746

The purpose of this bill is to establish the Hui 'Imi Pono Advisory Council (Advisory Council) to advise the Governor, the Legislature, and public and private agencies serving Hawaiians on the issues described in the Hui 'Imi Task Force (Task Force) report and to serve as a liaison between public and private agencies.

Testimony in support of this bill was received from the Office of State Planning (OSP) which expressed concern as the bill proposes to attach the Advisory Council to that office and it may be abolished in the near future. Alu Like and E Ola Mau testified in support of the bill but suggested attaching the Advisory Council to the Department of Accounting and General Services (DAGS) rather than OSP.

Supportive testimony also was received from the Kamehameha Schools/Bernice Pauahi Bishop Estate, Papa Ola Lokahi, Na Koa Ikaika, and a private citizen.

In discussions, your Committee recognized the report published by the Task Force and was in full support and intent of this bill to re-authorize the Task Force as the Advisory Council. The purpose of the Advisory Council will be to carry out the recommendations of the Task Force.

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

- (1) Attaching the Advisory Council to DAGS rather than to the OSP; and
- (2) Making technical, non-substantive changes 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. 2746, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2746, H.D. 1.

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

SCRep. 819-96 Water and Land Use Planning on H.B. No. 2820

The purpose of this bill is to authorize the counties to enact ordinances that provide for:

- (1) Dwelling unit clustering; and
- (2) Reduced minimum lot sizes;

on lands within the State agricultural and rural districts without increasing the overall density of the affected parcel.

This bill also:

- (1) Provides criteria for approval and design standards for cluster projects; and
- (2) Identifies alternative means to preserve open space resources that must be included in any open space and cluster development ordinance.

The following testified in support of this measure: two County of Maui Council members; the County of Maui Planning Department; a City and County of Honolulu Council member; the Maui Open Space Trust; the Hawaii Association of Realtors; and four concerned individuals. The Land Use Research Foundation of Hawaii supported the intent of this bill. The County of Hawaii Planning Department and a County of Hawaii Council member supported this bill with suggested amendments. The Office of State Planning and the State Land Use Commission opposed this bill.

Your Committee has amended this bill by:

- (1) Deleting references to lands within the agricultural district, thereby limiting the provisions of the bill to lands within the rural district; 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 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. 2820, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2820, H.D. 2.

Signed by all members of the Committee except Representatives Kanohe, McMurdo, M. Oshiro and Meyer.

SCRep. 820-96 Water and Land Use Planning on H.B. No. 2821

The purpose of this bill is to encourage property owners to preserve and protect resources associated with historic properties and the indigenous culture.

This bill expands the definition of "conservation easement" under chapter 198D, "Conservation Easements", Hawaii Revised Statutes (HRS), to include the preservation and protection of the structural integrity and physical appearance of:

- (1) Historic properties;
- (2) Cultural landscapes;
- (3) Resources; and
- (4) Sites which perpetuate the indigenous culture.

The Department of Land and Natural Resources and the Office of Hawaiian Affairs testified in support of this measure and suggested amendments. The Land Use Research Foundation of Hawaii also supported this measure.

Your Committee has amended this bill by:

- (1) Clarifying that the term, "historic properties", is as defined in section 6E-2, HRS;
- (2) Inserting the phrase, "traditional and family cemeteries", to the definition of "conservation easement;"
- (3) Clarifying that "indigenous culture" refers to the native Hawaiian indigenous culture; and
- (4) 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. 2821, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2821, H.D. 2.

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

SCRep. 821-96 Water and Land Use Planning on H.B. No. 3173

The purpose of this bill is to begin to implement Article XI, section 3, of the Hawaii State Constitution which requires the State to:

- (1) Conserve and protect agricultural lands;
- (2) Promote diversified agriculture;
- (3) Increase self-sufficiency; and
- (4) Assure the availability of agriculturally suitable lands.

This bill:

- (1) Establishes a land evaluation rating system;
- (2) Requires the Land Use Commission (LUC) to:
 - (a) Establish threshold land evaluation and site assessment scores; and
 - (b) Consider existing agricultural uses and acreage necessary to accommodate foreseeable increases in agricultural production goals in establishing these scores;
- (3) Directs the Department of Agriculture to map unique agricultural lands and requires that these lands receive a land evaluation score above the threshold score;
- (4) Defines "unique agricultural lands," "important agricultural lands," and "site assessment rating;"
- (5) Requires a two-thirds vote of the approving authority to approve any reclassification or rezoning of important agricultural lands; and
- (6) Requires the Office of State Planning (OSP) to convene a temporary agricultural production goals committee every five years.

The Hawaii Farm Bureau supported passage of this measure. The Office of Hawaiian Affairs and the Hawaii Association of Realtors supported the intent of this bill with reservations. OSP and a County of Hawaii Council member offered comments. The LUC and the Land Use Research Foundation opposed this bill.

Your Committee has amended this bill by:

- (1) Adding traditional Hawaiian crop planters to the agricultural production goals committee; and
- (2) Making technical, nonsubstantive revisions for purpose of clarity.

Your Committee points out that under this bill, district boundary amendments involving agricultural lands which do not otherwise qualify as important or unique agricultural lands will continue to be determined by the LUC.

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. 3173, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3173, H.D. 1.

Signed by all members of the Committee except Representatives Kanoho, McMurdo, M. Oshiro and Meyer.

SCRep. 822-96 Water and Land Use Planning on H.B. No. 3602

The purpose of this bill is to exempt the Maunalaha subdivision on Oahu from all state and county subdivision and housing development standards.

The Department of Land and Natural Resources testified in support of this bill based upon the testimony of the Office of Hawaiian Affairs (OHA). The Department of Land Utilization of the City and County of Honolulu submitted testimony in opposition to this bill based on concerns for the health and safety of the residents.

OHA testified in support of this bill and informed your Committee that OHA's Board of Trustees had approved a funding request of \$112,500 from the Housing Division to manage a self-help housing project for fifteen families at Maunalaha. OHA also stated that this exemption was necessary and would enable OHA in following up on assistance given to residents involved in this project.

Your Committee recognizes that the residents have not been able to improve their homes because they have not been able to qualify for loans and that this inability to qualify for loans is partly attributable to the subdivision's substandard infrastructure.

Upon careful consideration of the testimonies presented, your Committee believes that this bill will address the problem faced by Maunalaha residents and will enable them to improve their homes. However, your Committee is concerned about the effects of a permanent exemption and the kind of precedent it may set. Accordingly, this bill has been amended to require that OHA report back to the Legislature within five years on the status of this project.

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. 3602, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3602, H.D. 1.

Signed by all members of the Committee except Representatives Takamine, Kanoho, Tarnas, Yamane and Meyer.

SCRep. 823-96 ater and Land Use Planning on H.B. No. 3604

The purpose of this bill is to provide the Office of Hawaiian Affairs (OHA) with a greater role in the overall administration and management of public lands, water resources, ocean waters, navigable streams, coastal areas, and minerals.

This bill requires that an OHA representative be appointed as one of the six members on the Board of Land and Natural Resources. Currently, four members represent the four land districts of the State, and two members are appointed at-large. The OHA representative would serve as one of these at-large members.

The OHA testified in support of this measure. The Department of Land and Natural Resources opposed passage of this bill.

Your Committee has amended this bill by 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. 3604, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3604, H.D. 1.

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

SCRep. 824-96 Water and Land Use Planning on H.B. No. 4031

The purpose of this bill is to enable each county with a population of more than 500,000 to develop standards to permit a small landowner to build up to two additional single-family dwelling units on any lot where a single residential dwelling unit is allowed.

The Board of Water Supply of the City and County of Honolulu and several individuals testified in support of this bill. The League of Women Voters opposed this measure.

The Department of Health (DOH) opposed this bill and expressed concern that the counties would be able to circumvent DOH's rules on wastewater systems. However, DOH agreed with the bill's intent and recommended amendments which your Committee has incorporated.

Your Committee notes that this bill has undergone many changes due to the concerns raised at the hearing and appreciates the efforts of the author of this bill who was instrumental in reaching a consensus among all of the concerned parties.

Your Committee believes that the state's critical housing shortage and the fact that there are areas where lots are underutilized weigh in favor of lifting state and county zoning restrictions that prohibit a homeowner from building an additional home on that homeowner's lot. The current state of the economy has contributed to the unfortunate increase of homeless persons and families who cannot find affordable housing and as a result are forced to seek alternative means of housing. This bill will afford us the opportunity to alleviate this problem.

After careful consideration of the testimonies presented, your Committee has amended this bill to address the concerns raised, by:

- (1) Changing language in this bill from mandatory to permissive to give the Department of Land Utilization (DLU) of the City and County of Honolulu more flexibility in administering the adopted standards;
- (2) Adding "country" to the kind of uses for which the land has been designated, to be consistent with DLU designations;
- (3) Deleting reference to the 1990 census tract designations in Section 3 of this bill;
- (4) Adding a sunset provision repealing this Act on December 31, 1999; and
- (5) Providing for the reenactment of section 46-4, Hawaii Revised Statutes, in the form in which it read before 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. 4031, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4031, H.D. 2.

Signed by all members of the Committee except Representatives Kanoho, McMurdo, M. Oshiro and Meyer.

SCRep. 825-96 Water and Land Use Planning and Energy and Environmental Protection on H.B. No. 4003

The purpose of this bill is to amend the Hawaii Revised Statutes to add a new chapter on Greenways. This bill provides for the establishment of a state master plan that will encourage alternative forms of transportation such as bicycling and walking.

The Hawai'i Green Party, the Hawaii Chapter of the American Society of Landscape Architects, and a private citizen testified in support of this bill. It was noted that this bill would be a step in the right direction in encouraging expanded bicycle and pedestrian facilities.

The Department of Land and Natural Resources (DLNR) testified that it supported the development of greenways but that it did not support this bill because DLNR could not bear the additional costs of developing a statewide greenways master plan.

The Department of Transportation (DOT) supported the intent of this bill but opposed this bill because it believed that the greenways master plan should be handled by the county governments with assistance from state staff if necessary. DOT also clarified that only portions of the greenway that have transportation-related uses and meet certain funding requirements would be eligible for Intermodal Surface Transportation Efficiency Act (ISTEA) moneys.

The Planning Department of the County of Maui testified in opposition to this bill and noted that it is involved in planning greenways master plans in certain areas on its island and that greenways should be handled by the counties.

Your Committees understand the concerns raised by those opposing this bill, however, passage of this bill will reduce the islands' overdependency on private cars and enhance our environment and quality of life by encouraging alternative forms of transportation design, including bikepaths and pedestrian ways.

Your Committees have amended this bill by, among other things:

- (1) Focusing on the implementation of a statewide greenways strategy instead of the establishment of a statewide greenways master plan;
- (2) Changing references to a "statewide greenways master plan" to "statewide greenways strategy";
- (3) Designating DOT as the lead agency which shall work in conjunction with the DLNR to develop the statewide greenways strategy;
- (4) Clarifying that one of the steering committee's objectives will be to assess existing and potential lands for beautification projects;
- (5) Providing that the steering committee will make recommendations on the development of a greenways strategy;
- (6) Requiring the steering committee to submit its recommendations to the Legislature 20 days prior to the convening of the 1997 Regular Session; and
- (7) Making technical, nonsubstantive changes for purposes of clarity and consistency.

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. 4003, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 4003, H.D. 2.

Signed by all members of the Committees except Representatives Kanoho, McMurdo, M. Oshiro and Meyer.

SCRep. 826-96 Judiciary and Consumer Protection and Commerce on H.B. No. 2694

The purpose of this bill is to make the lessee of a rental moped responsible for parking citations.

Testimony in support of this measure was submitted by the Moped Connection.

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. 2694 and recommend that it pass Third Reading.

Signed by all members of the Committees except Representatives White, Cachola, Herkes, Hiraki, Saiki, Swain and Yamane.

SCRep. 827-96 Judiciary on H.B. No. 3145

The purpose of this bill is to amend the Constitution of the State of Hawaii to refer to the Auditor as the Legislative Auditor.

The State Representative of the 13th district and the Clerk of the House of Representatives testified in support of the bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3145 and recommends that it pass Third Reading.

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

SCRep. 828-96 Judiciary on H.B. No. 3333

The purpose of this bill is to allow the Department of Agriculture to adopt as their own rules all federal regulations, guidelines, and compliance policy guides regarding feeds without complying with the notice and public hearing requirements of chapter 91, Hawaii Revised Statutes.

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

Your Committee finds that federal agencies regularly hold national public hearings to amend regulations dealing with tolerances, guidelines, and action levels for pesticides and other chemical adulterants in animal feeds and it would be a nonproductive duplication to repeat the process in Hawaii.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3333 and recommends that it pass Third Reading.

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

SCRep. 829-96 Judiciary on H.B. No. 3506

The purpose of this bill is to repeal the provision which requires a person who has been hospitalized due to a mental condition to be certified by the Director of Health before obtaining a driver's license.

Your Committee received testimony in support from representatives of the State Department of Health, City and County of Honolulu Department of Finance, Commission on Persons with Disabilities, and a concerned citizen.

Your Committee finds that government efficiency is improved by eliminating the necessity of the Director of Health certifying a previously hospitalized person as mentally competent and it is sufficient to rely on the written and practical examinations to determine a person's competency to operate a motor vehicle. In addition, the examiner of drivers already has the general authority to withhold a license when there is good cause to believe that a person's physical or mental disability prevents the person from driving safely.

As affirmed by the record of votes of 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. 3506 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 830-96 Judiciary on H.B. No. 3724

The purpose of this bill is to allow the Kaho'olawe Island Reserve Commission (Commission) the authority to retain its own legal counsel instead of relying on the services of the Department of the Attorney General.

Your Committee received testimony in support of the bill from a representative of the Commission. The Attorney General's representative testified in opposition to this measure.

It is the finding of your Committee that the Commission has unique oversight authority over certain state departments and agencies and independent legal services may be necessary to fulfill its responsibilities and duties. Accordingly the right to retain its own counsel, as necessary, should be allowed under the law as they have discretionary use of federal monies.

As affirmed by the record of votes of 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. 3724 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Menor.

SCRep. 831-96 Judiciary on H.B. No. 3812

The purpose of this bill is to exclude a vehicle driver from providing proof of financial responsibility upon the person's first license suspension or revocation for driving without a no-fault insurance policy.

Your Committee received favorable testimony from representatives of the State Insurance Commissioner and the City and County of Honolulu Finance Department. The Hawaii Insurers Council opposed the bill.

Your Committee finds that it would be counterproductive to require a person convicted for the first time of driving without no-fault insurance policy to be subject to the proof of financial responsibility requirements of section 287-20. For a substantial portion of the population the additional costs of obtaining the proof would be economically unbearable and could cause them to avoid the purchase of insurance entirely.

As affirmed by the record of votes of 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. 3812, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 832-96 Judiciary on H.B. No. 2731

The purpose of this bill is to allow the Ombudsman to refer a matter to the appropriate authorities when he suspects a person has committed a breach of duty or misconduct without having to notify the person.

Your Committee received favorable testimony from a representative of the Office of Ombudsman (Office).

It is the finding of your Committee that the ambiguity in the law regarding notice to possible miscreants before referral to the proper authorities should be clarified so that the referral can be made without notice. The Ombudsman should be allowed to hire counsel in those matters wherein the Attorney General would be in conflict by representing the agency affected. In this regard, the Ombudsman would be advised to refer the possible conflict to the proper agency, such as the disciplinary counsel, in order to determine whether the Office needs to hire independent legal services. For this purpose and other similar purposes, your Committee has amended this bill to authorize the Ombudsman to employ or retain attorneys independently of the Attorney General.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2731, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2731, H.D. 1.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 833-96 Judiciary on H.B. No. 2839

The purpose of this bill is to allow licensed hunters to hunt with a pistol or revolver.

The Hawaii Rifle Association, the Hawaii Citizens' Rights, and several hunters testified in support of this bill. The Board of Land and Natural Resources and the Honolulu Police Department opposed this measure.

Your Committee has amended the bill by:

- (1) Deleting the provision specifying the caliber, barrel length, and requisite use of an affixed scope on the pistol or revolver used for hunting;
- (2) Changing the effective date to reflect that the bill is effective upon approval provided that the provision allowing the use of a pistol or revolver while engaged in hunting will be effective on July 1, 1997 so as to allow the Department of Land and Natural Resources time to promulgate rules; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2839, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2839, H.D. 2.

Signed by all members of the Committee except Representative Menor.
(Representatives Case, Chun Oakland and Thielen voted no.)

SCRep. 834-96 Judiciary on H.B. No. 2895

The purpose of this bill, as received by your Committee, is to authorize the Department of Health (DOH) to promulgate rules establishing a field citation program for all aspects of state pollution control laws.

Your Committee received testimony in support of this bill from a representative of the Department of Public Works of the City and County of Honolulu. While in support of the intent of this bill, representatives of the DOH, and the Department of the Attorney General recommended amendments.

Field citations are being used in the Underground Storage Tank section of the Solid and Hazardous Waste Branch of the DOH, and your Committee finds that they may be successfully utilized in other areas of pollution control. While the bill as presented proposes to introduce a field citation program into virtually all programs regulated by the DOH, your Committee feels that it should be limited as a pilot project to certain areas in which the department has more defined rules and enforcement procedures. Thus, your Committee has amended this bill by deleting all sections relating to the chapters other than chapters 342B, 342D, and 342H, Hawaii Revised Statutes, dealing with the clean air, wastewater, and solid waste programs, respectively.

Additionally, the sections of the bill attempting to incorporate the mechanics of the field citation program into existing procedures for undertaking administrative and civil enforcement activities have been deleted. Your Committee finds the language confusing and that leaving those sections in the bill may result in weakening the DOH's authority under the current law.

