



**HAWAII STATE
HOUSE OF REPRESENTATIVES**

REGULAR SESSION OF 2009

***ROUGH DRAFT
JOURNAL***

TENTH DAY

FEBRUARY 5, 2009

OFFICE OF THE CHIEF CLERK



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TENTH DAY

Thursday, February 5, 2009

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2009, convened at 12:11 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Corinne W.L. Ching, after which the Roll was called showing all members present with the exception of Representatives Takai and Wakai, who were excused.

On motion by Representative Evans, seconded by Representative Pine and carried, reading of the Journals was dispensed with and the Journals of the First, Second, Third, Fourth, Fifth, Sixth and Seventh Days were approved. (Representatives Saiki, Takai and Wakai were excused.)

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 236 and 237) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 236, dated January 19, 2009, transmitting the High Technology Development Corporation's 2008 Annual Report, pursuant to Section 206M-3.5, Hawaii Revised Statutes.

Gov. Msg. No. 237, dated January 19, 2009, transmitting the High Technology Innovation Corporation's 2008 Annual Report, pursuant to Section 206M-56, Hawaii Revised Statutes.

DEPARTMENTAL COMMUNICATION

The following departmental communication (Dept. Com. No. 54) was received by the Clerk and was placed on file:

Dept. Com. No. 54, from the Legislative Reference Bureau, transmitting the Report, Vocational Services For The Deaf And Hard Of Hearing Through A Comprehensive Service Center, Report No. 1, 2009.

INTRODUCTIONS

The following introductions were made to the members of the House:

Representative Awana introduced Ms. Melanie McLellan, daughter of murder victim, Ms. Karen Ertell.

Representative Brower introduced his friends, Mrs. Sharyn and Mr. Tony Murtha of New Jersey.

Representative Herkes introduced Mr. Paul Russinoff of Washington DC, Vice President of State Relations for Visa, Inc.; and Ms. Nancy Panter of California, Manager of Global Pacific Relations for Visa, Inc. who were here to support a program to teach about money management. They were accompanied by Honolulu attorney, Mr. Marvin Dang.

Representative Chang introduced Mr. Alexander Chang, Ms. Elizabeth Hsu and their delegation from Taiwan here to promote their sister-county relationship with the County Maui. They were accompanied by former Senator Joe Tanaka of Maui.

Representative Berg introduced members of the United Nations Association, Hawaii Division who were promoting the UN Peace Calendar: President Joanne Tachibana; Board Members, Joshua Cooper and Don Peel; and HPU students, Daniyal Saud and Isabelle Gardnert.

Representative Chong introduced Mr. Chuck Freedman, Executive Director of the Democratic Party of Hawaii.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following measures were referred to committee by the Speaker:

<u>H.R.</u> <u>Nos.</u>	<u>Referred to:</u>
42	Committee on Tourism, Culture, & International Affairs

<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
52	Committee on Tourism, Culture, & International Affairs

COMMITTEE REASSIGNMENTS

The following bills were re-referred to committee by the Speaker:

<u>H.B.</u> <u>Nos.</u>	<u>Re-referred to:</u>
666	Committee on Health, then to the Committee on Consumer Protection & Commerce, then to the Committee on Finance
1273	Jointly to the Committee on Energy & Environmental Protection and the Committee on Housing, then to the Committee on Finance

STANDING COMMITTEE REPORTS

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 14) recommending that H.B. No. 1519, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1519, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 15) recommending that H.B. No. 1497, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1497, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 16) recommending that H.B. No. 815, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 815, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 17) recommending that H.B. No.

819, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 819, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 18) recommending that H.B. No. 176, pass Second Reading and be referred to the Committee on Transportation.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 176, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUSES," passed Second Reading and was referred to the Committee on Transportation with Representatives Awana, Takai and Wakai being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 19) recommending that H.B. No. 87, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 87, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 20) recommending that H.B. No. 617, pass Second Reading and be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 617, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT ROUTE ECONOMIC ZONES," passed Second Reading and was referred to the Committee on Economic Revitalization, Business, & Military Affairs with Representatives Awana, Takai and Wakai being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 21) recommending that H.B. No. 829, pass Second Reading and be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 829, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARMED SERVICES," passed Second Reading and was referred to the Committee on Economic Revitalization, Business, & Military Affairs with Representatives Awana, Takai and Wakai being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 22) recommending that H.B. No. 800, as amended in HD 1, pass Second Reading and be referred to the Committee on Education.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 800, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUSES," passed Second Reading and was referred to the Committee on Education with Representatives Awana, Takai and Wakai being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 23) recommending that H.B. No. 679, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 679, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Second Reading and was referred to the Committee on Finance with Representatives Awana, Takai and Wakai being excused.

Representative Chang, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 24) recommending that H.B. No. 1369, pass Second Reading and be referred to the Committee on Health.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1369, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Health with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 25) recommending that H.B. No. 50, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 50, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURTS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 26) recommending that H.B. No. 297, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 297, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTERSTATE COMPACT FOR JUVENILES," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 27) recommending that H.B. No. 1025, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1025, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 28) recommending that H.B. No. 728, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 728, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 29) recommending that H.B. No. 872, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 872, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL VIOLENCE AGAINST WOMEN ACT," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 30) recommending that H.B. No. 885, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 885, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Souki rose to speak in support of the measure with reservations, stating:

"Yes, Mr. Speaker. I wish to speak on Stand. Com. Report No. 30, with reservations. The reservations I have are twofold. One is that we're requesting to set some money aside from the surplus that we have, if we have any. Right now we have a deficit. I don't know if they should share in the deficit also, whatever it is.

"But, as much as we favor these children's programs, the *keiki* programs, but there are so many other needs. There are needs in housing. There are the needs for the disabled. The needs for the aged. The needs for the poor, etc, etc, that we must look at. To single out only one program to use this surplus, I believe is basically unfair to the rest of the needy that we have. I think we need to look at it in a broad prospective area, rather than just singly choose one particular item.

"Also, for the referral, I believe this also should go to Finance. Right now it only goes to Judiciary, and if it's going to be using money, it should become a financial item. That's all, Mr. Speaker. Thank you."

Representative M. Lee rose to speak in support of the measure, stating:

"I speak in favor of the measure. Mr. Speaker, the financial troubles facing us have highlighted the failure of our society to save and be prepared for unseen crises.

"This bill encourages the habit of saving, by establishing a custom that is very successful in Great Britain, Tahiti, and more recently in the State of Maine, where at birth, each child has established for him a savings account, with the initial deposit made from taxes collected in years of surplus. I think the financial crisis before us makes this something that we should consider very carefully. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 885, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO USE A PORTION OF THE GENERAL FUND BALANCE EXCESS TO FUND THE CHILD DEVELOPMENT ACCOUNT PROGRAM," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 31) recommending that H.B. No. 1087, pass Second Reading and be referred to the Committee on Labor & Public Employment.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1087, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF COMMUNITY SERVICES," passed Second Reading and was referred to the Committee on Labor & Public Employment with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 32) recommending that H.B. No. 1355, pass Second Reading and be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1355, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT," passed Second Reading and was referred to the

Committee on Economic Revitalization, Business, & Military Affairs with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 33) recommending that H.B. No. 726, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 726, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Second Reading and was referred to the Committee on Judiciary with Representatives Awana, Takai and Wakai being excused.

Representative Tsuji, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 34) recommending that H.B. No. 242, pass Second Reading and be referred to the Committee on Higher Education.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 242, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Higher Education with Representatives Awana, Takai and Wakai being excused.

Representative Tsuji, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 35) recommending that H.B. No. 663, pass Second Reading and be referred to the Committee on Higher Education.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 663, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Higher Education with Representatives Awana, Takai and Wakai being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 36) recommending that H.B. No. 111, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 111, entitled: "A BILL FOR AN ACT RELATING TO STATE SALARIES," passed Second Reading and was referred to the Committee on Finance with Representatives Awana, Takai and Wakai being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 37) recommending that H.B. No. 332, as amended in HD 1, pass Second Reading and be referred to the Committee on Human Services.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 332, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Second Reading and was referred to the Committee on Human Services with Representatives Awana, Takai and Wakai being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 38) recommending that H.B. No. 982, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Higher Education and the Committee on Legislative Management.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 982, HD 1, pass Second Reading and be referred jointly to the Committee on Higher Education and the Committee on Legislative Management, seconded by Representative Evans.