The bill, as amended, will give the DOH clear authority to institute field citation programs in the three areas designated. Technical, nonsubstantive changes were also made for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2895, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2895, H.D. 2.

Signed by all members of the Committee except Representative Menor.

SCRep. 835-96 Education on H.B. No. 2897

The purpose of this bill is to:

- (1) Require parents to obtain a certificate of dental examination for any child entering school for the first time in the State; and
- (2) Require that all necessary treatment services be completed within one year of entry.

The Department of Education concurred with the intent of the bill but did not want to penalize children who do not have dental insurance or further burden school officials by adding dental records to the required list of school and health records.

The Kauai County Subarea Health Planning Council, the Hawaii Dental Association, The Kauai Dental Health Task Force, The Kauai Rural Health Association, and a dentist in private practice all submitted testimony in favor of this bill.

The Hawaii State Teachers Association supported the intent of the bill and suggested that it might be better if the measure were a policy decision made by the Board of Education.

The Department of Health testified in opposition to this bill.

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

- (1) Requiring parents to present proof of a dental examination for their child;
- (2) Deleting the requirement of having written proof that a child is undergoing dental treatment in order for the child to be accepted provisionally; and
- (3) Adding the provision that no child shall be excluded from attending school if he or she does not present a certificate from a licensed dentist.

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. 2897, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2897, H.D. 2.

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

SCRep. 836-96 Finance on H.B. No. 3941

The purpose of this bill is to:

- (1) Enhance the management of public forest reserves;
- (2) Establish demonstration forest areas; and
- (3) Develop environmental educational materials,

through the reinvestment of income derived from harvesting forest products from state lands and the sale of tree seedlings from state nurseries.

Testimony in support of the measure was received from the Department of Land and Natural Resources; the Department of Business, Economic Development, and Tourism; the Hawaii Forest Industry Association; and an individual. The Office of Hawaiian Affairs submitted testimony supporting the intent of the bill.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3941, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3941, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 837-96 Finance on H.B. No. 3204

The purpose of this bill is to further restrict the types of investments that may be made with state funds by the Department of Land and Natural Resources, the Housing Finance and Development Corporation, and the Hawaii Housing Authority, so that certain funds held in reserves may be invested only in the types of property or securities specified by law, rather than those in which savings banks may legally invest.

Submitting testimony in support of the bill were the Department of Budget and Finance, the Board of Land and Natural Resources, and Federated Investors. The Housing Finance and Development Corporation supported the intent of the bill.

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. 3204, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3204, H.D. 3.

Signed by all members of the Committee except Representative Isbell.

SCRep. 838-96 Finance on H.B. No. 3299

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism (DBEDT) to promote employee participation and ownership in Hawaii businesses.

DBEDT and the Hawaii State Employee Ownership and Participation Advisory Committee submitted testimony in support of the bill.

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. 3299, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3299, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 839-96 Finance on H.B. No. 3366

The purpose of this bill is to modify the process by which unclaimed property escheats to the State by:

- (1) Classifying the property by value and varying the required holding times dependent on this classification;
- (2) Increasing the time the Director of Finance has to consider a claim filed by a person claiming an interest in unclaimed property;
- (3) Specifying what information must be published in an effort to locate owners of unclaimed property; and
- (4) Requiring the list of persons appearing to be owners of unclaimed property be made available to the public.

The Department of Budget and Finance submitted testimony in support of the bill.

Technical, nonsubstantive amendments were made to this 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. 3366, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3366, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 840-96 Finance on H.B. No. 3402

The purpose of this bill is to improve the administration of insurance premium taxes by:

- (1) Requiring insurers to file tax statements and pay taxes on a quarterly basis;
- (2) Imposing a fine of not less than \$100 and not more than \$500 for each day of delinquency that insurers fail or refuse to file the annual tax statement or quarterly statements when due or to pay the required taxes when due and payable;
- (3) Requiring insurers, with respect to annuity insurance contracts, to pay a tax of one percent on the gross premiums received from all risks resident within the State, during the year ending on the preceding December 31, less return premiums, dividends paid or credited to policyholders, and reinsurance accepted;
- (4) Requiring surplus lines brokers to file quarterly and annual statements and pay taxes on a quarterly basis; and
- (5) Imposing a fine of not less than \$100 and not more than \$500 for each day of delinquency that surplus lines brokers fail or refuse to file the annual tax statement or quarterly statements when due or to pay the required taxes when due and payable.

The Department of Commerce and Consumer Affairs submitted testimony in strong support of the bill. Comments were submitted by State Farm Insurance Companies.

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. 3402, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3402, H.D. 2.

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

SCRep. 841-96 Finance on H.B. No. 3427

The purpose of this bill is to assist the Insurance Division of the Department of Commerce and Consumer Affairs in monitoring the financial solvency of property and casualty insurance companies by:

- (1) Providing the Insurance Commissioner and the Insurance Division or its employees, agents, and independent contractors with liability immunity; and
- (2) Extending the requirements of the Risk-Based Capital for Life and Health Insurers Act to property and casualty insurers.

Your Committee received testimony in support of the bill from the Department of Commerce and Consumer Affairs.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3427, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3427, H.D. 2.

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

SCRep. 842-96 Finance on H.B. No. 3556

The purpose of this bill is to enhance tax compliance of persons contracting with the state and county governments by requiring contractors to verify that they are current in their filing and payment of taxes before entering into state and county contracts.

Testimony in support of this bill was received from the Department of Taxation (DOTAX). Comments were received from the Board of Water Supply of the City and County of Honolulu and the Tax Foundation of Hawaii.

Your Committee has amended this bill by:

- (1) Requiring contractors to obtain tax clearances from the Internal Revenue Service;
- (2) Excluding the provisions of sections 40-57 and 40-58, Hawaii Revised Statutes (HRS), from contractors providing tax clearances;
- (3) Specifying that assignment of the final settlement payment is not to exceed the tax delinquency;
- (4) Providing that DOTAX may first offset its tax debt against the sum owed to the contractor;
- (5) Providing that tax clearances and assignments may be applied to contracts of less than \$10,000 for state and county departments and contracting agencies;
- (6) Deleting the provision allowing any department from imposing tax clearance procedures more stringent than procedures under section 103-53, HRS; and
- (7) 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. 3556, H.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3556, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 843-96 Finance on H.B. No. 3560

The purpose of this bill is to repeal the tax credit available to insurance companies when they engage in certain practices in Hawaii.

The Department of Taxation submitted testimony in support of the bill. The Tax Foundation of Hawaii submitted comments on the bill.

Your Committee has amended this bill by making technical, nonsubstantive amendments to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3560, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3560, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 844-96 Finance on H.B. No. 3755

The purpose of this bill is to authorize the Agribusiness Development Corporation (ADC) to establish a public land trust to be used exclusively for agricultural purposes.

Testimony in support of the concept of this bill was received from ADC.

Your Committee has amended this bill by:

- (1) Exempting lands to which the ADC in its corporate capacity holds title from public lands managed by the Department of Land and Natural Resources;
- (2) Deleting the provision authorizing the ADC to establish a public land trust; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3755, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3755, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 845-96 Finance on H.B. No. 3935

The purpose of this bill is to allow employers to establish individual medical trust accounts to cover the health care expenses of employees arising from work-related injuries.

The high cost of providing workers' compensation insurance has been a serious issue for many years. This bill takes the approach of permitting employers to establish individual medical trust accounts for their employees, which will belong to the employee through the employee's working life. The bill provides that the employer pay into the fund an amount determined by the Insurance Commissioner in consultation with an actuary, and the employee would use the moneys from the fund directly to pay for work-related noncatastrophic injuries.

This bill contains incentives for both the employer and employee. The employer's contributions would be reduced as the moneys in the individual funds reach \$5,000 and \$10,000 amounts. The employee would be entitled to receive five percent of the moneys in the account when the account reaches \$12,000. The employee would also receive a partial payment at age 60, and a full payout at age 70, as additional incentives to reduce injuries and stay healthy.

Your Committee finds that restructuring the payment of workers' compensation costs as proposed in this bill, would save money for employers, provide incentive to employees, and help resolve the workers' compensation dilemma in this state.

Testimony in support of this bill was received from the National Federation of Independent Business, the Chamber of Commerce of Hawaii, the Hawaii Medical Association, the Managed Health Care Network, and the Hawaii Federation of Physicians & Dentists. The Hawaii Nurses' Association submitted testimony in support of the concept of this bill. Comments were received from the Department of Labor and Industrial Relations, the Department of Commerce and Consumer Affairs, the Department of Taxation, Hawaii State AFL-CIO, ILWU Local 142, the United Food and Commercial Workers Union, the Hawaii Insurers Council, the Hawaii Medical Service Association, and Kaiser Permanente.

Your Committee has amended this bill by:

- (1) Stating that the first \$3,000 in the trust account is to also be used for the first \$3,000 of the employee's catastrophic care;
- (2) Permitting employees to receive five percent of the moneys in the account when the balance reaches \$12,000;
- (3) Requiring the amount of the employer's contributions to be determined by the Insurance Commissioner in consultation with an actuary, providing that the amount not exceed the difference between the amount of premiums in effect on June 30, 1997, and the amount of the premiums required, which involve a higher deductible and fewer covered injuries;
- (4) Requiring medical bills to go to the employee and employer, not the financial institution holding the individual's medical trust account;
- (5) Making the bill take effect on July 1, 1997, and having section 3 of the bill apply to taxable years beginning after December 31, 1996; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3935, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3935, H.D. 1.

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

SCRep. 846-96 Finance on H.B. No. 4118

The purpose of this bill is to establish a five-year small boat harbors pilot program to be administered by the Department of Land and Natural Resources.

Submitting testimony in support of the bill were the Chamber of Commerce of Hawaii, the Ala Wai Marina Committee, and an individual.

The Board of Land and Natural Resources commented on the measure.

Your Committee has amended the bill by:

- (1) Requiring a final report to be submitted to the Legislature prior to the Regular Session of 2002 rather than 1999;
- (2) Requiring that additional interim reports be submitted to the Legislature prior to each Regular Session from 1997 to 2001; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4118, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4118, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 847-96 Finance on H.B. No. 4144

The purpose of this bill is to propose an amendment to the Constitution of the State of Hawaii to authorize the use of special purpose revenue bonds to finance state property insurance programs that provide hurricane insurance coverage to the public.

Testimony in support of the measure was received from the Hawaii Hurricane Relief Fund and the Department of Commerce and Consumer Affairs. The Department of Budget and Finance submitted testimony agreeing with the intent and purpose of the bill.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4144, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4144, H.D. 1.

Signed by all members of the Committee except Representatives Isbell and Jones.

SCRep. 848-96 Consumer Protection and Commerce on H.B. No. 4085

The purpose of this bill is to require applicants for liquor licenses, whose previous application for the same premises have been denied, to show substantial change in the circumstances causing the initial denial before being allowed to reapply for a liquor license.

Testimony in support of this measure was received by: the City and County of Honolulu; a Councilmember of the Honolulu City Council; the Director of Finance for the City and County of Honolulu; the Kaimuki Neighborhood Board; the McCully-Moiliili Neighborhood Board; and several concerned citizens.

This bill would affect applicants who are applying for a liquor license for premises that have been denied a liquor license by the commission in a prior application. The applicants must provide a report showing a substantial change in the circumstances that caused the prior denial. The Liquor Commission (Commission) shall deny the application at the preliminary hearing unless the applicant has shown, in writing, a significant change in the circumstances which caused the prior denial.

When the Commission considers an application for approval, it may consider whether a majority of the registered voters, or a majority of owners and lessees of record of real estate, or a majority of owners of record in a cooperative apartment, within 500 feet of the nearest point of the premises, continue to oppose the granting of the liquor license.

Additionally, when the Commission considers an application for approval, it may consider whether the plans for the construction or operation of the proposed establishment have been changed so that they no longer conflict with the character of the area.

Your Committee finds the application process to be fair and comprehensive. However, no provision is made for an application that is withdrawn for reasons not associated with a protest or denial. Furthermore, your Committee finds the "use" of a proposed establishment and whether its use has been altered such that it no longer conflicts from the character of the area to be an important aspect for consideration by the Commission when evaluating a re-application for a liquor license. When considering the character of an area, your Committee refers to the usual and existing types of business, recreational, and residential uses and activities in the area, the relationship of the proposed establishment to the residential area, the population density, noise levels, and other factors affecting the environment of the area.

Accordingly, your Committee has amended the bill by:

- (1) Adding the provision that an applicant may apply again without waiting the one-year period if the application for the liquor license was withdrawn for reasons not related to protests, whether or not protests were filed;
- (2) Adding the proposed "use" of premises that conflict with the character of the area as a factor to consider when reviewing a re-application;

- (3) Revising the list of factors related to the character of the area for consideration by the Liquor Commission when evaluating a liquor license re-application; and
- (4) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4085, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4085, H.D. 2.

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

SCRep. 849-96 Finance on H.B. No. 2882

The purpose of this bill is to:

- (1) Require the Convention Center Authority to develop and administer an owner-controlled insurance program for the construction of the Convention Center;
- (2) Separate the Convention Center Capital and Operations Special Fund into:
 - (A) The Convention Center Capital Special Fund for capital expenses; and
 - (B) The Convention Center Operations Special Fund for the operation, maintenance, and improvement of the Convention Center; and
- (3) Appropriate an unspecified amount to the Convention Center Operations Special Fund.

Testimony in support of this measure was received from the Department of Accounting and General Services, the Department of Labor and Industrial Relations, and the Four Star Insurance Agency Inc. The Neighbors of the Ala Wai and several individuals submitted comments on this bill.

Your Committee has amended this bill by 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. 2882, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2882, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 850-96 Finance on H.B. No. 3399

The purpose of this bill is to improve the ability of the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs (DCCA) to provide more efficient services to the business community through a number of expanded activities including the:

- (1) Modernization of software for the database of businesses registered with the Division;
- (2) Overhaul of the computer system;
- (3) Replacement of the antiquated telephone system;
- (4) Strengthening of staff positions for the securities compliance and enforcement functions; and
- (5) Enhancement of services to Neighbor Island business communities.

Currently, the Division is fiscally self-sufficient, deriving its revenues from fees paid for various services. This bill would increase the fees charged by the Division and would represent the first fee increase since 1985.

This bill would also provide a blanket exemption for all securities issued by investment companies that are registered under the Investment Company Act of 1940, if the Commissioner of Securities receives:

- (1) A notice of intention to sell that contains the name and address of the issuer and the securities to be offered in Hawaii; and
- (2) A filing fee of \$50 per fund.

The Hawaii Association of Realtors and the Investment Company Institute submitted testimony in support of this measure. The DCCA and the Securities Industry Association submitted testimony on this measure.

Your Committee has amended this bill by replacing all fee increases with \$1 for the purpose of continued discussion.

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. 3399, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3399, H.D. 2.

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

SCRep. 851-96 Finance on H.B. No. 3493

The purpose of this bill is to create the Newborn Metabolic Screening Special Fund (Fund) for newborn metabolic screening services.

Testimony in support of this bill was submitted by the Department of Health (DOH), the Hawaii Birth Defects Monitoring Program Advisory Committee, the Hawaii State Primary Care Association, the Hawai'i Early Intervention Coordinating Council, the Hawaii Nurses' Association, the Hawaii Chapter of the American Academy of Pediatrics, the March of Dimes Birth Defects Foundation, the Hawaii Medical Association, Healthy Mothers, Healthy Babies, and several private citizens. Comments were received from the Chamber of Commerce of Hawaii, the Hawaii Medical Service Association, Kaiser Permanente, the Citizen's Advisory Board to the Children with Special Health Needs Branch of DOH's Family Health Services Division, and a private citizen.

Your Committee has amended this bill by:

- (1) Requiring DOH to:
 - (a) Charge a fee of \$10 to birthing facilities for each newborn screening kit, beginning July 1, 1996;
 - (b) Convene a panel no later than July 1, 1996, to develop a plan for providing newborn metabolic services to the community and specifying what the panel and plan are to consist of; and
 - (c) Submit the plan to the Legislature no later than twenty days prior to the convening of the 1997 Regular Session;
- (2) Prohibiting DOH from adopting rules to increase the number of newborn screening tests until completion of the plan; 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. 3493, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3493, H.D. 2.

Signed by all members of the Committee.

SCRep. 852-96 Finance on H.B. No. 3773

The purpose of this bill is to extend the date of the appropriation for the Hawaiian sovereignty elections to include fiscal year 1996-1997.

Testimony in support of the bill was submitted by the Native Hawaiian Protocol & Consultant Services, Inc. Comments were submitted by Stop the State-Sponsored Plebiscite; Kingdom of Hawaii; Kanaka Maoli Tribunal Komike; Ka Pakaukau; the Ka Lahui Hawai'i Legislative Lobbying Committee, K-PONO; and several private citizens.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3773, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3773, H.D. 1.

Signed by all members of the Committee.

SCRep. 853-96 Finance on H.B. No. 3909

The purpose of this bill is to improve the Child Protective Services system of care by establishing a three-year pilot project for child protective and diversion services.

This bill seeks to implement the conceptual framework developed by the Blueprint for Change Task Force so that the Child Protective Services system of care may formulate community partnerships to improve service delivery.

The following testified in support of this measure: the Department of Health; the Department of Human Services; the Blueprint for Change Task Force; the University of Hawaii-Manoa Center on the Family; the Hawaii Community Foundation; the Child Welfare Services State Advisory Council; the National Association of Social Workers, Hawaii Chapter; Hawaii Children's Justice Task Force; and five concerned individuals. The Department of Education and the Child and Family Services supported the intent of this bill. The Judiciary offered comments.

Your Committee has amended this bill by:

- (1) Adding the Director of Health or designee as a voting member of the oversight committee; 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. 3909, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3909, H.D. 2.

Signed by all members of the Committee.