Representative Marumoto rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I rise to speak in favor of Standing Committee Report No. 38. I'd just like to express a reservation. Although I favor the use of family leave so an employee can care for a sick family member, I'm not sure this is exactly the right time for us to lower the number of employees before family leave is allowed, because our economy is very weak at this point. We have just seen two popular restaurants go out of business very recently. It's another imposition on businesses with 50 employees, and I think we should wait to make this change. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 982, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Second Reading and was referred jointly to the Committee on Higher Education and the Committee on Legislative Management with Representatives Awana, Takai and Wakai being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 39) recommending that H.B. No. 396, as amended in HD 1, pass Second Reading and be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 396, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Second Reading and was referred to the Committee on Economic Revitalization, Business, & Military Affairs with Representatives Awana, Takai and Wakai being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 40) recommending that H.B. No. 479, as amended in HD 1, pass Second Reading and be referred to the Committee on Economic Revitalization, Business, & Military Affairs.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 479, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," passed Second Reading and was referred to the Committee on Economic Revitalization, Business, & Military Affairs with Representatives Awana, Takai and Wakai being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 41) recommending that H.B. No. 744, as amended in HD 1, be recommitted to the Committee on Human Services.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 744, HD 1, be recommitted to the Committee on Human Services.

The Chair addressed Representative Aquino, stating:

"Representative Aquino, what is the motion before this House?"

Representative Aquino responded, stating:

"Mr. Speaker, the motion on the Floor is for House Bill No. 744, House Draft 1 to be recommitted to Human Services."

Speaker Say: "You're absolutely correct. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 744, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," was recommitted to the Committee on Human Services with Representatives Awana, Takai and Wakai being excused.

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering a bill

on Third Reading on the basis of a modified consent calendar. (Representatives Awana, Takai and Wakai were excused.)

THIRD READING

H.B. No. 302, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 302, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," passed Third Reading by a vote of 48 ayes, with Representatives Awana, Takai and Wakai being excused.

At 12:29 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 302, HD 1

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker, this is the time of day when everybody's hungry, and on behalf of Representative Mizuno and Senator Sakamoto, we invite you to the Fellowship Luncheon that's going to be in about a minute in Room 437.

"It is interesting with the discussion from Representative Ching before she prayed, she talked about slavery. We're going to talk about the role of Wilberforce and the slave trade that was outlawed by his actions in the British Parliament. So come and have food and a discussion. Room 437. Thank you."

Representative C. Lee: "Thank you, Mr. Speaker. I want to echo my good colleague from Hawaii Kai's comments. Everybody is hungry this time of year, and many of us are struggling with many issues of economy, resources, programs, and budgets here in the House. But at the heart of it, what we are struggling for are really the lives of the people who we represent.

"This year there have been a growing number of laid-off employees and working families that we'll need to help, who have been having trouble getting ends to meet. And more than 131,000 individuals, including over 33,000 children have come to rely on the Hawaii Foodbank to put food on their tables this year. My office, along with the Honorable Representative from the 19th District spent this morning with delegates of the Hawaii Foodbank, and we've been moved by the growing need in our communities for this basic support. Not fancy cuisine or plate lunches even, but the need is for real food, basic resources, things that anybody needs to survive.

"This year, I'm quite honored to have been appointed as the House designee to run the Foodbank Coordinated Program. And I know each of us wants to help. The laws we make, and the budgets we craft will be an important part of helping our people cope. But on a more personal level, we can all help by giving generously to the Hawaii Foodbank. And I know in years past we've had some fantastic offices put together some awesome programs, selling hot dogs, and *natto*, and things of that sort.

"I finally ask that we all support the Hawaii Foodbank by wearing an orange ribbon, which each of us will find on our desk today, which represents hunger awareness, and tells everybody that we will not allow our *ohana* to go hungry. So please give generously. Thank you very much, Mr. Speaker."

ADJOURNMENT

At 12:32 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, February 6, 2009. (Representatives Awana, Takai and Wakai were excused.)