SCRep. 854-96 Finance on H.B. No. 3968

The purpose of this bill is to replace the workers' compensation assigned risk pool with a nonprofit entity providing workers' compensation coverage for Hawaii employers.

Submitting testimony in support of the bill were the Office of the Lieutenant Governor, the Department of Commerce and Consumer Affairs, Legislative Information Services of Hawaii, Inc., the Hawaii Nurses' Association, and the Coalition to Reform Obsolete Worker's Compensation Design.

The Hawaii Business League, the United Food and Commercial Workers Union, the Hawaii State AFL-CIO, and the Chamber of Commerce of Hawaii, supported the intent of the bill.

The National Federation of Independent Business, the Hawaii Insurers Council, the Hawaii Independent Insurance Agents Association, and the Haku Alliance submitted comments on the measure.

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. 3968, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3968, H.D. 2.

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

SCRep. 855-96 Finance on H.B. No. 4025

The purpose of this bill is to reduce the cost of issuing pension checks by authorizing the Employees' Retirement System (ERS) and the county pension funds to process pension checks on a monthly basis instead of semimonthly.

The Department of Budget and Finance testified in support of this measure. The ERS, the Hawaii Government Employees Association, and the Hawaii State Teachers Association offered comments.

Technical, nonsubstantive amendments were made 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. 4025, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4025, H.D. 2.

Signed by all members of the Committee.

SCRep. 856-96 Judiciary on H.B. No. 2902

The purpose of this bill is to ensure the validity of waivers, releases, waivers of liability or indemnity agreements entered into with a motorsports facility.

Testimony in support of this measure was received by the Hawaii Motorsports Center, K & K Insurance, Sportbike Hawaii Inc., and Hawaii Motorsports Assn., Inc. The Consumer Lawyers of Hawaii commented on the bill and proposed amendments.

Your Committee has amended the bill by:

- (1) Adding a definition for the term "motorsports facility";
- (2) Clarifying that a waiver, release, waiver of liability, or indemnity agreement is made in favor of the owner, operator, or promoter of a motorsports facility, rather than the motorsports facility itself;
- (3) Requiring that the execution of a release, waiver of liability, or indemnity agreement shall create a presumption that the person signing the document read and understood the document;
- (4) Making this bill applicable only to participants eighteen years of age or older; 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2902, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2902, H.D. 2.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 857-96 Judiciary on H.B. No. 3879

The purpose of this bill is to protect from discovery health care data consisting of aggregate treatment outcomes, trends, or cost analysis.

Testimony in support of this measure was received from the Healthcare Association of Hawaii, the Hawaii Health Information Corporation, and the Hawaii Medical Association. The Consumer Lawyers of Hawaii commented on this measure and proposed amendments.

Your Committee has amended this bill by:

- (1) Clarifying the types of individuals who shall be providing health care data that is not subject to discovery; and
- (2) Clarifying that the underlying records which were used to create the aggregate data are fully discoverable.

As affirmed by the record of votes of 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. 3879, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3879, H.D. 2.

Signed by all members of the Committee except Representatives Cachola and Menor.

SCRep. 858-96 Finance on H.B. No. 3383

The purpose of this bill is to authorize the issuance of general obligation bonds to reimburse the Airport Revenue Fund for funds used in purchasing two parcels of land in Kapolei.

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

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. 3383, and recommends that it pass Third Reading.

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

SCRep. 859-96 Finance on H.B. No. 4063

The purpose of this bill is to revitalize the Hawaiian language by establishing a Hawaiian Language College at the University of Hawaii (UH) at Hilo.

Your Committee received testimony in support of the bill from several private citizens. Testimony in support of the intent of the bill was submitted by the Office of Hawaiian Affairs. The UH at Hilo 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. 4063 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 860-96 Finance on H.B. No. 757

The purpose of this bill is to authorize the Housing Finance and Development Corporation to plan, develop, construct, and finance educational facilities and related infrastructure ancillary to the needs of its housing projects.

Your Committee has amended this bill by making technical, nonsubstantive revisions for purposes of style and to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 757, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 757, H.D. 1.

Signed by all members of the Committee.

SCRep. 861-96 Finance on H.B. No. 1999

The purpose of this bill is to authorize the Director of Labor and Industrial Relations to allow qualified private sector inspectors to perform safety inspections of elevators and related equipment under the Boiler and Elevator Safety Law.

The Department of Labor and Industrial Relations submitted testimony in support of this bill.

Your Committee has amended this bill to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1999, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1999, H.D. 1.

Signed by all members of the Committee.

SCRep. 862-96 Finance on H.B. No. 2319

The purpose of this bill is to create a separate category for the registration of motor vehicles manufactured before 1949 and replicas of these vehicles.

The Department of Transportation, the Hawaii Automotive Retail Gasoline Dealers, and several individuals supported the intent of this bill. The Department of Finance of the City and County of Honolulu and an individual 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. 2319, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2319, H.D. 2.

Signed by all members of the Committee except Representative

SCRep. 863-96 Finance on H.B. No. 2859

The purpose of this bill is to establish a filing fee surcharge for the initial filing of civil cases to provide an additional source of funding for legal services for indigent persons.

The Legal Aid Society of Hawaii submitted testimony in support of this measure.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2859, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2859, H.D. 2.

Signed by all members of the Committee.

SCRep. 864-96 Finance on H.B. No. 2884

The purpose of this bill is to establish a Convention Center Training Program to ensure that future international visitors to the Convention Center receive service from visitor industry employees that is courteous, efficient, and sensitive to the customs of the visitor.

The Convention Center Authority submitted testimony in support of this measure.

Your Committee has amended this bill by:

- (1) Removing other visitor industry personnel from the training program, thereby limiting it to convention center employees;
- (2) Deleting the requirement that the training begin at least one year before the projected opening date of the Convention Center; and
- (3) Making technical, nonsubstantive revisions 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. 2884, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2884, H.D. 2.

Signed by all members of the Committee.

SCRep. 865-96 Finance on H.B. No. 2995

The purpose of this bill is to create a temporary, ad hoc coordinating committee to design and develop a single entry point system for long-term care, including nursing home care and home- and community-based supports, for the elderly and disabled.

Testimony was received from the Department of Health, the Department of Human Services, Catholic Charities Elderly Services, Assisted Living Options Task Force, and private citizens.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2995, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 866-96 Finance on H.B. No. 3064

The purpose of this bill is to empower the county liquor commissions with the authority to regulate retail tobacco and cigarette sales.

Testimony in support of the intent of this bill was received from the Department of Health, the Department of Finance of the City and County of Honolulu, the Department of Liquor Control of the County of Maui, the Department of Liquor Control of the County of Kauai, the Coalition for a Drug-Free Hawaii, the American Lung Association, the American Cancer Society, the Legislative Information Services of Hawaii, Inc. Beniya Shokudo Catering, Inc. and several individuals submitted comments on this bill.

Your Committee suggests that in adopting rules relating to retail tobacco and cigarette sales, the county liquor commissions consider exempting lunch wagon operators who do not conduct business in the vicinity of schools from the licensing requirements of the bill.

Your Committee has amended this bill by:

- (1) Eliminating the requirement that cigarettes and tobacco imported into the State be held in the warehouse of the wholesale dealer for a period of at least 48 hours before being sold; 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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3064, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3064, H.D. 2.

Signed by all members of the Committee except Representative Ward.

SCRep. 867-96 Finance on H.B. No. 3163

The purpose of this bill is to appropriate funds for indigenous Hawaiian people to elect delegates to develop a proposal for a native Hawaiian government.

Your Committee has amended this 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. 3163, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3163, H.D. 2.

Signed by all members of the Committee.

SCRep. 868-96 Finance on H.B. No. 3169

The purpose of this bill is to establish a continuous source of funding for the Hawaii Statewide Trail and Access Program (Program).

Specifically, this bill:

- (1) Allocates 0.3 percent of all proceeds from the fuel tax deposited into the State Highway Fund to the Special Land and Development Fund for the Program; and
- (2) Authorizes the Department of Land and Natural Resources (DLNR) to collect fees for the commercial use of public trails and access and requires all moneys collected to be deposited into the Special Land and Development Fund.

Testimony in support of this measure was received from DLNR and the Hawaiian Ultra Running Team, Inc. The Department of Transportation and the Pig Hunters Association of Oahu supported the intent of this bill. Comments on the bill were received from the Tax Foundation of Hawaii.

Your Committee has amended this bill by limiting the amount allocated to the Special Land and Development Fund for the Program from the fuel tax deposited into the State Highway Fund to \$190,000.

In addition, a technical, nonsubstantive amendment was made 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. 3169, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3169, H.D. 2.

Signed by all members of the Committee.

SCRep. 869-96 Finance on H.B. No. 3302

The purpose of this bill is to propose the repeal of Article VII, Section 6, of the Constitution of the State of Hawaii, which requires that excess general fund revenues be returned to taxpayers if the general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years.

Comments were received from the Tax Foundation of Hawaii.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3302, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3302, H.D. 1.

Signed by all members of the Committee.

SCRep. 870-96 Finance on H.B. No. 3306

The purpose of this bill is to:

- (1) Repeal the Governor's Agriculture Coordinating Committee (GACC) and to transfer its functions to the Board of Agriculture (BOA);
- (2) Increase the membership of the BOA from eight to ten members by adding the Director of Business, Economic Development, and Tourism, and the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources;
- (3) Create a program ID within the Department of Agriculture for agricultural research, marketing, and promotion; and
- (4) Require the Chairperson of the BOA to:
 - (A) Expedite all projects of the GACC; and
 - (B) Report to the Legislature before the 1997 Regular Session on the transfer of GACC to BOA.

The Department of Agriculture, the University of Hawaii College of Tropical Agriculture and Human Resources, and the Hawaii Farm Bureau submitted testimony in support of the bill.

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. 3306, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3306, H.D. 2.

Signed by all members of the Committee.

SCRep. 871-96 Finance on H.B. No. 3308

The purpose of this bill is to provide a more realistic framework under which the Department of Business, Economic Development, and Tourism (DBEDT) may act to assist the emerging recycling industry in Hawaii by:

- (1) Dissolving the governing board of the Clean Hawaii Center (Center) and authorizing DBEDT to assume the duties previously assigned to the board;
- (2) Maintaining the Center's programs until June 30, 1999; and
- (3) Authorizing DBEDT to receive moneys from other government agencies through a simple transfer of funds.

Testimony in support of this measure was received from DBEDT, the Department of Health, the City and County of Honolulu Department of Public Works, and the Hawaii Food Industry Association.

Your Committee has amended this bill by 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. 3308, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3308, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 872-96 Finance on H.B. No. 3446

The purpose of this bill is to authorize a land exchange involving private lands and public lands for the proposed University of Hawaii West Oahu campus.

Additionally, this bill:

- (1) Establishes the University of Hawaii - West Oahu Special Fund (Fund);

- (2) Appropriates funds from the Fund for planning, land acquisition, design, construction, and equipment related to the development of the permanent campus of the University of Hawaii - West Oahu; and
- (3) Appropriates funds for relocating portable classrooms from Kapiolani Community College to the temporary West Oahu Campus.

Testimony in support of this bill was received from the Department of Budget and Finance, the Attorney General, the University of Hawaii, the Department of Land and Natural Resources, the Estate of James Campbell, the Hawaii Government Employees Association, the United Public Workers, the Plumbers and Fitters Local 675, the Association of Hawaiian Civic Clubs, the Oahu Council of the Association of Hawaiian Civic Clubs, the Nanaikapono Hawaiian Civic Club, the Waialua Hawaiian Civic Club, the Hawaiian Civic Club of Kapolei, and several individuals.

Your Committee has amended this bill by:

- (1) Deleting the establishment of the Fund;
- (2) Deleting the appropriation from the Fund for planning, land acquisition, design, construction, and equipment related to the development of the permanent campus of the University of Hawaii - West Oahu;
- (3) Deleting the appropriation for relocating portable classrooms from Kapiolani Community College to the temporary West Oahu Campus; and
- (4) 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. 3446, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3446, H.D. 3.

Signed by all members of the Committee.

SCRep. 873-96 Finance on H.B. No. 3492

The purpose of this bill is to create a corporate structure for the community hospital system.

The Department of Health and the Healthcare Association of Hawaii submitted testimony in support of this bill. The Hawaii Government Employees Association, the Hawaii Medical Association, the Hilo Medical Center, and the United Public Workers submitted comments on this bill.

Your Committee has amended this bill by:

- (1) Reducing the size of the corporation board from seventeen to thirteen;
- (2) Requiring the corporation to maintain the core services of each facility;
- (3) Requiring the corporation to notify the Legislature of the elimination or any major reduction of direct patient care services; and requiring the Legislature to fund services that would otherwise be eliminated if the Legislature mandates the continuation of those services;
- (4) Creating a personnel system for the corporation that is separate from the state personnel system;
- (5) Clarifying that the University of Hawaii is prohibited from using current appropriations to expand existing programs or to initiate new ones that may require future increases in resources without the prior concurrence of the Legislature and advice of the Governor; and
- (6) 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. 3492, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3492, H.D. 2.

Signed by all members of the Committee.

SCRep. 874-96 Finance on H.B. No. 3512

The purpose of this bill is to improve the administration of the workers' compensation law, reduce costs, and facilitate compliance with Act 234, Session Laws of Hawaii 1995 (Act 234).

Your Committee received testimony from the Department of Labor and Industrial Relations, the Department of Personnel of the City and County of Honolulu, the National Federation of Independent Business, the Hawaii Business League, the Hawaii Independent Insurance Agents Association, the Hawaii Medical Association, the Haku Alliance, and the Pacific Insulation Contractors Association supporting this measure. The ILWU Local 142 and the Chamber of Commerce of Hawaii submitted comments.

Your Committee has amended this bill by:

- (1) Authorizing the Insurance Commissioner to adjust workers' compensation insurance rates, based on generally accepted actuarial techniques, to reflect the impacts of the provisions of Act 234 and this measure;
- (2) Authorizing the appropriation of \$150,000 from the Special Compensation Fund to establish the Workers' Compensation Benefits Facilitator Unit; and
- (3) Making other 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. 3512, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3512, H.D. 2.

Signed by all members of the Committee.

SCRep. 875-96 Finance on H.B. No. 3619

The purpose of this bill is to allow an appropriation of general obligation bond funds or general funds to exceed three years if the Legislature authorizes the extended appropriation by a two-thirds vote. The bill proposes to amend the State Constitution and Hawaii Revised Statutes.

For purposes of the public hearing, your Committee circulated a proposed H.D. 1 version that deletes the substance of the bill and inserts new language. This new language proposes an amendment to the State Constitution to allow appropriations from the state Educational Facilities Improvement Special Fund to be made for periods exceeding three years to accommodate "design-build" contracts.

The Department of Education and an individual testified in support of the intent of the proposed H.D. 1. The Department of Budget and Finance and the State Attorney General submitted comments on the proposed H.D. 1.

Upon further consideration, your Committee has amended the bill by deleting its substance and replacing it with the proposed H.D. 1.

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. 3619, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3619, H.D. 1.

Signed by all members of the Committee.

SCRep. 876-96 Finance on H.B. No. 3766

The purpose of this bill is to extend to fiscal year 1996-1997 the authorization to expend funds previously authorized for the benefit of the Hilo-Hamakua community.

The Hawaii County Economic Opportunity Council, the Rural South Hilo Community Association, the Steering Committee of Hamakua Concerned Citizens, the Hamakua/North Hilo Agricultural Cooperative, and the Employment and Training Task Force testified in support of the bill. The Board of Agriculture supported the intent of the measure.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3766, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3766, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 877-96 Finance on H.B. No. 3769

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to negotiate and enter into long-term leases with:

- (1) The ten families who met eligibility requirements but were unable to complete lease arrangements with DLNR before the December 31, 1995, deadline set forth in Act 314, Session Laws of Hawaii 1991, as amended; and
- (2) The Na Ohana O Kalapana Community Association, to use land in the Kikala-Keokea homestead area not encumbered by residential leases for cultural and subsistence commercial activities relating to traditional agricultural and fishing endeavors of Kalapana Village.

Testimony in support of this measure was received from the Office of Hawaiian Affairs, the Hawaii County Economic Opportunity Council, and a Hawaii County council member. Testimony on this bill was also received from DLNR.

Your Committee has amended this bill by:

- (1) Deleting the authorization for DLNR to enter into a long-term lease arrangement with the Na Ohana O Kalapana Community Association; 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. 3769, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3769, H.D. 3.

Signed by all members of the Committee.

SCRep. 878-96 Finance on H.B. No. 3789

The purpose of this bill is to require the Procurement Policy Office to include within the Hawaii products list the names of all producers and manufacturers in the state that are authorized to supply locally produced or manufactured soil enhancement products to state agencies.

The Hawaii Farm Bureau and the Hawaii Island Landscape Association submitted testimony in support of the intent of the bill.

The State Procurement Office, Hawaiian Earth Products, Ltd., and the Board of Agriculture submitted comments on the bill.

Your Committee has amended the bill to require the Procurement Policy Office to adopt rules for the establishment and administration of a Hawaii product list, which may include soil enhancement products.

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

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3789, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3789, H.D. 2.

Signed by all members of the Committee.

SCRep. 879-96 Finance on H.B. No. 3820

The purpose of this bill is to appropriate funds to coordinate and host a crime in Hawaii symposium.

The State Attorney General and the Honolulu Police Department submitted testimony in support of this measure.

Your Committee has amended this bill by:

- (1) Specifying that the symposium identify obstacles to effective and efficient law enforcement that may exist under current law; 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. 3820, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3820, H.D. 2.

Signed by all members of the Committee.

SCRep. 880-96 Finance on H.B. No. 3881

The purpose of this bill is to appropriate funds to support agricultural research and development.

The Hawaii Farm Bureau, the Pineapple Growers Association of Hawaii, the Hawaii Tropical Flower Council, the Big Island Papaya Growers Association, the Exotic Pest Insect Committee, and the Hawaiian Sugar Planters' Association submitted testimony in support of this measure. The Governor's Agriculture Coordinating Committee, the Nature Conservancy of Hawaii, and a concerned individual submitted comments on this measure.

Your Committee has amended this bill by:

- (1) Changing all appropriation amounts for fiscal year 1996-1997 to blank amounts; 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. 3881, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3881, H.D. 2.

Signed by all members of the Committee.

SCRep. 881-96 Finance on H.B. No. 3915

The purpose of this bill is to release the remaining independent sugar growers of the United Cane Planters Cooperative from all remaining obligations owed on the 1972 loan received from the Agricultural Loan Revolving Fund under Act 183, Session Laws of Hawaii 1972 (Act 183).

Numerous private citizens submitted testimony in support of this bill. Comments were received from the Department of Agriculture.

Instead of requiring the Attorney General to forgive the remainder of the loan made under Act 183, this bill has been amended to:

- (1) Provide that, with the approval of the Governor, the Attorney General may compromise any obligation owed under any loan received pursuant to Act 183;
- (2) Require that certain information from each case compromised be placed on file in the Department of the Attorney General and be open to public inspection;
- (3) Limit any compromise to situations where there is doubt as to liability or collectibility of the obligation owed; and
- (4) Make other 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. 3915, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3915, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 882-96 Finance on H.B. No. 4096

The purpose of this bill is to establish a five-year coordinated care organization pilot program within the Department of Labor and Industrial Relations to allow employers to contract with a coordinated care organization to furnish medical care, services, and supplies for injured workers.

Testimony in support of this bill was received from the Department of Labor and Industrial Relations, the Department of Commerce and Consumer Affairs, the National Federation of Independent Business, the Coalition to Reform Obsolete Worker's Compensation Design, the Hawaii Independent Insurance Association, the Hawaii Medical Association, Kaiser Permanente, the Hawaii Rehabilitation Counseling Association, and Sestak Rehabilitation Services.

The Hawaii Insurers Council submitted testimony in support of the essence of this measure. The Hawaii State AFL-CIO and the Hawaii Nurses' Association commented on this bill.

Your Committee has amended this bill by making technical, nonsubstantive revisions for purposes of clarity and consistency and to correct a drafting error.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 4096, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4096, H.D. 2.

Signed by all members of the Committee.

SCRep. 883-96 Finance on H.B. No. 4117

The purpose of this bill is to extend the tax benefits of enterprise zones to agriculture producers in counties with populations of 70,000 or less.

Testimony in support of the bill was submitted by the Office of the Mayor of Kauai. The Hawaii Food Industry Association and the Department of Business, Economic Development, and Tourism submitted comments on the bill.

Your Committee has amended the bill by incorporating the general substance of H.B. No. 3360, which was earlier reported out of your Committee on Economic Development and Business Concerns. As amended, the purpose of this bill is to simplify the implementation and improve the effectiveness of the current enterprise zone law by:

- (1) Clarifying the eligibility requirements for "qualified businesses"; 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. 4117, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4117, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 884-96 Finance on H.B. No. 3954

The purpose of this bill is to ensure the continued operations of the Center for Labor Education and Research (Center) without additional allocation or new funds by:

- (1) Requiring the Center to offer credit and non-credit labor studies courses and labor studies programs via distance education; and

- (2) Authorizing the Director of the Center to limit the Center's contracts for publication and stationery work to unionized contractors exempt from chapters 103, 103D, and 42D, Hawaii Revised Statutes.

The Labor Education Advisory Council, the Hawaii Operating Engineers Industry Stabilization Fund, ILWU Local 142, and private citizens submitted testimony in support of the measure.

Your Committee has amended this bill by 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. 3954, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3954, H.D. 2.

Signed by all members of the Committee.

SCRep. 885-96 Finance on H.B. No. 4131

The purpose of this bill is to reform the Aid to Families with Dependent Children Program by creating opportunities and incentives for able-bodied persons to participate in training and work activities.

The Hawaii Medical Association supported the concept of the bill.

Comments on the bill were received from the Committee on Welfare Concerns, the Department of Human Services, the Legal Aid Society of Hawaii, the National Association of Social Workers, and the American Friends Service Committee Hawaii Area Program Office, and several individuals.

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. 4131, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4131, H.D. 3.

Signed by all members of the Committee.

SCRep. 886-96 Finance on H.B. No. 4132

The purpose of this bill is to:

- (1) Consolidate state housing functions by transferring the functions of the Housing Finance and Development Corporation to the Hawaii Housing Authority, which is renamed the Office of Housing;
- (2) Reduce the State's role in developing fee simple housing; and
- (3) Re-focus the State's housing strategy on affordable rental housing.

Submitting testimony in support of the bill were Catholic Charities, the Hawaii Catholic Conference, the American Association of Retired Persons, and the Campaign for Rental Housing Advocacy Committee.

Submitting comments on the bill were the Hawaii Construction Industry Association, the Governor's Office, Rural Economic and Community Development, the Honolulu Department of Housing and Community Development, the Hawaii County Office of Housing and Community Development, the Kauai Housing Agency, the University of Hawaii, the Land Use Research Foundation of Hawaii, Herbert K. Horita Realty, Inc., the Hawaii Association of Realtors, R.M. Towill Corporation, Oahu Construction Company, Ltd., Townscape, Inc., Walters, Kimura, Motoda, Inc., RYM Inc., Island Pacific Homes, Island Title Corporation, Ala Kai Realty, Inc., Maui Realty Company Inc., Engineering Concepts, Inc., Kekuilani Development Company, Gentry Homes, Ltd., Watt Homes, and thirteen individuals.

Your Committee has amended the bill by:

- (1) Establishing a board of directors having decision-making authority to head the Office of Housing;
- (2) Administratively placing the Office of Housing in the Department of Business, Economic Development, and Tourism;
- (3) Transferring the Rental Housing Trust Fund from the Department of Budget and Finance to the Department of Business, Economic Development, and Tourism for administrative purposes; and
- (4) Requiring the Governor to select a management team to develop transition plans, develop an organizational structure, and engage in other efforts necessary to make the Office of Housing operational by July 1, 1997.

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. 4132, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4132, H.D. 2.

Signed by all members of the Committee.

SCRep. 887-96 Finance on H.B. No. 2452

The purpose of this bill is to develop and recommend a proposal to implement an employer-union trust concept for determining and administering public employee and retiree health benefits through the formation of a committee comprised of representatives from public employers and public employee organizations.

The Department of Budget and Finance, the United Public Workers, the Hawaii Government Employees Association, and Mutual Benefit Association of Hawaii submitted testimony in support of this measure.

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 Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2452, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2452, H.D. 3.

Signed by all members of the Committee.

SCRep. 888-96 Finance on H.B. No. 2505

The purpose of this bill is to include the excavation, restoration, or repair of any historic property as a priority for water pollution permit review under section 342D-6.5, Hawaii Revised Statutes.

The Department of Land and Natural Resources, the Friends of Waipahu Cultural Garden Park/Hawaii's Plantation Village, and two concerned individuals testified in support of this measure. The Department of Health, the Office of Hawaiian Affairs, the Historic Hawaii Foundation, and two concerned individuals offered comments.

Your Committee has amended this bill by:

- (1) Deleting the requirement that an application for a permit or water quality certification is automatically approved if a written decision is not rendered within 150 days;
- (2) Requiring that when an application is incomplete, the reasons for its incompleteness shall be described in the written decision;
- (3) Adding the contents of H.B. No. 2554, H.D. 1, which was reported out of the House Committee on Water and Land Use Planning earlier this session. H.B. No. 2554, H.D. 1, among other things:
 - (a) Restricts the sale, exchange, or purchase of antiquities unless right of possession can be demonstrated;
 - (b) Establishes fines for violations; and
 - (c) Forfeits the antiquity to the property owner when a violation occurs; and
- (4) 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. 2505, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2505, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 889-96 Finance on H.B. No. 3534

The purpose of this bill is to improve and coordinate Hawaii's boating, ocean recreation, and coastal area enforcement programs by transferring the Marine Patrol Program from the Department of Public Safety (PSD) to the Department of Land and Natural Resources (DLNR).

In 1992, the Legislative Auditor recommended that transferring the Marine Patrol Program from PSD to DLNR would provide more effective coordination and enforcement of Hawaii's ocean recreation and coastal area programs. Your Committee agrees with this assessment and further finds that PSD is not the most appropriate agency to handle the Harbor Patrol Program.

The Harbor Patrol Program would be more appropriately placed in the Department of Transportation (DOT) to integrate that program into the Statewide Commercial Harbors Program. Your Committee believes that the DOT should take this opportunity to develop a plan covering the projected utilization of personnel in the Harbor Patrol Program for duties and responsibilities in future years, and should include in this plan the use of special funds to fund positions to the fullest extent possible.

Testimony in support of this bill was submitted by DLNR, PSD, and the Office of the Mayor of the County of Kauai. Comments were received from the Hawaii Government Employees Association and a private citizen.

Your Committee has amended this bill by:

- (1) Integrating the Harbor Patrol Program into the Statewide Commercial Harbors Program by transferring those functions from the PSD to the DOT;

- (2) Transferring the officers and employees of the Marine Patrol Program to the DLNR, instead of abolishing their positions;
- (3) Deleting the provision establishing 18 full-time equivalent permanent conservation and resource enforcement officer positions; 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. 3534, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3534, H.D. 2.

Signed by all members of the Committee.

SCRep. 890-96 Finance on H.B. No. 3577

The purpose of this bill is to authorize the Department of Transportation to regulate the transportation of infectious substances and medical waste, in addition to other potentially harmful materials, by motor carrier in commerce.

The Department of Transportation and the Department of Health submitted testimony in support of the bill.

Public Affairs Consultants-Hawaii submitted comments on the bill.

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. 3577, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3577, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 891-96 Finance on H.B. No. 3819

The purpose of this bill is to provide flexibility to businesses by allowing the formation of limited liability companies in Hawaii.

The Business Registration Division of the Department of Commerce and Consumer Affairs, the National Federation of Independent Business, the Corporations and Securities Section of the Hawaii State Bar Association, and the Tax Committee of the Chamber of Commerce of Hawaii submitted testimony in support of this measure. Comments were submitted by the Special Committee of the Real Property & Financial Services Section of the Hawaii State Bar Association.

Your Committee has amended the bill by:

- (1) Changing the effective date of Section 18 of the bill to April 1, 1997;
- (2) Changing the effective date of Sections 19 and 20 of the bill to July 1, 1996; and
- (3) Making 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. 3819, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3819, H.D. 2.

Signed by all members of the Committee except Representatives Chang and M. Oshiro.

SCRep. 892-96 Finance on H.B. No. 3919

The purpose of this bill is to change the manner in which the Hawaiian Homes Commission members are selected, from an appointment process to an election process.

The Department of Hawaiian Home Lands, Ahupuaa O Oahu, the State Council of Hawaiian Homestead Associations, and three individuals submitted comments on the bill.

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. 3919, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3919, H.D. 3.

Signed by all members of the Committee except Representative Isbell.

SCRep. 893-96 Finance on H.B. No. 4127

The purpose of this bill is to train Hawaii's public high school students in cardiopulmonary resuscitation (CPR) by:

- (1) Requiring the Department of Education (DOE) to adopt rules to allow each public high school school/community-based management council or principal to develop and administer CPR training programs as a graduation requirement from high school; and
- (2) Establish the Cardiopulmonary Resuscitation Advisory Task Force (Task Force).

Your Committee received testimony in support of this measure from the State Fire Council; the Fire Chiefs of the counties of Hawaii, Kauai, and Maui, and the City and County of Honolulu; the Honolulu Police Department; the American Heart Association-Hawaii Affiliate; the American Red Cross-Hawaii State Chapter; the State of Hawaii Organization of Police Officers; the Hawaii Nurses' Association; the Hawaii Medical Service Association; International Life Support Ambulance Service; and numerous concerned individuals. The DOE, the Hawaii State Teachers Association, and Kaiser Permanente submitted testimony in support of the intent of this measure.

Your Committee has amended this bill by:

- (1) Requiring the DOE to establish and administer a CPR training program to be conducted in each public high school in the state as a prerequisite to graduation;
- (2) Specifying that DOE is to:
 - (a) Set the prerequisites and priorities for enrolling in CPR training to be open to every state resident who attends one of the State's public high schools beginning with the graduating class of 1998;
 - (b) Determine when students may be exempted from CPR training;
 - (c) Ensure that the CPR training program meets standards set by the American Heart Association or the American Red Cross; and
 - (d) Purchase, rent, or acquire by gift materials and equipment necessary for the CPR program;
- (3) Specifying that a representative of the American Heart Association and a representative of the American Lung Association be members of the Task Force;
- (4) Specifying that the Task Force is to submit a status report to the Legislature before the 1998 Regular Session and a final report prior to the 2000 Regular Session;
- (5) Repealing the Task Force on June 30, 2001;
- (6) Appropriating an unspecified amount for the purchase of equipment needed; and
- (7) 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. 4127, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4127, H.D. 2.

Signed by all members of the Committee except Representatives Isbell and Jones.

SCRep. 894-96 Finance on H.B. No. 4145

The purpose of this bill is to provide further support for the Hawaii Hurricane Relief Fund (HHRF) by authorizing the use of special purpose revenue bonds of up to \$500,000,000 to finance the HHRF.

The Department of Commerce and Consumer Affairs and the HHRF testified in support of the bill.

Your Committee has amended the bill by making technical, nonsubstantive revisions to correct drafting errors for purposes of style, 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. 4145, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 4145, H.D. 2.

Signed by all members of the Committee except Representatives Isbell and Jones.

SCRep. 895-96 Finance on H.B. No. 3300

The purpose of this bill is to provide the supplemental appropriations for the Office of Hawaiian Affairs (OHA) by amending OHA's biennial budget (Act 19, Special Session Laws of Hawaii 1995).

Your Committee finds that although OHA did not submit any supplemental budget requests this year, this bill is necessary in the event of any unanticipated contingencies.

In Report No. 93-28, "Management and Financial Audits of the Office of Hawaiian Affairs," the Legislative Auditor found that OHA and the Legislature treat OHA's revenues from the public land trust as "special funds" when they should be designated as "trust funds." The Legislative Auditor recommended that the Legislature:

- (1) Change the designation of the "Means of Financing" of OHA's public land trust revenues from "special funds" to "trust funds" in all budget and fiscal related matters; and
- (2) Refrain from making appropriations from OHA's trust funds.

In response to the Legislative Auditor's recommendations, this measure amends Act 19 to change the designation of the means of financing of appropriated items from "special funds" to "trust 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. 3300 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 896-96 Finance on H.B. No. 3650

The purpose of this bill is to provide the supplemental appropriations for the Judiciary by amending the Judiciary's Appropriations Act of 1995 (Act 18, Special Session Laws of Hawaii 1995).

Upon the Governor's request, the Judiciary restricted funds for Act 18 in response to declining state revenues. As a result, the Judiciary restricted its general fund appropriations by approximately \$4,400,000 for fiscal year 1995-1996 and \$4,100,000 for fiscal year 1996-1997.

Of the amounts reduced in fiscal year 1996-1997, the Judiciary requested to reallocate approximately \$2,200,000 for various expenses.

Your Committee appreciates the efforts of the Judiciary; however, in light of the current fiscal situation, your Committee recommends funding essential requests. Funds were provided for:

- (1) The purchase of courtroom computers, computer upgrades, and computer data cabling;
- (2) Sign language interpreter fees and listening devices to comply with the federal Americans with Disabilities Act;
- (3) Personnel to replace staff who took advantage of the early retirement incentive under Act 212, Session Laws of Hawaii 1994; and
- (4) Structural repairs and maintenance.

Your Committee has amended this bill by:

- (1) Reducing funds that were identified by the Judiciary for fiscal year 1996-1997;
- (2) Providing additional capital improvement projects:
 - (A) \$590,000 for fiscal year 1996-1997 for plans, land acquisition, and design for the Koolauapoko District Court on Oahu;
 - (B) \$44,000 for fiscal year 1996-1997 for plans, design, construction, and equipment for remodeling and upgrading judiciary buildings throughout the state; and
 - (C) \$702,000 for fiscal year 1996-1997 for design, construction, and equipment for the renovation of the Kapuaiwa Building on Oahu;
- (3) Changing the effective date to take effect upon approval; and
- (4) Making other 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. 3650, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3650, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 897-96 Finance on H.B. No. 2800

The purpose of this bill is to provide supplemental appropriations for the Executive branch by amending the General Appropriations Act of 1995 (Act 218, Session Laws of Hawaii 1995).

OVERVIEW

After a decade of financial prosperity, Hawaii entered a cycle of slow economic growth in 1991. As a result, 1995 ended with a negative 1.1 percent growth, resulting in approximately \$30,000,000 less in general funds being collected than in the previous year. Even more distressing is that the projected revenue loss for the three-year period ending June 30, 1997, is a staggering \$302,500,000.

Your Committee finds that the State is faced with a severe budget shortfall, the magnitude of which requires your Committee to make some very difficult but necessary decisions. In making these decisions, your Committee believes that fiscal responsibility mandates that the deficit be dealt with in an expeditious and innovative manner and that every option be fully explored. Recognizing that these difficult fiscal times require creative solutions, your Committee carefully implemented a comprehensive set of budget strategies, including cost-cutting measures, cost-shifting options, revenue enhancement plans, and various other proposals to develop a balanced State Budget.

BUDGET STRATEGIES TO MANAGE THE STATE FISCAL DEFICITS

To deal with the fiscal crisis, your Committee explored and implemented a variety of budget strategies:

Budget Cuts

Budget cuts are never easy to make but they were necessary to help eliminate this deficit. Your Committee reduced the budget of every single department except the Department of Public Safety.

Not all departments were affected equally by the cuts. Some agencies with other funding sources, such as earmarked revenues, were not affected as adversely as those that rely wholly on general fund support. As a result, the agencies most impacted under the budget cuts made were the Departments of Accounting and General Services, Budget and Finance, Education, Human Services, and Health, and the University of Hawaii. Because of the size of the cuts, your Committee remains especially concerned with the implications of the reductions and their ripple effects on public services.

In addition, when cuts of this magnitude are made, state employees are affected through the elimination of positions. Under this bill, close to 960 jobs were eliminated, resulting in savings of \$ -----. However, your Committee remains concerned about the ramifications of such cuts on not only the individuals themselves, but on the delivery of state-provided services and the integrity of public service. To minimize further layoffs, your Committee in another measure has proposed the possibility of furloughs to reduce the workweek. For the most part under a furlough plan, services would be affected only minimally, and further position cuts could be avoided.

Services Reductions

In addition to budget cuts, your Committee also explored a broad range of service reductions to realize general fund savings. To focus available funds to priority programs, your Committee in another bill restricted program eligibility to reduce the number of people receiving general assistance benefits.

Consolidating Programs

Consolidating or combining programs and departments that have overlapping or related functions or clientele can make more effective use of personnel and other resources.

In these austere times, your Committee has significantly down-sized programs, as well as made efforts to consolidate those programs deemed essential to maximize the limited resources of the state:

- * The Office of Affirmative Action has been eliminated and will be absorbed by personnel in the Office of the Governor.
- * The Governor's Agricultural Coordinating Committee was transferred to the Department of Agriculture to streamline agriculture-related activities such as research and marketing.
- * The Office of Environmental Quality Control has been transferred into the Office of State Planning to consolidate environmental policy and planning.
- * The Executive Office on Aging was also transferred into the Office of State Planning.
- * The Office of Children and Youth, to be transferred into the Office of State Planning, will aid in the policy and planning for children and youth and will assist those involved in the Felix vs. Waihee consent decree.

Restructuring Programs

Your Committee also sought to improve efficiency through restructuring programs. For example, your Committee concurs with the Department of Commerce and Consumer Affairs's continuing move toward self-sufficiency. Your Committee provided for all of the Department's requests for increases in special and revolving fund expenditures. The self-sufficiency of the Department depends on these increases, as well as increases to some fees.

Management Efficiencies

Such efficiency improvements make better use of existing personnel, facilities, and equipment to achieve the State's program goals.

One example is to provide the Department of Commerce and Consumer Affairs with an \$800,000 increase in its special fund expenditures to accommodate upgraded computer equipment and software and an upgraded telephone system. This will allow for faster processing and more information to be passed on to the Housing Finance and Development Corporation.

Funding Shifts

Your Committee also shifted the funding for programs to other sources where appropriate to reduce general fund spending.

Your Committee shifted funding for state programs that provide specific benefits to individuals or businesses from general funds to fees charged to the beneficiaries. For example, in the area of environmental protection, your Committee recognizes the importance of revenue-generating programs. By generating their own revenues, these programs can become self-sufficient while maintaining program goals. Through changing the means of financing for several programs, your Committee will begin to relieve the State of its general fund obligation to environmental health programs. This action will result in a decrease of over \$500,000 in general funds during fiscal year 1997.

Defer Ongoing Expenditures

Your Committee is considering a payroll "lag" for state employees for a one-time savings of \$47,000,000.

Exhaust Existing Surplus/Borrow from Other Funds

Your Committee also transferred from earmarked or special funds those moneys not needed to the general fund. These include:

ECONOMIC DEVELOPMENT

With limited prospects of an immediate infusion of revenue to cover the deficit, it is your Committee's intent to curtail or hold to a minimum any harmful impacts on the economy. The lackluster earnings of the State over the past several years reflect persistent and ongoing weaknesses in Hawaii's economy and require bold and creative leadership.

Toward these ends, your Committee has instituted a number of proposals, in this bill and in other measures reported out by your Committee, to boost the economic prospects of the state.

Tourism

In recognition of the significant role the visitor industry plays in the economy of the State, your Committee sought to expand its development by:

- * Appropriating an additional \$2,000,000 for the Hawaii Visitors Bureau to promote Hawaii as a visitor destination.
- * Requiring the establishment of an owner-controlled insurance program for the Convention Center and establishing a Convention Center Training Program to familiarize Convention Center employees with the customs and needs of international convention visitors.
- * Establishing a Hawaii Ecotourism Task Force to develop a comprehensive ecotourism policy and plan for the State.

Long-term Economic Growth

In an effort to stimulate long-term economic growth in the state, your Committee proposes to:

- * Provide incentives for investment in Hawaii by exempting from the income tax law capital gains from real or personal property owned and held within the state for at least seven consecutive years.
- * Place Hawaii's architects, engineers, urban planners, and land use planners in a better position to compete in the Pacific Basin by:
 - * Exempting from the general excise tax revenues derived from work conducted on international projects; and
 - * Imposing a use tax on services purchased from out-of-state contractors.
- * Repeal the insurance tax credit to save the State \$5,000,000 to \$6,000,000 annually in lost revenue, promote fairness and equity among insurers, and release about \$16,000,000 annually in tax on premiums now being held up in litigation.
- * Encourage the development of housing by authorizing Housing Finance and Development Corporation to issue an additional \$77,500,000 in tax-exempt revenue bonds for Housing Loan and Mortgage Programs.

Research and Development

The combination of Hawaii's geographic location, climate, and environment lend themselves to making Hawaii a leader in the emerging market for aquarium products. Your Committee appropriated funds for the development of an ornamental fish industry in Hawaii, which has the potential generating substantial revenues to the State.

Your Committee encouraged emerging, technological industries by authorizing special purpose revenue bonds to assist two energy producing companies and a broadcasting company:

- * Encogen Hawaii for the establishment of a cogeneration power plant to produce electricity;
- * PowerLight Corporation for the establishment of grid-connected or off-grid solar electric photovoltaic systems; and
- * ETV Hawaii/Elephant Television, Inc., for television and film industry production and training for Hawaii's residents.

Your Committee supported scientific research by providing funding for:

- * Agricultural research and development; and
- * Projects of the Center for a Sustainable Future to bring world-class scientists, engineers, economists, corporate and industry representatives, and policymakers together to conduct applied research relating to sustainable development.

Small Business

In an effort to expand small business opportunities, your Committee has:

- * Promoted employee participation and ownership in Hawaii businesses.
- * Created a one-year Blue Ribbon Task Force on Small Business to review rules and laws that impact small business.
- * Supported the honey bee industry by providing certification for shipments of honey bees to certain importing countries.
- * Provided emergency funding for the Hawaii Film Facility.

COMMITTEE HIGHLIGHTS

Using these cost-saving and economic development strategies, your Committee notes other areas of budgetary significance.

Health

Your Committee recognizes the importance of public health care, but also realizes the fiscal constraints that the State faces. Health programs and services were restricted by over \$21,000,000, causing the Department of Health to shift available resources from secondary to primary public health programs. Additionally, the State has been forced to abide by the U.S. Department of Justice settlement agreement relating to the Hawaii State Hospital and the Felix vs. Waihee consent decree.

Of primary concern to your Committee is the Department's oversight of essential programs. Due to restrictions, many non-essential programs have been reduced or deleted. However, to prevent oversight in the future your Committee has appropriated positions to monitor and regulate the current purchase of service process. This will ensure that the Department does not deviate from its goals of appropriate and essential public health care in the future.

Your Committee also realizes the profound impact that court-ordered services has made upon the Department of Health's budget. One program in particular, Child and Adolescent Mental Health (HTH 560), now faces the most complex child mental health services order in the nation. Your Committee understands that the fiscal implications of the Felix vs. Waihee consent decree will not only significantly affect the Department's budget, but also public health policy. Furthermore, because the consent decree contains such a broad category, the Department has requested over \$20,000,000 during the fiscal biennium. Nevertheless, your Committee finds that no other additional moneys should be appropriated at this time until patient costs and figures can be justified.

Recognizing the importance of a new system of health services, your Committee has appropriated funds for a pilot demonstration project for the Island of Hawaii. The new system of services will be based on managed care principles, thus decreasing costs for mental health services in the future. In addition, the Department will utilize purchase of service providers on performance-based contracts, and in effect supplant one of the Department's current roles from provider of services to the assessment and monitoring of service providers.

In addition, your Committee also realizes the importance that community hospitals play in public health. In a bill reported out by your Committee, the community system will revert from a state-operated division to a public corporation. The public corporation will be represented by regions, with each region comprising a corporate board. By continuing to give the system autonomous abilities, community hospitals will be able to use their resources more effectively and operate each respective hospital more efficiently.

Human Services

Your Committee remains dedicated to providing for the less fortunate in our community despite the challenging fiscal situation. In expectation of significant changes in federal funding for human services, and faced with rising caseloads for

the State's public assistance programs, your Committee has supported a number of measures to accommodate these circumstances within the limits imposed by the available resources, while still protecting our state's neediest citizens.

Your Committee has supported recommendations to restructure the Aid to Families with Dependent Children (AFDC) program in light of the expected advent of federal block granting for the program. Able-bodied individuals receiving AFDC will be expected to work, and will be allowed to keep more of their earned income as an incentive to do so. In addition, the federal government has mandated that an employment assistance program be in place to aid those required to work. Your Committee has therefore supported the continuation of the State's newly refocused JOBS program, and has funded it with savings from reforms in the AFDC program. Savings from welfare reform have also been allocated to the Office of Youth Services to protect vital programs for at-risk youth. It was originally expected that a change in federal funding procedures would eliminate the need for provision of the "thirteenth" month of state funding for the AFDC program. It now appears that this will not be the case, however, and your Committee was thus obligated to appropriate an additional \$7,100,000 for this purpose. Despite this added requirement, your Committee was able to decrease the supplemental appropriation for the AFDC program by more than \$1,000,000 while still providing assistance for the largest number of needy families in recent years.

Your Committee recognizes that the State must also provide assistance for those not eligible for the AFDC program. The General Assistance (GA) program, despite reduced funding, will continue to provide time-limited assistance for this group. In addition, your Committee has supported measures that ensure that those most in need can be covered in other programs as well. Much of the disabled population will be supported in the Payments to Assist the Aged, Blind and Disabled Program, while GA families will be supported in the AFDC program following an expected federal rule change.

The State's success in providing health care for its most vulnerable citizens has been commended around the nation, but success in the form of broad participation in the QUEST program has also led to rising costs. In addition, a recent lawsuit has threatened to increase costs further. Your Committee has therefore supported health care measures that will preempt action by the courts and contain costs within the current appropriation, while providing quality, affordable health care.

Education

Education remains a top priority for your Committee. Adequately preparing Hawaii's children now will help to secure a stable future for all of us. To lessen the impact of budgetary restrictions to the schools, your Committee has not reduced funding for EDN 100 any further than requested in the budget proposed by the Governor. Your Committee has also continued to support the Department's movements toward fiscal autonomy by giving the Department the flexibility to transfer existing resources and to review and reduce supplementary programs to meet workload increases. In this manner, the Department will meet educational goals given the State's current fiscal crisis.

Your Committee has transferred education-related functions previously located in other departments into education. In support of school-based budgeting, the School-to-Work-Transition Center Program administered by the Department of Labor and Industrial Relations, and Student Transportation Services formerly administered by Department of Accounting and General Services, have been transferred to the Department of Education. This consolidation of education-related core functions will provide the Department with additional resources to meet the challenges of the future.

Higher Education

Your Committee is deeply concerned about the University of Hawaii. The University of Hawaii is being forced to take a \$30,000,000 restriction in fiscal year 1995-96 and a \$34,000,000 reduction in fiscal year 1996-97. This will have a deep impact on services to both the students and the public. The University currently is undergoing internal reorganization to cope with the budget restrictions and reductions. The priority remains the students.

Your Committee continues to support the University of Hawaii system's move toward fiscal autonomy. Your Committee provided for all requested increases to special and revolving fund expenditures. The University will need to become more self-sufficient, especially faced with the current fiscally troubled times.

Your Committee continues to support the intent of Act 161, Session Laws of Hawaii 1996, which provided the University of Hawaii with fiscal autonomy through the creation of the Tuition and Fees Special Fund. Both tuition and fees have been increased and this income will be kept by the University of Hawaii system.

Public Safety

Your Committee has taken steps to address the two major issues faced by public safety, overcrowding and substance abuse. Ten positions and \$295,915 have been appropriated to the Maui Community Correctional Center for the new 80-bed dormitory. The Women's Community Correctional Center has been provided 20 positions and \$556,204 for the new 64-bed Olomana Cottage to comply with consent decree mandates.

In a continued effort to control overcrowding, your Committee has appropriated funds for the successful Texas-Hawaii transfer of 300 inmates. An emergency bill was passed to fund the first six months of the transfer and \$4,778,000 has been appropriated for the second year of the three-year contract. This transfer will save the State approximately \$672,000 per year.

Steps have been taken to better address the current substance abuse epidemic within the prison population. The successful KASHBOX drug treatment program has been provided eight positions and \$298,901 to expand to an additional 100 beds. As inmates are transferred into KASHBOX this will free up much needed bed space within the other correctional facilities.

In conclusion, your Committee finds that this budget addresses the needs of the State within the constraints of the current fiscal crisis. This budget represents a responsible financial plan reflecting the current economic downturn while addressing the needs of the State.

As affirmed by the record of votes of Health to 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. 2800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2800, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 898-96 Transportation and Intergovernmental Relations and International Affairs on H.C.R. No. 31

The purpose of this House Concurrent Resolution is to have the State and the counties facilitate the use of bicycles as an alternative for motor vehicles as an environmentally beneficial mode of transportation.

Your Committees on Transportation and Intergovernmental Relations and International Affairs find that the lack of safe secure parking spaces for bicycles discourages commuters from riding bicycles to work. Your Committees further find that while state and government facilities presently provide some bicycle parking, such provisions are not adequate.

House Concurrent Resolution No. 31 encourages the State and the counties to use at least one out of every ten existing parking spaces for bicycles to motivate their usage as an alternative to motor vehicle transportation, thus providing a more environmentally beneficial mode of travel.

Testimonies in support of this House Concurrent Resolution were heard from Folks for Spokes, the Hawaii Bicycling League, the owner of a retail bicycle shop, and several individuals. The Department of Accounting and General Services testified that it has always supported and encouraged alternate means of transportation for commuters in the civic center complex, but that it does not believe it is necessary to mandate that one stall out of every ten in a parking facility be used for bicycles.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 31 and recommend that it be referred to the Committee on Finance.

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

SCRep. 899-96 Transportation and Intergovernmental Relations and International Affairs on H.R. No. 39

The purpose of this House Resolution is to have the State and the counties facilitate the use of bicycles as an alternative for motor vehicles as an environmentally beneficial mode of transportation.

Your Committees on Transportation and Intergovernmental Relations and International Affairs find that the lack of safe secure parking spaces for bicycles discourages commuters from riding bicycles to work. Your Committees further find that while state and government facilities presently provide some bicycle parking, such provisions are not adequate.

House Resolution No. 39 encourages the State and the counties to use at least one out of every ten existing parking spaces for bicycles to motivate their usage as an alternative to motor vehicle transportation, thus providing a more environmentally beneficial mode of travel.

Testimonies in support of this House Resolution were heard from Folks for Spokes, the Hawaii Bicycling League, the owner of a retail bicycle shop, and several individuals. The Department of Accounting and General Services testified that it has always supported and encouraged alternate means of transportation for commuters in the civic center complex, but that it does not believe it is necessary to mandate that one stall out of every ten in a parking facility be used for bicycles.

As affirmed by the records of votes of the members of your Committees on Transportation and Intergovernmental Relations and International Affairs that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 39 and recommend that it be referred to the Committee on Finance.

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

SCRep. 900-96 Transportation on H.C.R. No. 32

The purpose of this House Concurrent Resolution is to attract more tourists to the State of Hawaii by encouraging an increased number of airline flights.

Your Committee on Transportation finds that the number of incoming flights affects the flow of visitors and the export of Hawaiian goods and services. Your Committee further finds that the costs of landing fees imposed on airlines, which have increased substantially over the past few years, have a negative impact on tourism and other businesses in the State, and that incentives to increase flights without creating additional financial burdens on the airline industry should be considered.

This House Concurrent Resolution urges the Department of Transportation to develop schedules for airport landing fees to encourage increased airline flights to the State; and that the Department of Transportation, with the cooperation of the Department of Business, Economic Development and Tourism, consider the impact of airport landing fees on the tourism industry and look at incentives to increase flights.

Testimony from the Department of Transportation indicated that landing fees do not directly affect the number of flights and influence decisions of airlines to provide more or less flights to the State, but that the decline in seats is the result of low yields in the highly competitive Hawaii market. The Department favors cooperative efforts with the business community to improve air service to the State. An individual testified in favor of this House Concurrent Resolution.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 32 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Isbell.

SCRep. 901-96 Transportation on H.R. No. 40

The purpose of this House Resolution is to attract more tourists to the State of Hawaii by encouraging an increased number of airline flights.

Your Committee on Transportation finds that the number of incoming flights affects the the flow of visitors and the export of Hawaiian goods and services. Your Committee further finds that the costs of landing fees imposed on airlines, which have increased substantially over the past few years, have a negative impact on tourism and other businesses in the State, and that incentives to increase flights without creating additional financial burdens on the airline industry should be considered.

This House Resolution urges the Department of Transportation to develop schedules for airport landing fees to encourage increased airline flights to the State; and that the Department of Transportation, with the cooperation of the Department of Business, Economic Development and Tourism, consider the impact of airport landing fees on the tourism industry and look at incentives to increase flights.

Testimony from the Department of Transportation indicated that landing fees do not directly affect the number of flights and influence decisions of airlines to provide more or less flights to the State, but that the decline in seats to Hawaii is the result of low yields in the highly competitive Hawaii market. The Department favors cooperative efforts with the business community to improve air service to the State. An individual testified in favor of this Resolution.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 40 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Isbell.

SCRep. 902-96 Transportation on H.C.R. No. 37

The purpose of this House Concurrent Resolution is to request the Legislative Reference Bureau to conduct a study on the feasibility of requiring seat belts and other safety requirements for school buses.

Your Committee on Transportation finds that while seat belts and safety restraints are required on private vehicles, there is no such requirement for school buses. Your Committee further finds that prior to making a decision on whether to require school buses to have seat belts and safety belts, a study on the feasibility of such a requirement should be conducted.

The Department of Transportation, the Department of Accounting and General Services and the Department of Education provided testimonies in support of the House Concurrent Resolution.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 37 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Isbell.

SCRep. 903-96 Transportation on H.R. No. 46

The purpose of this House Resolution is to request the Legislative Reference Bureau to conduct a study on the feasibility of requiring seat belts and other safety requirements for school buses.

Your Committee on Transportation finds that while seat belts and safety restraints are required on private vehicles, there is no such requirement for school buses. Your Committee further finds that prior to making a decision on whether to require school buses to have seat belts and safety belts, a study on the feasibility of such a requirement should be conducted.

The Department of Transportation, the Department of Accounting and General Services and the Department of Education provided testimonies in support of the House Resolution.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 46 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Isbell.

SCRep. 904-96 Transportation on H.C.R. No. 3

The purpose of this House Concurrent Resolution is to reduce noise pollution over areas impacted by aircraft noise.

Your Committee on Transportation finds that noise from low-flying tour helicopters detracts from a pleasant experience for hikers, picnickers, campers, visitors, and families who are seeking a quiet, peaceful environment when they visit parks, the countryside, and conservation districts. Your Committee further finds that helicopter overflights disturb residential areas, since the noise disrupts daily life, causing tension and stress. Your Committee recognizes that the Federal Aviation Administration (FAA) has a responsibility to regulate aircraft noise.

This House Concurrent Resolution requests the FAA to adopt noise control regulations for low-flying helicopter flights over the national, state, and county parks within the State, for state conservation districts, and for residential areas.

Testimonies in support of this House Concurrent Resolution were heard from the Department of Transportation, Citizens Against Noise, and a concerned citizen. It was pointed out that self-regulation of helicopter noise has been unsuccessful; therefore, it is necessary for the FAA to develop and impose stricter flight standards and restrictions over parks, refuges, and urban and suburban residential areas.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 3 and recommends that it be referred to the Committees on Energy and Environmental Protection and Water and Land Use Planning.

Signed by all members of the Committee except Representative Isbell.

SCRep. 905-96 Transportation on H.R. No. 2

The purpose of this House Resolution is to reduce noise pollution over areas impacted by aircraft noise.

Your Committee on Transportation finds that noise from low-flying tour helicopters detracts from a pleasant experience for hikers, picnickers, campers, visitors, and families who are seeking a quiet, peaceful environment when they visit parks, the countryside, and conservation districts. Your Committee further finds that helicopter overflights disturb residential areas, since the noise disrupts daily life, causing tension and stress. Your Committee recognizes that the Federal Aviation Administration (FAA) has a responsibility to regulate aircraft noise.

This House Resolution requests the FAA to adopt noise control regulations for low-flying helicopter flights over the national, state, and county parks within the State, for state conservation districts, and for residential areas.

Testimonies in support of this Resolution were heard from the Department of Transportation, Citizens Against Noise, and a concerned citizen. It was pointed out that self-regulation of helicopter noise has been unsuccessful; therefore, it is necessary for the FAA to develop and impose stricter standards and restrictions over parks, refuges, and urban and suburban residential areas.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 2 and recommends that it be referred to the Committees on Energy and Environmental Protection and Water and Land Use Planning.

Signed by all members of the Committee except Representative Isbell.

SCRep. 906-96 Transportation on H.C.R. No. 25

The purpose of this House Concurrent Resolution is to request the Director of Transportation to implement a statewide program to educate the public concerning the dangers to all persons who ride in the cargo areas of pickup trucks.

Your Committee on Transportation finds that it is important to educate the public of the risk of harm from riding in cargo areas of pickup trucks by implementing a statewide education program and by providing statistics on the number of deaths associated with persons riding in cargo areas of pickup trucks in the Department of Transportation's (Department) legislative report.

Your Committee received testimonies in favor of the House Concurrent Resolution from the Hawaii Medical Association and the Injury Prevention Advisory Committee. Additionally, the Department provided testimony in support of the intent of the House Concurrent Resolution but with reservations as to whom should implement a tracking system for the deaths statistics.

Your Committee has amended the House Concurrent Resolution to require the Department of Transportation to gather the statistics on the number of deaths from each respective County police department rather than establishing a tracking system.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 25, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 25, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 907-96 Public Safety and Military Affairs on H.C.R. No. 38

The purpose of this concurrent resolution is to request for the creation of a task force to identify and delineate authority and responsibility for inspecting, testing, maintaining, and repairing all fire hydrants located on public and private properties.

Mr. Terry Carroll provided written testimony in support of the concurrent resolution. The testifier indicated that the concurrent resolution is a public safety issue. The testifier further stated that if fire hydrants are not properly inspected and maintained, there could be loss of life and property.

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 concurs with the intent and purpose of H.C.R. No. 38 and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs.

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

SCRep. 908-96 Public Safety and Military Affairs on H.R. No. 47

The purpose of this resolution is to request for the creation of a task force to identify and delineate authority and responsibility for inspecting, testing, maintaining, and repairing all fire hydrants located on public and private properties.

Mr. Terry Carroll provided written testimony in support of the resolution. The testifier indicated that the resolution is a public safety issue. The testifier further stated that if fire hydrants are not properly inspected and maintained, there could be loss of life and property.

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 concurs with the intent and purpose of H.R. No. 47 and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs.

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

SCRep. 909-96 Human Services on H.C.R. No. 19

The purpose of this House Concurrent Resolution is to urge Congress to support legislation to continue to provide funds for the Hawaii National Guard Youth Challenge Program.

The Department of Defense; State of Hawaii Department of Defense; Hawaii National Guard Youth Challenge Program; and The Judiciary, State of Hawaii; submitted testimony in support of this measure. Also submitting testimony in support of this measure were the Department of Education and four concerned citizens.

Your Committee finds that the Youth Challenge Program plays a vital role in positively impacting the youth at risk population by helping youth develop life-coping skills through education, physical training, leadership, discipline, work skills development and community projects.

Your Committee has amended this concurrent resolution by:

- (1) Deleting the date on page 2, line 24, from September 27, 1996 and inserting September 26, 1997 in its place;
- (2) Inserting into page 2, line 36, the Military Appropriations Committee of the United States House of Representatives; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 19, as amended herein, and recommends that it be referred to the Committee on Education, in the form attached hereto as H.C.R. No. 19, H.D. 1.

Signed by all members of the Committee except Representative Kawanakoa.

SCRep. 910-96 Human Services on H.C.R. No. 20

The purpose of this House Concurrent Resolution is to urge the United States Congress to support legislation to support the Hawaii National Guard's Drug Demand Reduction Program.

The Department of Defense, the Police Department, City and County of Honolulu, and a concerned citizen testified in support of this measure.

Your Committee finds that drug education and reduction programs are an invaluable asset in surmounting the problems associated with drugs here in Hawaii and nationally. Your Committee further finds that the National Guard plays an integral role in the education of parents and children through the use of positive role models by teaching family members to recognize and overcome the possible use of drugs and gang involvement. In addition, 95% of the support for this program is funded by the federal government, with much of the manpower being provided by volunteers. This undertaking is complemented by the use of military aircraft which make the Drug Demand and Reduction Program accessible to all facets of society.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 20 and recommends that it be referred to the Committees on Public Safety and Military Affairs and Judiciary.

Signed by all members of the Committee except Representative Kawanakoa.

SCRep. 911-96 Hawaiian Affairs and Housing on H.C.R. No. 12

The purpose of this concurrent resolution is to request that the State, the City and County of Honolulu, the private sector, and the general public combine their resources and their efforts to restore a Hawaiian sense of place to Waikiki. The resolution requests that the agencies use the Queen Emma Foundation's 1993 report entitled: "Restoring Hawaiianess to Waikiki" as the basis to carry out this rehabilitation.

Testimony in support of this resolution was received from the State Department of Business, Economic Development, and Tourism. The Department recommended that rather than working with the Hawaii Visitor Bureau, the language be amended to allow them to work with the City and County of Honolulu.

Further supportive testimony was received from the City and County of Honolulu Office of the Managing Director and the Waikiki Improvement Association.

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

- (1) Noting the importance of the Waikiki area as a tourist destination, housing and employment for residents, and as a tax revenue generator;
- (2) Requesting the Department of Business, Economic Development, and Tourism to work with the City and County of Honolulu Office of Waikiki Development rather than the Hawaii Visitor Bureau;
- (3) Requesting that the State Department of Business, Economic Development, and Tourism's State Convention Authority consider the recommendations of the Queen Emma Foundation's report in the aesthetic design and layout of the convention center's landscaping;
- (4) Specifying that Hawaiian community groups should be requested to participate in the rehabilitative process;
- (5) Amending the list of agencies receiving certified copies to include the Chair of the Board of Trustees of the Office of Hawaiian Affairs; the Chair of the State Foundation on Culture and the Arts; the University of Hawaii at Manoa, Director of Hawaiian Studies; the Chair of the Honolulu County Council; the City and County of Honolulu Office of Economic Development; the City and County of Honolulu Office of Waikiki Development; and the City and County of Honolulu Planning Department; and
- (6) Making technical, non-substantive changes.

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 concurs with the intent and purpose of H.C.R. No. 12, as amended herein, and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs, in the form attached hereto as H.C.R. No. 12, H.D. 1.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 912-96 Hawaiian Affairs and Housing on H.R. No. 13

The purpose of this resolution is to request that the State, the City and County of Honolulu, the private sector, and the general public combine their resources and their efforts to restore a Hawaiian sense of place to Waikiki. The resolution requests that the agencies use the Queen Emma Foundation's 1993 report entitled: "Restoring Hawaiianess to Waikiki" as the basis to carry out this rehabilitation.

Testimony in support of this resolution was received from the State Department of Business, Economic Development, and Tourism. The Department recommended that rather than working with the Hawaii Visitor Bureau, the language be amended to allow them to work with the City and County of Honolulu.

Further supportive testimony was received from the City and County of Honolulu Office of the Managing Director and the Waikiki Improvement Association.

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

- (1) Noting the importance of the Waikiki area as a tourist destination, housing and employment for residents, and as a tax revenue generator;
- (2) Requesting the Department of Business, Economic Development, and Tourism to work with the City and County of Honolulu Office of Waikiki Development rather than the Hawaii Visitor Bureau;
- (3) Requesting that the State Department of Business, Economic Development, and Tourism's State Convention Authority consider the recommendations of the Queen Emma Foundation's report in the aesthetic design and layout of the convention center's landscaping;
- (4) Specifying that Hawaiian community groups should be requested to participate in the rehabilitative process;
- (5) Amending the list of agencies receiving certified copies to include the Chair of the Board of Trustees of the Office of Hawaiian Affairs; the Chair of the State Foundation on Culture and the Arts; the University of Hawaii

at Manoa, Director of Hawaiian Studies; the Chair of the Honolulu County Council; the City and County of Honolulu Office of Economic Development; the City and County of Honolulu Office of Waikiki Development; and the City and County of Honolulu Planning Department; and

- (6) Making technical, non-substantive changes.

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 concurs with the intent and purpose of H.R. No. 13, as amended herein, and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs, in the form attached hereto as H.R. No. 13, H.D. 1.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 913-96 Hawaiian Affairs and Housing on H.C.R. No. 2

The purpose of this concurrent resolution is to study the feasibility of transferring the Kahana State Park from the Department of Land and Natural Resources to the Office of Hawaiian Affairs.

Testimony in support of this measure was received from the Office of Hawaiian Affairs who proposed amendments. Supportive testimony also was received from several private citizens.

The Board of Land and Natural Resources testified that the study to transfer lands would be premature. The study would be more meaningful if conducted after all housing needs have been met and interpretive programs fully functioning within Kahana State Park.

Upon careful consideration, your Committee has amended this measure to incorporate the suggestions of the Office of Hawaiian Affairs by including language:

- (1) Declaring that the expectations to retrieve and restore Hawaiian practices in Kahana Valley would best be met if the lands were transferred to the Office of Hawaiian Affairs;
- (2) Defining additional components to be included in the feasibility study;
- (3) Adding the Friends of Kahana organization as one of the parties which will be consulted during the study; and
- (4) Making technical, non-substantive changes.

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 concurs with the intent and purpose of H.C.R. No. 21, 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.C.R. No. 21, H.D. 1.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 914-96 Hawaiian Affairs and Housing on H.R. No. 22

The purpose of this resolution is to study the feasibility of transferring the Kahana State Park from the Department of Land and Natural Resources to the Office of Hawaiian Affairs.

Testimony in support of this measure was received from the Office of Hawaiian Affairs who proposed amendments. Supportive testimony also was received from several private citizens.

The Board of Land and Natural Resources testified that the study to transfer lands would be premature. The study would be more meaningful if conducted after all housing needs have been met and interpretive programs fully functioning within Kahana State Park.

Upon careful consideration, your Committee has amended this measure to incorporate the suggestions of the Office of Hawaiian Affairs by including language:

- (1) Declaring that the expectations to retrieve and restore Hawaiian practices in Kahana Valley would best be met if the lands were transferred to the Office of Hawaiian Affairs;
- (2) Defining additional components to be included in the feasibility study;
- (3) Adding the Friends of Kahana organization as one of the parties which will be consulted during the study; and
- (4) Making technical, non-substantive changes.

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 concurs with the intent and purpose of H.R. No. 22, 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.R. No. 22, H.D. 1.

Signed by all members of the Committee except Representative Kawakami.

SCRep. 915-96 Human Services and Education on H.C.R. No. 24

The purpose of this House Concurrent Resolution is to request the continued support of the Department of Education to work in conjunction with the youth of the First Representative District and community agencies in the area to develop community-based youth programs.

The Department of Education, the Hawaii County Council, and the Hawaii County Police Department submitted testimony in support of this measure. Also submitting testimony in support of this measure were the Department of Parks and Recreation, County of Hawaii, the Rural South Hilo Community Association, and ten concerned students.

Your Committees find that there is an urgent need for community-based cooperation between State and community agencies in addressing the youth population of the First Representative District. Your Committees further find that in a society where students encounter issues such as substance abuse, teen pregnancy, and gang participation, community-based youth programs are invaluable and cost-effective in addressing the challenges that may face our youths. Finally, your Committees are supportive of the efforts of students from the First Representative District who initiated and conducted surveys of their peers and are actively involved in developing responsive community-based programs for youth and the community to participate together.

As affirmed by the records of votes of the members of your Committees on Human Services and Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 24 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Saiki, Kahikina and Kawananakoa.

SCRep. 916-96 Human Services and Education on H.R. No. 28

The purpose of this House Resolution is to request the continued support of the Department of Education to work in conjunction with the youth of the First Representative District and community agencies in the area to develop community-based youth programs.

The Department of Education, the Hawaii County Council, and the Hawaii County Police Department submitted testimony in support of this measure. Also submitting testimony in support of this measure were the Department of Parks and Recreation, County of Hawaii, the Rural South Hilo Community Association, and ten concerned students.

Your Committees find that there is an urgent need for community-based cooperation between State and community agencies in addressing the youth population of the First Representative District. Your Committees further find that in a society where students encounter issues such as substance abuse, teen pregnancy, and gang participation, community-based youth programs are invaluable and cost-effective in addressing the challenges that may face our youths. Finally, your Committees are supportive of the efforts of students from the First Representative District who initiated and conducted surveys of their peers and are actively involved in developing responsive community-based programs for youth and the community to participate together.

As affirmed by the records of votes of the members of your Committees on Human Services and Education that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 28 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Saiki, Kahikina and Kawananakoa.

SCRep. 917-96 Tourism on H.C.R. No. 27

The purpose of this concurrent resolution is to urge the United States Congress to grant permanent status to the visa waiver program and extend the visa waiver program to other countries of Asia, particularly Taiwan and Korea, and request the members of Hawaii's congressional delegation to fully support the proposed extension and amendments to the visa waiver program.

Your Committee received testimony in support of this concurrent resolution from the Office of the Lieutenant Governor, the Department of Business, Economic Development and Tourism, the Hawaii Visitors Bureau, Outrigger Hotels, and the Hawaii Hotel Association.

Your Committee finds that the temporary visa waiver program, which allows qualifying persons from participating countries to enter the United States for up to ninety days without a visa, has met with great success, resulting in tremendous increases in international visitor arrivals to Hawaii and the rest of the United States, providing economic stimulation and helping to reduce the nation's trade deficit.

Making the program permanent and expanding it to include Korea and Taiwan would remove one of the biggest obstacles to travel from those countries and would result in more productive visitor promotion efforts. By excluding Korea and Taiwan from the program, the United States needlessly reduces its presence in countries with rapidly growing personal incomes and great propensity to travel. Korea alone generates two thousand visa applications each working day, according to the United States Immigration Office in Seoul, Korea.

The 1995 White House Conference on Travel and Tourism identified permanency and expansion of the visa waiver program as priority objectives for facilitating international travel.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 27 and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 918-96 Tourism on H.R. No. 34

The purpose of this resolution is to urge the United States Congress to grant permanent status to the visa waiver program and extend the visa waiver program to other countries of Asia, particularly Taiwan and Korea, and request the members of Hawaii's congressional delegation to fully support the proposed extension and amendments to the visa waiver program.

Your Committee received testimony in support of this resolution from the Office of the Lieutenant Governor, the Department of Business, Economic Development and Tourism, the Hawaii Visitors Bureau, Outrigger Hotels, and the Hawaii Hotel Association.

Your Committee finds that the temporary visa waiver program, which allows qualifying persons from participating countries to enter the United States for up to ninety days without a visa, has met with great success, resulting in tremendous increases in international visitor arrivals to Hawaii and the rest of the United States, providing economic stimulation and helping to reduce the nation's trade deficit.

Making the program permanent and expanding it to include Korea and Taiwan would remove one of the biggest obstacles to travel from those countries and would result in more productive visitor promotion efforts. By excluding Korea and Taiwan from the program, the United States needlessly reduces its presence in countries with rapidly growing personal incomes and great propensity to travel. Korea alone generates two thousand visa applications each working day, according to the United States Immigration Office in Seoul, Korea.

The 1995 White House Conference on Travel and Tourism identified permanency and expansion of the visa waiver program as priority objectives for facilitating international travel.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 34 and recommends that it be referred to the Committee on Intergovernmental Relations and International Affairs.

Signed by all members of the Committee except Representative Marumoto.

SCRep. 919-96 Human Services on H.C.R. No. 5

The purpose of this House Concurrent Resolution is to request the Board of Education to relocate the School Food Services Branch and make the old Kaimuki Library available to senior citizen groups.

The American Association of Retired Persons-Hawaii, and two concerned citizens testified in support of this measure. The Department of Education submitted testimony in opposition to this measure.

Your Committee finds there is a definite need for a community/senior citizen center in the Kaimuki area. However, to relocate the Food Services Branch of the Department of Education (DOE) would require sizable amounts of money and human resources, which could have significant fiscal and logistical impacts upon the Department of Education, in particular, and potentially on the rest of the State. Your Committee further finds that it would be beneficial to all parties involved to search for other existing sites under the jurisdiction of the Department of Education and City and County of Honolulu in order to accommodate the growing senior citizen population in the Kaimuki area.

Your Committee has amended this House Concurrent Resolution by:

- (1) Changing the title of the concurrent resolution to read, "Requesting the Board of Education, the City and County of Honolulu and the Kaimuki Neighborhood Board No. 4 to assist in identifying and securing a site to establish a community/senior citizen center for the Kaimuki community;"
- (2) Deleting the word "and" in page 1 line 37, and inserting "now, therefore" in its place;
- (3) Deleting lines 1-13 on page 2;
- (4) Inserting ", the City and County of Honolulu and the Kaimuki Neighborhood Board No. 4" into line 17 on page 2;
- (5) Deleting, "relocate the School Food Services Branch and make the old Kaimuki Public Library available to senior citizen groups," on page 2, lines 18-20;
- (6) Inserting "identify and secure a site to establish a community/senior citizen center for the Kaimuki community" into line 20 on page 2;
- (7) Inserting ", the City and County of Honolulu, and the Kaimuki Neighborhood Board No. 4" into line 22 on page 2;
- (8) Inserting "jointly" into line 23 on page 2;
- (9) Deleting line 24 on page 2;
- (10) Deleting "the old Kaimuki Public Library" on page 2, line 25, and inserting "a site" in its place;

- (11) Deleting "programs" on page 2, line 26, and inserting "center" in its place;
- (12) Inserting ", the Mayor of the City and County of Honolulu and Chairperson of the Kaimuki Neighborhood Board No. 4" into line 31, page 2; and
- (13) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 5, as amended herein, and recommends that it be referred to the Committee on Education, in the form attached hereto as H.C.R. No. 5, H.D. 1.

Signed by all members of the Committee except Representative Kawanakoa.

SCRep. 920-96 Human Services on H.R. No. 4

The purpose of this House Resolution is to request the Board of Education to relocate the School Food Services Branch and make the old Kaimuki Library available to senior citizen groups.

The American Association of Retired Persons-Hawaii, and two concerned citizens testified in support of this measure. The Department of Education submitted testimony in opposition to this measure.

Your Committee finds there is a definite need for a community/senior citizen center in the Kaimuki area. However, to relocate the Food Services Branch of the Department of Education (DOE) would require sizable amounts of money and human resources, which could have significant fiscal and logistical impacts upon the Department of Education, in particular, and potentially on the rest of the State. Your Committee further finds that it would be beneficial to all parties involved to search for other existing sites under the jurisdiction of the Department of Education and City and County of Honolulu in order to accommodate the growing senior citizen population in the Kaimuki area.

Your Committee has amended this House Resolution by:

- (1) Changing the title of the resolution to read, "Requesting the Board of Education, the City and County of Honolulu and the Kaimuki Neighborhood Board No. 4 to assist in identifying and securing a site to establish a community/senior citizen center for the Kaimuki community;"
- (2) Deleting the word "and" in page 1 line 37, and inserting "now, therefore" in its place;
- (3) Deleting lines 1-13 on page 2;
- (4) Inserting ", the City and County of Honolulu and the Kaimuki Neighborhood Board No. 4" into line 17 on page 2;
- (5) Deleting, "relocate the School Food Services Branch and make the old Kaimuki Public Library available to senior citizen groups," on page 2, lines 18-20;
- (6) Inserting "identify and secure a site to establish a community/senior citizen center for the Kaimuki community" into line 20 on page 2;
- (7) Inserting ", the City and County of Honolulu, and the Kaimuki Neighborhood Board No. 4" into line 22 on page 2;
- (8) Inserting "jointly" into line 23 on page 2;
- (9) Deleting line 24 on page 2;
- (10) Deleting "the old Kaimuki Public Library" on page 2, line 25, and inserting "a site" in its place;
- (11) Deleting "programs" on page 2, line 26, and inserting "center" in its place;
- (12) Inserting ", the Mayor of the City and County of Honolulu and Chairperson of the Kaimuki Neighborhood Board No. 4" into line 31, page 2; and
- (13) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 4, as amended herein, and recommends that it be referred to the Committee on Education, in the form attached hereto as H.R. No. 4, H.D. 1.

Signed by all members of the Committee except Representative Kawanakoa.

SCRep. 921-96 Finance on S.B. No. 837

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist the Pacific International Center for High Technology Research in the development of an ethanol and energy conversion facility.

The Hawaii Renewable Energy Alliance and a representative of Arkenol Inc. testified in support of the intent of this measure.

Your Committee has amended the bill by deleting its contents and inserting the contents of S.B. No. 2404 to authorize the issuance of special purpose revenue bonds for Arkenol Inc. to convert one or more of Hawaii's sugar plantations into fully integrated biorefineries which would convert biomass in the form of canes or grasses into electricity and transportation fuel or other chemicals.

Your Committee has also amended this bill by authorizing the Department of Budget and Finance to issue special purpose revenue bonds in a total amount not to exceed \$50,000,000.

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 S.B. No. 837, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 837, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 922-96 Judiciary on S.B. No. 1557

The purpose of this bill is to eliminate unnecessary government requirements for the renewal of driver's licenses and to deliver motor vehicle licensing services in a more efficient manner.

The bill, as received by your Committee, provides for the following:

- (1) Extends the period a driver's license is valid from four to five years for persons twenty through sixty-four years of age;
- (2) Extends the period a driver's license is valid from two to three years for persons fifteen through nineteen years of age and sixty-five through seventy-four years of age;
- (3) Raises the age from sixty-five to seventy-five years of age that a driver's license expires two years after the date of issuance;
- (4) Raises the age from sixty-five to seventy-five years of age for the limitation that the applicant need not be tested nor demonstrate knowledge of the rules of the road more than once every four years; and
- (5) Raises the age from under seventeen to under eighteen years of age that a person may only be granted a special license.

Your Committee received testimony from the City and County of Honolulu, the Honolulu Police Department, and a private citizen.

Your Committee finds the changes proposed are appropriate in correlating the age differentiations with the longevity of the licensing period for both young and senior drivers.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1557, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 923-96 Health on S.B. No. 2459

The purpose of this bill is to authorize the Board of Medical Examiners to approve the limited temporary certification of emergency medical service personnel. This would enable personnel certified in other states to become certified in Hawaii.

The Department of Health, the Board of Medical Examiners, the Board of Medical Examiners Advisory Committee for Emergency Physicians and Paramedics, and the Kapiolani Community College Department of Emergency Medical Services submitted testimony in support of the bill.

Your Committee supports the intent of the bill. However, your Committee notes that the bill, as received, does not specify any time limit for the limited temporary certification. Upon questioning by the Committee, the Department of Health and the Board of Medical Examiners Advisory Committee for Emergency Physicians and Paramedics agreed that a one year period is an appropriate maximum time limit.

Your Committee has amended the bill by:

- (1) Specifying that limited temporary certification for any applicant is restricted to a maximum of one year; 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 Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2459, 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. 924-96 Health on S.B. No. 2772

The purpose of this bill, as received by your Committee, is to make it unlawful to sell single cigarettes or packs of cigarettes containing less than twenty cigarettes.

The Department of Health; the Hawaii Medical Association, the American Lung Association of Hawaii, the American Heart Association-Hawaii Affiliate, and the American Cancer Society Hawaii Pacific Division testified in favor of the bill. The Department of Finance of the City and County of Honolulu, the Department of Liquor Control of the County of Kauai, and the Department of Liquor Control of the County of Hawaii submitted testimony supporting the intent of the measure, but recommended that the bill be amended. The Tobacco Institute testified in opposition to the bill.

Your Committee finds that the sale of single cigarettes or in packs containing less than twenty makes cigarettes more accessible to minors by reducing the price as compared with the usual pack of twenty. This bill aims to prevent the distribution of cigarettes to minors through control of quantity and price.

Your Committee has amended this bill to also prohibit the sale of cigarettes other than in sealed packages originating with the manufacturer and bearing the health warning required by law. Also, technical, nonsubstantive revisions were made 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 S.B. No. 2772, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2772, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 925-96 Health on S.B. No. 2781

The purpose of this bill is to transfer the responsibility for life support personnel training from the Department of Health to the University of Hawaii.

Testimony in support of the bill was received from the Department of Health and the University of Hawaii.

Testimony supporting the intent of the bill with the insertion of language (removed from the original bill) regarding the transfer of current State employees, along with their positions, from the Department of Health to the University of Hawaii was received from the Department of Emergency Medical Services at Kapiolani Community College, the County of Hawaii Fire Department, the State Emergency Medical Services Advisory Committee and one individual.

Your Committee finds that, since 1985, the University of Hawaii's Kapiolani Community College has been providing Emergency Medical Services education through a contractual arrangement with the Department of Health. This bill will allow the University of Hawaii to treat the Emergency Medical Services program as a regular program without any difficulties. The Department of Health will still retain the responsibility for the medical oversight and quality assurance of the training programs.

After careful consideration, your Committee amended the bill by inserting a section for immunity and benefits for disaster medical personnel. This amendment provides for a smoother credentialing process in an emergency situation and the protection of disaster personnel.

Your Committee still has some concern relating to the identification of providers at the initial stages of an emergency situation and feels that further scrutiny is needed in this area.

In regards to the transfer of current State employees from the Department of Health to the University of Hawaii, your Committee feels that this is a personnel matter which should be addressed by your Committee on Higher Education and the Arts.

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 S.B. No. 2781, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2781, S.D. 2, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 926-96 Health on S.B. No. 2789

The purpose of this bill is to repeal various health statutes administered by the Department of Health that are now obsolete or unenforceable due to State budget reductions and the lack of funds.

Testimony in support of this bill was received from the Department of Health.

Your Committee has amended this bill by eliminating Section 9 of the bill which would have repealed Section 334-3.5 of the Hawaii Revised Statutes. This section established a community-based employment program for chronically mentally ill persons within the Department of Health's Mental Health Division. The purpose of this program is to:

- (1) Create business enterprises for the employment of chronically mentally ill persons;

- (2) Teach chronically mentally ill persons skills and attitudes that will enable them to become employed;
- (3) Provide support services, such as housing, so that chronically mentally ill persons can secure and maintain employment and live within the community.

Your Committee feels this program is valuable in terms of the service it provides in helping chronically mentally ill persons become functioning members of society.

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 S.B. No. 2789, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2789, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 927-96 Health on S.B. No. 2139

The purpose of this bill is to decentralize the provision of mental health services on the Big Island by, among other things, authorizing the Department of Health to provide services through contracts on a pilot basis.

The Mental Health Association in Hawaii and an individual submitted testimony in support of the bill. The Department of Health supported the general intent of the bill.

Your Committee agrees with the general concept of the bill, but has made the following amendments:

- (1) Restricted the services which may be contracted to only child and adolescent mental health services rather than to all mental health services;
- (2) Required the Department of Health to retain all positions in the Children and Adolescent Mental Health Division for the duration of the pilot project;
- (3) Deleted the requirement that any contracted service provider form an advisory board if one does not exist;
- (4) Changed the effective date to July 1, 1996 to correct a drafting error; and
- (5) 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 S.B. No. 2139, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2139, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

SCRep. 928-96 Higher Education and the Arts on S.B. No. 2900

The purpose of this bill is to clarify the authority of the Board of Regents to grant, modify, or suspend tuition waivers, waiver of nonresidential tuition, and fee differentials.

The University of Hawaii submitted testimony in support of this measure. The State of Hawaii Department of Defense submitted testimony in general support of this measure.

Your Committee recommends that the University of Hawaii Board of Regents continue tuition waivers to those combat veterans already in the program.

Upon careful consideration, your Committee has amended this bill by deleting the substance and inserting the language reflected in H.B. No. 3583, H.D. 2. As amended, this bill allows the Board of Regents more flexibility in the assessment and waiver of tuition and other fees by repealing the requirement that the University of Hawaii waive the nonresident tuition and fee differential for East-West Center student grantees, U.S. military personnel, Hawaiians, students from any Pacific Island or Asian district, and UH employees, their spouses, and dependents.

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 S.B. No. 2900, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2900, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tarnas and Halford.

SCRep. 929-96 Higher Education and the Arts on S.B. No. 2338

The purpose of this bill is to amend the special funds of the University of Hawaii by:

- (1) Exempting the University of Hawaii Library Special Fund from assessments for state central service expenses and for departmental administrative expenses; and

- (2) Repealing the requirement that certain tuition revenues be deposited into the Hawaii Opportunity Program in Education (HOPE) Special Fund.

A concerned individual submitted testimony in support of this measure. The University of Hawaii submitted comments on this measure. Testimony in opposition to this measure was submitted by the Department of Budget and Finance.

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

- (1) Restoring the original statutory language to provide that in each fiscal year from 1997-1998 through 2001-2002, the first \$1,000,000 of tuition collected by the University of Hawaii be deposited in the State treasury to the credit of the HOPE Special Fund; 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 Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2338, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2338, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tarnas and Halford.

SCRep. 930-96 Higher Education and the Arts on S.B. No. 2902

The purpose of this bill is to divest the Legislature of its future authority to set the salary of the President of the University of Hawaii.

The authority to set the President's salary is scheduled to be transferred from the Board of Regents to the Legislature effective July 1, 1998. This bill repeals the transfer and retains the authority with the Board of Regents. The Board is not bound by any statutory ceilings as to the salary amount.

Your Committee believes that in order for the University of Hawaii to remain competitive with its mainland peers, it must be given a fair amount of flexibility and independence in recruiting and retaining the best presidential candidates available in the marketplace. Flexibility and independence are impaired if control over a President's salary is exercised by a public entity other than the University itself.

Your Committee received testimony in support of the measure from a member of the Board of Regents.

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 S.B. No. 2902 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tarnas and Halford.

SCRep. 931-96 Higher Education and the Arts on S.B. No. 2341

The purpose of this bill is to permit the University of Hawaii system of community colleges to:

- (1) Provide two- and four-year vocational technical education programs; and
- (2) Confer corresponding degrees or certificates to students upon the successful completion of any of the colleges' educational programs.

The University of Hawaii, the Office of the Mayor of the County of Maui, and a concerned individual submitted testimony in favor of this measure.

Your Committee finds that while the community colleges have traditionally offered two-year educational and training programs, the increasing complexity of some of the colleges' programs may require a longer time period to successfully complete. As such, your Committee is in accord with the intent and purpose of this bill.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2341 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Tarnas and Halford.
(Representative Shon voted no.)

SCRep. 932-96 Human Services on S.B. No. 2558

The purpose of this bill is to make the Department of Human Services (DHS), the Department of Health (DOH), and the Chief Justice responsible for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence.

Submitting testimony in support of the bill were DHS, DOH, the Commission on the Status of Women, Parents and Children Together, the Sex Abuse Treatment Center, Child and Family Services, and the Domestic Violence Clearinghouse and Legal Hotline.

While supporting the passage of the bill, the Judiciary recommended deleting Section 3, which makes the Chief Justice responsible for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence, since this function is beyond the scope and mission of the Judiciary.

Your Committee agrees that the State must place a high priority on domestic and sexual violence. However, making three separate agencies responsible for exactly the same functions may result in unnecessary duplication and a lack of accountability.

Your Committee has amended the bill by:

- (1) Deleting responsibility for domestic violence and sexual abuse programs from the Chief Justice;
- (2) Making DHS primarily responsible for the protection and treatment of victims of domestic and sexual violence; and
- (3) Making DOH primarily responsible for the prevention of domestic and sexual violence.

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. 2558, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2558, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 933-96 Higher Education and the Arts on S.B. No. 2067,

The purpose of this bill is to authorize private collection agencies, which enter into contracts with the University of Hawaii (UH) for the collection of delinquent student loans, to obtain reimbursement for their collection costs directly from the debtors.

The UH testified in support of this bill.

Collection costs represent a significant expense to the UH. Allowing a collection agency to collect fees directly from the debtor would:

- (1) Reduce the collection expense to the University;
- (2) Provide an important incentive for the borrower to repay the loan on time; and
- (3) Increase funds available to assist other financially disadvantaged students.

Additionally, collection agencies are used only as a measure of last resort after internal collection efforts have been exhausted.

Your Committee finds that allowing collection agencies to obtain reimbursement directly from the debtors serves to prevent such costs from being passed onto the UH. In the past, these collection expenses have drained the UH's financial resources, which the UH and the State cannot afford in these times of fiscal constraint. This measure is comparable to federal legislation under federal loan programs.

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 S.B. No. 2067, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Tarnas and Halford.

SCRep. 934-96 Transportation on S.B. No. 2074

The purpose of this bill is to appropriate funds for the Kauai Gateway Beautification Project.

Your Committee on Transportation finds that landscaping and irrigation improvements adjacent to Lihue Airport and along transportation routes leading to the airport will help to erase the devastating effects of Hurricane Iniki and provide visitors with positive impressions about the natural beauty of Kauai.

This bill appropriates funds from the state highway special fund and federal funds from the Intermodal Surface Transportation Efficiency Act for the landscaping and irrigation improvements. Additional resources are anticipated from the private sector.

Supportive testimonies were heard from the Department of Transportation and a resident from Kauai.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2074, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Isbell and Ito.

SCRep. 935-96 Transportation on S.B. No. 2365

The purpose of this bill is to extend the definition of "antique motor vehicle" to include specified motorcycles and motor scooters to exempt them from insurance requirements.

Your Committee on Transportation finds that collectors of vintage motorcycles and motor scooters use these vehicles for historical exhibitions, parades, and occasional highway excursions. Your Committee further finds that antique motorcycles and motor scooters are not used for daily transportation and should be exempt from insurance requirements.

This bill would exempt motorcycles and motor scooters of less than 12 horsepower and thirty-five years of age or older from insurance requirements by including them in the definition of "antique motor vehicle".

Supportive testimonies were heard from Street Bikers United and from two antique motorcycle and motor scooter collectors.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2365, S.D. 1, and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representative Ito.

SCRep. 936-96 Transportation on S.B. No. 3204

The purpose of this bill is to involve the legislature before implementation of plans which affect the Honolulu Harbor.

Your Committee on Transportation finds that comprehensive masterplans for Honolulu Harbor are being developed, but that safeguards to protect harbor lands critical to the future of our state would have no legislative involvement before their implementation.

This bill would require legislative approval before implementation of any masterplan affecting Honolulu Harbor.

Supportive testimonies were heard from the Department of Transportation and the Chamber of Commerce of Hawaii. The Department of Business, Economic Development and Tourism testified in opposition to the bill on the basis that obtaining the approval of the legislature before implementing a masterplan would inhibit efficiency and hinder adequate planning efforts.

Your Committee has amended the bill to indicate that the manner of legislative approval will be by Resolution.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3204, H.D. 1, and be referred to the Committee on Water and Land Use Planning.

Signed by all members of the Committee except Representative Ito.

SCRep. 937-96 Higher Education and the Arts and Education on S.B. No. 2152

The purpose of this bill is to:

- (1) Authorize the University of Hawaii (UH) and the Department of Education (DOE) to establish custodial accounts on behalf of their employees; and
- (2) Limit the liability of the State, the UH, and the DOE for sums deferred or the performance of any investment product purchased as part of any custodial account contract.

The University of Hawaii, the Hawaii State Teachers Association, and the Hawaii State Association of Life Underwriters submitted testimony in support of this measure. The Department of Education and the University of Hawaii Professional Assembly submitted comments on this measure.

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

- (1) Providing that the State may establish a tax-deferred annuity plan (plan) for the benefit of DOE and UH employees;
- (2) Establishing a Board of Trustees that is placed within the UH for administrative purposes;
- (3) Establishing the composition, terms of appointment, and compensation of the Board of Trustees;
- (4) Providing that the legal advisor of the Board of Trustees is the State Attorney General;
- (5) Stating that sums deferred under a plan will be retained as a custodial account in the name of the employee;
- (6) Providing that funds held by the Board of Trustees pursuant to the plan will be invested in accordance with permitted investment products; provided that any investment contract entered into will be made with companies authorized and licensed to do business in the State;
- (7) Providing that the funds administrator will be designated by the Board of Trustees;

- (8) Providing that compensation deferred pursuant to a plan will be deemed regular compensation for the purpose of computing contributions or benefits under existing retirement, pension, or social security systems;
- (9) Stating that costs for implementing and administering the plan will be borne by the plan and its participants;
- (10) Authorizing the DOE and UH to allow employees to purchase a mutual fund custodial account from a company who is licensed to do business in the State; and
- (11) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

The bill as amended builds on precedent and seeks to avoid any additional administrative costs.

As affirmed by the records of votes of the members of your Committees on Higher Education and the Arts and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2152, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2152, S.D. 1, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committees except Representatives Arakaki, Takamine, Yonamine and Halford.

SCRep. 938-96 Human Services on S.B. No. 3042

The purpose of this bill is to establish a three-year pilot project for child protective and diversion services.

The Department of Human Services, the Department of Health, the Office of Youth Services, the Judiciary, State of Hawaii, and the University of Hawaii-Manoa Center for the Family submitted testimony in support of this bill. Also submitting testimony in support of this bill were The Junior League of Honolulu, Inc., the Child Welfare Services, State Advisory Council, and a concerned citizen.

Your Committee finds that this bill offers an alternative system of addressing the needs of Hawaii's most vulnerable children and families, especially those who have been the victims of child abuse and neglect. In addition, the child protective service model described in this measure fosters public-private collaboration in the delivery of services that are responsive to and actively involve the participation of families at risk.

Your Committee has amended this bill by:

- (1) Deleting "Requires matching of public fund expenditures by private sector" and inserting "Support and implementation of this pilot project shall be supplemented by contributions from the private sector" into the description paragraph;
- (2) Deleting ",and the office of youth services," on page 2, line 16-17;
- (3) Incorporating the Department of Health and the Office of Youth Services into the oversight committee, and increasing the oversight committee representatives from nine to ten members;
- (4) Deleting "serving as a facilitator for dispute resolution" and inserting "utilizing the alternative dispute resolution method of mediation during the pilot project to resolve issues that confront the Oversight Mechanism" into page 5, line 6;
- (5) Inserting "and the coordination of direct service" into page 5, line 15;
- (6) Deleting the provision which stipulates that no public funds may be expended unless matched on a dollar-for-dollar basis by the private sector, and inserting "supplemented by contributions from the private sector, to support the implementation of this pilot project" into page 5, lines 16-19; 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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3042, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3042, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 939-96 Transportation on S.B. No. 2125

The purpose of this bill is to allow motorcycle drivers to enroll or pass a motorcycle education course approved by the Department of Transportation (DOT) or any branch of the armed services of the United States as one method of qualifying for liability insurance coverage.

Your Committee on Transportation finds that a motorcycle education course is beneficial to the safety of motorcycle operators and to the general public. However, your Committee believes that all motorcycle education courses should have to follow some type of recognized motorcycle safety standard.

The current law allows motorcycle operators to obtain temporary liability insurance policies if they enroll in a DOT approved motorcycle education course. Motorcycle operators on military bases are required to take a motorcycle

education course offered by the military, regardless if they take a DOT approved course. However, motorcycle operators on military bases cannot qualify for temporary liability insurance policies by only taking the military course, since that course is not approved by the DOT.

Your Committee received written and oral testimonies in favor of the intent of the bill by the DOT, the Street Bikers United, and private citizens. Your Committee received written testimonies in opposition of the bill by the Hawaii Motorcycle Dealers' Association, and private citizens.

Your Committee has amended the bill by requiring a person to have enrolled in and passed a motorcycle education course that meets the Motorcycle Safety Foundation standards.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2125, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2125, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Isbell and Ito.

SCRep. 940-96 Transportation on S.B. No. 2894

The purpose of this bill as received by your Committee on Transportation is to require the Department of Transportation (DOT) to regulate the transportation of explosives.

Your Committee recognizes that there are dangers involved with the transportation of explosives, but finds that the DOT may not have the expertise required to solely regulate the transportation of explosives.

Your Committee does find that there is a need to amend the Hawaii Revised Statutes to conform with Federal standards by including and clarifying the definition of infectious materials and medical waste. Your Committee also recognizes the need for the State Department of Health to be immediately notified of a spill or loss of control of medical waste shipment in commerce.

Furthermore, your Committee authorizes the DOT to conduct a study to designate a route for the transport of hazardous materials, hazardous waste, infectious substances, and medical waste provided that the DOT consults with commercial enterprises that are engaged in the business of transporting such materials.

Your Committee received testimonies by the DOT and the Hawaii Transportation Association in opposition to the bill as amended by the Senate but in favor of the original contents of the bill.

Your Committee has amended the bill by deleting all references to the DOT regulating explosives and inserted the same language found in the House companion bill, HB3577 HD2.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2894, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2894, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Isbell and Ito.

SCRep. 941-96 Transportation on S.B. No. 2999

The purpose of this bill is to require the Director of Transportation to install public utility lines underground in the construction of all new federal-aid highways and the improvements to existing federal-aid highways, subject to the availability of federal funds. The Director may make exceptions to this requirement under specified conditions.

Your Committee on Transportation finds that the installation of underground utility lines is not only aesthetically more pleasing, but also safer for motorists.

Testimonies in favor of this bill were heard from the Department of Transportation which clarified federal funding, the Hawaiian Electric Company, GTE Hawaiian Tel, The Outdoor Circle, AIA Hawaii State Council, a physician, and a former Director of Transportation.

Your Committee has amended this bill upon the request of the Director of Transportation to read: "to pay for the federal share of the cost differential between underground and overhead facilities," since federal funds are not available to pay for the complete costs.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2999, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2999, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Ito.

SCRep. 942-96 Water and Land Use Planning on S.B. No. 2340

The purpose of this bill is to require commercial hunting guides to:

- (1) Have a current state hunting license;
- (2) Complete the state hunter safety course;
- (3) Register with the Department of Land and Natural Resources (DLNR); and
- (4) Annually report to DLNR on their guide activities.

DLNR supported this bill and testified that this measure will:

- (1) Encourage private landowners to develop hunting opportunities on their lands;
- (2) Establish a central registry for hunting guides that would be useful to the public;
- (3) Guarantee that all out-of-state hunters who utilize guide services are legally licensed to hunt; and
- (4) Provide basic information on who is engaged in private hunting services.

The Hawaii Rifle Association also supported passage of this 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 S.B. No. 2340, S.D. 2, and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representatives Kanoho, McMurdo, M. Oshiro, Yoshinaga and Meyer.

SCRep. 943-96 Hawaiian Affairs and Housing on S.B. No. 2626

The purpose of this bill is to assist the residents of the Maunalaha subdivision in Makiki Valley, Oahu, in their efforts to rebuild their homes on state lands.

This bill exempts the Maunalaha subdivision properties from all state and county subdivision and housing development standards.

In supporting this bill, the Department of Land and Natural Resources (DLNR) testified that it would consider a fee simple transfer of these lands to the Office of Hawaiian Affairs (OHA) to enable OHA to better manage its proposed self-help housing project with fifteen families. OHA also testified in support of this measure.

Based on DLNR's testimony, your Committee has amended this bill by:

- (1) Inserting a new Section 3 that authorizes DLNR to negotiate the transfer of the Maunalaha subdivision lands to OHA; and
- (2) Making technical, nonsubstantive revisions for the purpose of consistency.

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 S.B. No. 2626, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2626, S.D. 1, H.D. 1, and be referred to the Committee on Intergovernmental Relations and International Affairs.

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

SCRep. 944-96 Hawaiian Affairs and Housing on S.B. No. 3011

The purpose of this bill is to allow the Housing Finance and Development Corporation, in consultation with the Departments of Accounting and General Services and Education, to enter into development agreements with private developers to expedite the construction of school facilities within the villages of Kapolei. This bill conditions the expedited construction of school facilities within the villages of Kapolei on the availability of funds.

In addition, this bill:

- (1) Allows the Housing Finance and Development Corporation to authorize a private developer to construct school facilities and to structure the financial obligations concerning school facility construction with the private developer, in accordance with all applicable state and federal laws and in a manner that the corporation deems appropriate and most efficient for building schools for the Kapolei area;
- (2) Requires the Housing Finance and Development Corporation to submit a report to the Legislature on the expedited building of schools in the villages of Kapolei no later than twenty days prior to the convening of the regular session of 1997; and
- (3) Clarifying that sections 27-11 and 201E-30, Hawaii Revised Statutes, and section 4 of Act 210, Session Laws of Hawaii 1995, also do not apply to the expedited construction of school facilities within the villages of Kapolei by the Housing Finance and Development Corporation.

Your Committee finds that the villages of Kapolei are among the fastest growing residential neighborhoods in the State. Because many of the people who live in--or are in the process of moving to--Kapolei are young adults, there is a growing abundance of school age children and people who are planning to start families. Consequently, there is an urgent demand for school facilities and infrastructure in Kapolei.

Your Committee finds that this bill will allow the State to expedite the construction of school facilities within the villages of Kapolei and meet the urgent demand for additional classrooms and infrastructure in this specific area. This bill is consistent with the legislative intent of Act 210, Session Laws of Hawaii 1995, which sought to expedite the planning of school facilities in such areas as the villages of Kapolei.

Testimony in support of this measure was received from the Housing Finance and Development Corporation and the Department of Education. There was no testimony in opposition to this measure.

Your Committee has amended this bill by requiring the Departments of Accounting and General Services and Education work with the Housing Finance and Development Corporation in reporting to the Legislature.

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 S.B. No. 3011, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3011, S.D. 2, H.D. 1, and be referred to the Committee on Education.

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

SCRep. 945-96 Economic Development and Business Concerns on S.B. No. 2708

The purpose of this bill is to provide emergency funding for the Hawaii Film Facility (Facility) by increasing the expenditure ceiling of the Hawaii Film Facility Special Fund (Special Fund) from \$83,500 to \$150,000 to meet the immediate needs of the Facility.

The Department of Business, Economic Development, and Tourism submitted testimony in strong support of the measure.

This bill increases the authorized spending level of the Special Fund for the current fiscal year which ends on June 30, 1996. Your Committee notes that without the increased expenditure ceiling, no further expenditures can be made, including repair and maintenance expenditures.

This bill is similar to H.B. No. 3361, H.D. 2, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

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 S.B. No. 2708, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2708, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara, Swain and White.

SCRep. 946-96 Economic Development and Business Concerns on S.B. No. 3092

The purpose of this bill is to create the Commission on Hawaii in the Twenty-First Century (Commission) to assess the future of Hawaii.

Specifically, this bill requires the Commission to study the changes and effects produced by scientific and technological achievements and social changes with respect to the economic, political, cultural, and social systems and the environment of Hawaii and the world.

Your Committee received comments on this measure from an interested citizen.

Upon consideration, your Committee has amended this bill by:

- (1) Deleting the "report back" provision that requires the Commission to report annually to the Legislature on its progress, activities, and any recommendations for legislative and administrative actions; 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 Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3092, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3092, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and White.

SCRep. 947-96 Economic Development and Business Concerns on S.B. No. 3108

The purpose of this bill is to provide a more realistic framework under which the Department of Business, Economic Development, and Tourism (DBEDT) may act to assist the emerging recycling industry in Hawaii, by:

- (1) Dissolving the governing board of the Clean Hawaii Center (Center);
- (2) Maintaining the Center's programs until June 30, 1999; and
- (3) Authorizing DBEDT to receive moneys from other government agencies through a simple transfer of funds.

Testimony in support of this measure was received from DBEDT and the Department of Health.

This bill is similar to H.B. No. 3308, H.D. 1, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Your Committee has made amendments to conform this bill to H.B. No. 3308, H.D. 1, including making technical, nonsubstantive amendments to correct an incorrect reference and for purposes of clarity and 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 S.B. No. 3108, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3108, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and White.

SCRep. 948-96 Economic Development and Business Concerns on S.B. No. 3262

The purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism (DBEDT) to make loans to businesses in counties with populations of less than 100,000, and are unable to obtain disaster relief loans from the U.S. Small Business Administration.

Supporting testimony was received from the Kauai Chamber of Commerce. The DBEDT submitted testimony in support of the concept of the measure.

This bill is similar to H.B. No. 4125, which passed out of this Committee earlier this session. Your Committee has made amendments to conform this bill to H.B. No. 4125, including:

- (1) Deleting reference that the loans are for businesses that have suffered from catastrophic natural disaster;
- (2) Providing instead, that loans will bear simple interest at the rate of three percent below the prime rate or at a rate of five and one-half percent a year, whichever is lower;
- (3) Specifying that the prime rate is to be determined on January 1 and July 1 of each year, and is to be the rate charged by the two largest banks in the State identified by the Department of Commerce and Consumer Affairs;
- (4) Repealing the bill on June 30, 1999, and providing a reenactment provision for section 210-6, Hawaii Revised Statutes; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and 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 S.B. No. 3262, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3262, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morihara and White.

SCRep. 949-96 Health on S.B. No. 2494

The purpose of this bill is to establish an electronic prescription accountability system to monitor the prescribing and dispensing of certain controlled substances.

Testimony in support of the bill was received from the Department of Public Safety, the Department of the Prosecuting Attorney and Longs Drugs Stores. No opposing testimony was received.

Your Committee feels that this bill will increase the State's ability to stop the illegal diversion of prescription drugs in a cost effective manner.

The revolving fund established in this bill will consist of fees and legislative appropriations. Your Committee recognizes that if the Department of Public Safety were to raise the fees, the cost of running the program could be covered by those fees alone.

Your Committee made a technical, non-substantive amendment to the bill.

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 S.B. No. 2494, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2494, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

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